In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

April 20, 2009

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the proceedings held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 7:00 p.m. on Monday, April 20, 2009.

* * *

APPEARANCES:

Doraville City Council:

Hon. Ray Jenkins, Mayor

Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Robert Spangler
Councilmember Donna Pittman
Councilmember Bob Roche
Councilmember Pam Fleming

Murray J. Weed, City Attorney

Ms. Rhonda Blackmon, City Clerk

P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order. Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: I'm here.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Here.

MAYOR JENKINS: Okay. We're going to move right into the thing without any comments from me.

We need to approve the minutes of 4/6/09.

COUNCILMEMBER FLEMING: Make a motion.

MAYOR JENKINS: Motion, please.

COUNCILMEMBER SPANGLER: Second.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: I think we've --

Is Mr. Bart here, Dog Daze?

I need to ask the Council. We've got the electrical in. We've got quite a bit of money in the building, and also we're going to have to spend about 250 more dollars to put

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1 wiring in into the kitchen for this person.
2 I really thought when this came up that
3 we would put the -- we put in 300 amps, by the
4 way, and I thought that would be the end of us,
5 but he wants some wiring to go into the kitchen,
6 which is going to cost us for parts about 350
7 more dollars.
8 So I would like the Council's comments
9 on that. I don't know exactly how much we have
10 in it at this point. Probably about eight or
11 ten thousand dollars. So $250 is not a lot
12 more, but I just wonder how far we need to go,
13 because, you know, if he went somewhere and
14 rented a building, they would not bring it up to
15 what you needed. They'd rent the building to
16 you.
17 So anyway, I'd like to have some
18 comment from the Council, please.
19 COUNCILMEMBER FLEMING: The expendi-
20 tures that we've already made, though, was to
21 make it ADA compatible --
22 MAYOR JENKINS: Yes.
23 COUNCILMEMBER FLEMING: -- accessible?
24 MAYOR JENKINS: Yes. We were going to
25 do that anyway.

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1 COUNCILMEMBER FLEMING: Correct. So
2 the additional $250 for electricity is for
3 restaurant --
4 MAYOR JENKINS: Wiring --
5 COUNCILMEMBER FLEMING: -- equipment?
6 MAYOR JENKINS: -- the stove and such
7 things as that -- a fryer, stove and such things
8 as that.
9 COUNCILMEMBER SPANGLER: I believe,
10 Mr. Weed, the Mayor said that we would do
11 whatever it took.
12 ATTORNEY WEED: Well, what was actually
13 -- I've pored over the -- let me kind of give
14 you an update.
15 I sent a draft lease agreement to Mr.
16 Bart to have him or his counsel take a look at
17 it, the 16th. I haven't sent it to the Council
18 yet because I wanted to get feedback from Mr.
19 Bart before we made any kind of presentation to
20 the Council.
21 In preparation for that document, I did
22 go over all of the minutes that I could find
23 relevant to it. I went over all of the -- the
24 prospectus that was submitted.
25 What I gleaned from the minutes is that

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1 the Council had one point had talked about
2 $15,000 but you had generally agreed to a
3 maximum of a $10,000 contribution of your money
4 going into that building; and in turn, Mr. Bart
5 was going to put in essentially $10,000 as well.
6 But with regard to the electrical
7 system, the way I read the minutes, the minutes
8 indicate that Mr. Bart will be doing the
9 electrical work, not necessarily the Council.
10 That'll come out of his $10,000.
11 MAYOR JENKINS: Beyond the box, yes.
12 ATTORNEY WEED: Now, that's what's in
13 the current draft lease. I haven't heard
14 anything from Mr. Bart yet nor his legal
15 counsel.
16 Now, you can always change that at your
17 will.
18 COUNCILMEMBER SPANGLER: Okay. Did we
19 not agree to bring the electric into the
20 building?
21 MAYOR JENKINS: We got it in already.
22 ATTORNEY WEED: My understanding was
23 that there would be electrical work done but
24 that would be part of Mr. Bart's contribution.
25 COUNCILMEMBER SPANGLER: Not to

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1 increase the power coming into that.
2 MAYOR JENKINS: No. We do that.
3 ATTORNEY WEED: Yeah. My understanding
4 was that any kind of wiring would be Mr. Bart's
5 contribution up to the tune of $10,000. But
6 once again, you can change that at will.
7 COUNCILMEMBER SPANGLER: And you're
8 sure about the minutes; that's exactly what the
9 minutes said.
10 ATTORNEY WEED: That's the best I can
11 glean from them. I mean we've all read the
12 minutes, and obviously there's talking back and
13 forth and that type of thing, but that's the
14 best I can tell.
15 COUNCILMEMBER SPANGLER: Because I
16 remember the Mayor saying that he would do what-
17 ever it took, I believe -- I don't remember what
18 the words were -- to . . .
19 ATTORNEY WEED: And that may very well
20 be the case, and I wouldn't doubt it. But it
21 looks like, the way I read the minutes, at the
22 end of the conversation, you got down to brass
23 tacks, and the numbers that were being bandied
24 about were $10,000 for the City up to the
25 maximum of that, $10,000 for Mr. Bart in

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1 addition to whatever else he put in.
2 COUNCILMEMBER SPANGLER: So what we're
3 actually talking about is Mr. Bart wanted us to
4 pay another $250 for the inside wiring.
5 MAYOR JENKINS: No. It comes to -- I
6 didn't have it in front of me -- 318.
7 COUNCILMEMBER SPANGLER: 318 dollars?
8 MAYOR JENKINS: That's to wire up his
9 stoves and all that. And originally, I thought
10 Mr. Bart would be doing that. After we put the
11 box in, then he was going to do the floors and
12 the painting and then do his electrical. That
13 was what I thought.
14 ATTORNEY WEED: That's my under-
15 standing. That's what I wrote. But once again,
16 you can change that. That's up to the Council.
17 COUNCILMEMBER SPANGLER: Well, what did
18 Mr. Bart say when you presented this to him?
19 ATTORNEY WEED: I haven't heard
20 anything out of him yet. I called him and
21 talked to him one time, sent him the document,
22 and haven't heard back yet but I'm sure I will.
23 COUNCILMEMBER ROCHE: I'll make a
24 motion that we go ahead and pay the $318 and get
25 the electrical work done with the understanding

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1 that that's it, we're not investing any more
2 money into this.
3 COUNCILMEMBER SPANGLER: And I'll
4 second that.
5 MAYOR JENKINS: Anymore discussion?
6 - - -
7 (No response)
8 - - -
9 MAYOR JENKINS: Call the roll, please.
10 CLERK BLACKMON: Councilmember
11 Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 CLERK BLACKMON: Councilmember Bates?
14 COUNCILMEMBER BATES: Yes.
15 CLERK BLACKMON: Councilmember Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 CLERK BLACKMON: Councilmember Pittman?
18 COUNCILMEMBER PITTMAN: Yes.
19 CLERK BLACKMON: Councilmember Roche?
20 COUNCILMEMBER ROCHE: Yes.
21 CLERK BLACKMON: Councilmember
22 Spangler?
23 COUNCILMEMBER SPANGLER: Yes.
24 MAYOR JENKINS: Abdul, I believe it is,
25 come on up, sir.

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1 MR. PERULERO: Abad.
2 MAYOR JENKINS: Abad. Excuse me. I
3 apologize.
4 This is a proclamation to Mr. Abad, our
5 Liaison to the City from the Hispanic Community.
6 I don't see any reason to read it, but I want to
7 present this to him at this time (presenting).
8 - - -
9 (Applause)
10 - - -
11 MAYOR JENKINS: He has already done
12 some interpretations for our newsletter. You'll
13 see it when it comes out. And he's going to be
14 taking care of that on all our newsletters on
15 letting the Hispanic community know when the
16 garbage is picked up and the trash and the limbs
17 and all that is done.
18 So congratulations. We appreciate it.
19 MR. PERULERO: Thank you, sir.
20 - - -
21 (Applause)
22 - - -
23 MR. PERULERO: Thank you. And I look
24 forward to keep working for a better Doraville.
25 I think we need to work hard to bring Doraville

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1 up.
2 MAYOR JENKINS: Thank you.
3 - - -
4 (Applause)
5 - - -
6 MAYOR JENKINS: Okay. The first item
7 that I have on the agenda is to lift the hiring
8 freeze. We have got to bring in a financial
9 person, and we also have -- I believe we have
10 two openings in the Police Department that needs
11 to be filled. And my feeling, when we put a
12 hiring freeze on, that it was not necessarily to
13 replace people, but it seems like it must have
14 gotten to be that way.
15 So I would like for that -- I want a
16 motion to lift the hiring freeze and go ahead
17 and hire a finance person plus our two
18 policemen.
19 COUNCILMEMBER SPANGLER: I thought we
20 put a hiring freeze on, Mayor, regardless of any
21 position being vacated.
22 MAYOR JENKINS: Okay. I'm asking you -
23 - I'm asking the Council to make a motion to
24 lift the hiring freeze.
25 COUNCILMEMBER PITTMAN: Can we lift the

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1 hiring freeze only for the positions that are
2 available rather than creating any new
3 positions?
4 COUNCILMEMBER SPANGLER: No. If we're
5 going to lift the freeze --
6 MAYOR JENKINS: We're still not going
7 to create any new positions.
8 COUNCILMEMBER SPANGLER: If we do that,
9 we might as well just go ahead and take the
10 hiring freeze off and go out and hire about 20
11 or 30 people for every department in the City.
12 That's what we need to do, because that's
13 basically what you're doing.
14 When you put a hiring freeze on, it's
15 because you don't have the revenues to pay to
16 replace those people.
17 We talked about it, when people
18 retired, that we were not going to replace them
19 until we started getting more revenues in.
20 MAYOR JENKINS: Okay. Well, let me say
21 this. We need to get a motion and a second and
22 discuss it, please. Now, do I get a motion?
23 COUNCILMEMBER ROCHE: I'll make the
24 motion to lift the hiring freeze to hire -- to
25 create one position, which is the Finance

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1 Director position.
2 MAYOR JENKINS: You don't want those
3 positions in the Police Department?
4 COUNCILMEMBER ROCHE: There's a hiring
5 freeze. We don't have any money, Mayor. We're
6 spending our money a lot faster than we're
7 taking it in.
8 COUNCILMEMBER PITTMAN: Are those
9 positions that were already there that they have
10 left? These are not new positions; is that
11 correct?
12 CHIEF ATKINSON: (Nods head)
13 COUNCILMEMBER PITTMAN: That was my
14 point. Could we just lift the hiring freeze to
15 replace those positions that need filling -- not
16 to create anything new?
17 But if we have two officers that left,
18 we need to fill those as well as the Finance
19 Director.
20 MAYOR JENKINS: Did I get a second?
21 - - -
22 (No response)
23 - - -
24 MAYOR JENKINS: Donna, will you make
25 another motion?

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1 COUNCILMEMBER PITTMAN: I make a motion
2 that we lift the hiring freeze only to fill the
3 vacancies that come open if we -- is that the
4 proper wording? -- only the vacancies that we
5 have open that are filling positions that were
6 currently here.
7 What's the best way to say that?
8 MAYOR JENKINS: Including the finance?
9 ATTORNEY WEED: Well, I understand that
10 would just be the two open Police positions.
11 COUNCILMEMBER PITTMAN: Correct.
12 MAYOR JENKINS: Right.
13 COUNCILMEMBER PITTMAN: And the
14 Finance.
15 ATTORNEY WEED: And that would be it.
16 MAYOR JENKINS: Well, we have to have
17 one for the Finance.
18 ATTORNEY WEED: Because the accounting
19 -- you had an independent Finance Director who
20 was an independent contractor. My understanding
21 was that wasn't a full-time position.
22 COUNCILMEMBER SPANGLER: Well, the
23 reason we didn't have full-time positions -- you
24 know, we asked for a full-time Building
25 Inspector if you remember correctly. We were

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1 told that it was cheaper for us to go with a
2 contractor because we didn't have to pay the
3 benefits and we didn't have -- we didn't have to
4 pay any of the benefits. Okay? So why can't
5 the same thing be for the accounting person,
6 whoever we happen to hire? Why can't we bring
7 them in as a contract person in order to save
8 money?
9 ATTORNEY WEED: Well, Councilman, if
10 you're asking me that question, you can.
11 COUNCILMEMBER SPANGLER: I'm asking
12 everybody.
13 MAYOR JENKINS: We did not save money
14 on a contract person.
15 COUNCILMEMBER SPANGLER: Mayor, that's
16 what you said a few meetings ago. You said the
17 reason -- I think Mr. Roche had asked why we
18 couldn't have a full-time building inspector.
19 Your comment was --
20 MAYOR JENKINS: We're not talking about
21 a building inspector.
22 COUNCILMEMBER SPANGLER: No.
23 MAYOR JENKINS: We're talking about a
24 finance person.
25 COUNCILMEMBER SPANGLER: I'm just using

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that as an example, that you said that we would save money by having a contract person if we had --

MAYOR JENKINS: And we're doing it every day.

COUNCILMEMBER PITTMAN: I'm going to make my motion -- I'm going to make it to lift the hiring freeze to hire the two officers as well as an accounting position.

MAYOR JENKINS: Okay. Do I get a second?

COUNCILMEMBER FLEMING: Well, you're leaving out I.T.

MAYOR JENKINS: It's got nothing to do with I.T.

COUNCILMEMBER FLEMING: You're not going to hire an I.T. person?

COUNCILMEMBER PITTMAN: You're not going to hire an I.T. person?

MAYOR JENKINS: Well, that would probably be a contractor. Well, you can put that in there to hire a contract I.T. person if you care to.

COUNCILMEMBER PITTMAN: Okay. I'd like to make a motion to fill the two open vacancies

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at the Police Department as well as a budget/ accounting person and an I.T. person -- contract person.

ATTORNEY WEED: And I'm not trying to complicate this, but you're essentially approving going out for a contract on the I.T. person. Do you want that person to be full-time or do you want them to be an independent contractor?

MAYOR JENKINS: Why can't we make a motion so that we could go either way, whichever was the best?

ATTORNEY WEED: You could do that. You certainly could do that.

COUNCILMEMBER PITTMAN: Then, as an employee or a contractor.

ATTORNEY WEED: Or an independent contractor.

COUNCILMEMBER PITTMAN: Independent. Okay. And that is my motion.

MAYOR JENKINS: Do I get a second?

COUNCILMEMBER BATES: Second.

MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER FLEMING: I have a question. So this will be the practice for any

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vacant position in the City, is that we will need to come to Council to lift the freeze to be able to hire --

MAYOR JENKINS: I thought you --

COUNCILMEMBER FLEMING: -- any additional people?

MAYOR JENKINS: -- made the motion to lift the freeze on any positions that come open.

COUNCILMEMBER PITTMAN: Only on the positions I mentioned.

And I think it might be a good practice if something comes open to come back and bring it --

MAYOR JENKINS: Okay.

COUNCILMEMBER PITTMAN: -- to us until we lift the hiring freeze completely.

MAYOR JENKINS: I have no problem with that.

COUNCILMEMBER PITTMAN: Okay.

COUNCILMEMBER SPANGLER: I think --

COUNCILMEMBER FLEMING: Well, that was my question: to make sure that we were just lifting the freeze for these four positions and that any future vacancies would need to come before Council again.

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COUNCILMEMBER SPANGLER: Well, I don't see that the --

And again, it's my turn now, Mr. Mayor.

MAYOR JENKINS: Yes, sir.

COUNCILMEMBER SPANGLER: I don't see that we even should have the hiring freeze if this is what we're going to do. The whole point of having the hiring freeze in the first place was not to replace some of these positions.

Now, although we probably do need an accountant for the things that we did, we kind of shot ourselves in the foot. We do need one. But I think it should be as the Mayor stated before when we had talked about a full-time building official, it should be a contract person.

And as far as lifting the hiring freeze, if you're going to do it to replace these four people, then you need to just take it off altogether because there's no point in having a hiring freeze if you're going to come before the Council every time somebody leaves and you're going to replace them anyway. Why have the hiring freeze?

COUNCILMEMBER FLEMING: I had one other

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1 question, Mayor.
2 MAYOR JENKINS: Yes, ma'am.
3 COUNCILMEMBER FLEMING: What are the
4 two police officers? What positions were they
5 so that I would know?
6 CHIEF ATKINSON: Patrolmen.
7 COUNCILMEMBER FLEMING: Patrolmen. Are
8 you promoting from within and then bringing
9 someone in new or would you be looking for
10 promoting from within --
11 CHIEF ATKINSON: Yes, ma'am.
12 COUNCILMEMBER FLEMING: -- and then
13 bringing new candidates in?
14 CHIEF ATKINSON: Right. Chances are we
15 would look from within dispatch or the jail,
16 send them to the Academy and then hiring into
17 dispatch or jail positions.
18 COUNCILMEMBER ROCHE: It's my under-
19 standing that we currently have a police officer
20 on duty that is on loan to the DEA, that
21 basically does most of their work outside the
22 city limits; is that correct?
23 CHIEF ATKINSON: I wouldn't say that
24 most of their work is done outside the city, but
25 yes, we do have one on loan to the DEA.

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1 COUNCILMEMBER ROCHE: So how much of
2 their time do they spend inside the city limits
3 patrolling our neighborhoods?
4 CHIEF ATKINSON: Sir, I don't have a
5 figure for you. I don't know.
6 COUNCILMEMBER ROCHE: I mean ten
7 percent? five percent? zero percent?
8 CHIEF ATKINSON: I don't know how much
9 of his time is spent directly here in the city
10 of Doraville. A lot of his investigations start
11 here in Doraville, and they might carry them
12 out.
13 COUNCILMEMBER ROCHE: Well, it seems
14 more reasonable to bring in that position here
15 instead of having to spend the money to hire
16 another person. I mean, you know, if we have
17 two openings in patrol people, then why not
18 transfer someone into that position instead of
19 someone that basically works outside the city
20 limits for the DEA?
21 I believe that position, we got the
22 figures -- it was somewhere around $50,000 a
23 year that we're paying for that position.
24 COUNCILMEMBER ALEXANDER: I believe
25 we're reimbursed about $38,000 on their salary,

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1 and I believe there was some monies that were
2 posted to a wrong account that she was supposed
3 to correct that entry.
4 Furthermore, it's my understanding in
5 reviewing the asset forfeiture Federal laws, if
6 we do not have a participatory officer on the
7 U.S. Task Force, we do not get asset forfeiture
8 funds.
9 COUNCILMEMBER SPANGLER: I think it's
10 the law, too, and I think we have somebody in
11 the audience that could answer this as well as
12 Mr. Weed: that any asset forfeiture monies that
13 are spent need to come before Council.
14 COUNCILMEMBER ROCHE: Yeah. We're not
15 doing that, either.
16 ATTORNEY WEED: With regard to a report
17 to Mayor and Council, that is certainly expected
18 or a reasonable expectation.
19 However, the general rule with both the
20 State asset forfeiture law and the Federal asset
21 forfeiture law is that they're very particular
22 about Council not, for example, offsetting some
23 other line item in the Police Department budget
24 in reliance upon any asset forfeiture money.
25 The two have got to be very distinct and

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1 separate.
2 COUNCILMEMBER SPANGLER: I don't think
3 there's ever been a problem with that, Mr. Weed.
4 ATTORNEY WEED: Right.
5 COUNCILMEMBER SPANGLER: In the three
6 years that I've been here, we have never had the
7 opportunity to fully know where that money is
8 being spent.
9 ATTORNEY WEED: I would certainly
10 encourage, you know, a report to Council. I
11 think that's certainly a reasonable thing to
12 request and ask for.
13 MAYOR JENKINS: Well, I think we're
14 getting off the subject here.
15 We've got a motion and a second. The
16 discussion is on the motion.
17 COUNCILMEMBER ROCHE: Well, the whole
18 point is that we have serious problems with the
19 amount of money coming in and our expenditures
20 are basically going out of control. And I think
21 the whole point of having the hiring freeze was
22 to try to save some money so that we're not
23 going to spend down our savings as quickly, and
24 now we're basically saying we're going to
25 abandon any pretext of budget discipline or

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1 financial reasonableness or whatever and just
2 say, "Oh, well, we said that last week, but this
3 week we're going to change our mind."
4 So I can't support -- I understand that
5 we have found ourselves in a dire situation as
6 far as the accounting practice or the accounting
7 position or whatever. We don't have an accoun-
8 tant at all. We also didn't have any kind of a
9 transition when the last accountant was let go
10 of. We paid them a lot of money to leave. And
11 so now here we are in an emergency situation.
12 So I could see perhaps creating that
13 position, the position of Finance Director. But
14 as far as using that as an excuse to open it up
15 to hiring everyplace else, I don't see that. I
16 think that basically negates we've been trying
17 to do here as far as controlling our government
18 spending.
19 COUNCILMEMBER FLEMING: We --
20 MAYOR JENKINS: There are two positions
21 in the Police Department that are in the budget.
22 This one is not, which we need to put
23 in the budget, the one for the accounting clerk.
24 COUNCILMEMBER ROCHE: You're talking
25 about the budget that we plan on spending at

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1 least $900,000 more this year than we take in.
2 That's our budget.
3 MAYOR JENKINS: Why do you say that?
4 COUNCILMEMBER ROCHE: That's the
5 budget. That's the budget this Council approved
6 showed a deficit spending of about $900,000.
7 COUNCILMEMBER SPANGLER: And we haven't
8 seen a copy of the amended budget. Are we going
9 to get a copy of that?
10 MAYOR JENKINS: What?
11 COUNCILMEMBER SPANGLER: The budget
12 where you made -- where the amendments were
13 made.
14 MAYOR JENKINS: We don't have a finance
15 clerk to present a budget. That's the reason I
16 want one tonight, sir.
17 COUNCILMEMBER SPANGLER: I thought we
18 could handle the financial department with what
19 we had.
20 MAYOR JENKINS: We are doing it, okay,
21 and I'm going to say this. Ms. Rhonda is doing
22 a wonderful job on it. She's keeping up with
23 the payroll and keeping up with the financial
24 work, and now that's the reason it's an
25 emergency that we get somebody in here by next

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1 week.
2 And we've got a motion and a second.
3 Anymore discussion on the motion and the second?
4 COUNCILMEMBER FLEMING: I have one more
5 -- one more comment is that Ms. Stephens is
6 without an employee and has not hired or even
7 gone out to hire because we had the hiring
8 freeze.
9 MAYOR JENKINS: We're having to pay
10 some --
11 COUNCILMEMBER FLEMING: So now --
12 MAYOR JENKINS: -- overtime there for
13 that reason, yes.
14 COUNCILMEMBER FLEMING: So I mean are
15 we going to allow her to hire the person that
16 she has not had for the last four months?
17 COUNCILMEMBER SPANGLER: Well, if you
18 remember, Ms. Fleming, she also gave up that
19 forty -- what was it? forty-five, forty-six
20 thousand dollars she had in her budget to make
21 up for another department that was short on
22 their budget.
23 COUNCILMEMBER ROCHE: Right.
24 COUNCILMEMBER PITTMAN: And she stated
25 that she was not going to intend to hire anyone

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1 at this time but she would need to further on
2 down the road. And I don't see why, if that's
3 the case and she comes to us, that we can't do
4 the same thing.
5 MAYOR JENKINS: All she needs is a
6 part-time person. I believe that's correct.
7 COUNCILMEMBER SPANGLER: Well, again,
8 if we're going to do that, we might as well not
9 even have the hiring freeze. We shouldn't have
10 put it on in the first place.
11 The whole intention of the hiring
12 freeze was to not create more positions or not
13 replace the people as they left, in order to
14 save money where we wouldn't have to continue to
15 go into the savings.
16 MAYOR JENKINS: Anymore discussion?
17 - - -
18 (No response)
19 - - -
20 MAYOR JENKINS: Call the roll, please.
21 CLERK BLACKMON: Councilmember
22 Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK BLACKMON: Councilmember Bates?
25 COUNCILMEMBER BATES: Yes.

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1 CLERK BLACKMON: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BLACKMON: Councilmember Pittman?
4 COUNCILMEMBER PITTMAN: Yes.
5 CLERK BLACKMON: Councilmember Roche?
6 COUNCILMEMBER ROCHE: No.
7 CLERK BLACKMON: Councilmember
8 Spangler?
9 COUNCILMEMBER SPANGLER: Absolutely no.
10 MAYOR JENKINS: Thank you. The motion
11 carried.
12 Okay. We need to budget the accounting
13 position. And I got together with Rhonda, and
14 we're hoping to hire this person at sixty-five,
15 whoever it might be, and that would put it to,
16 with benefits and all, about $80,000. So I
17 would like to have a motion that we budget the
18 accounting position at this time.
19 ATTORNEY WEED: Mr. Mayor, not to
20 interrupt, but since you've now added the
21 possibility of a full-time I.T. person, you're
22 going to need to budget for that possibility as
23 well.
24 MAYOR JENKINS: Well, we haven't even
25 checked to see how much that would be. We would

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1 have to go back and split up the I.T. and see
2 what it will actually come to. But the I.T.
3 person needs to be a contract for the simple
4 reason you never know how much you need them.
5 You do an accounting person.
6 ATTORNEY WEED: I'm not arguing with
7 you, Mr. Mayor.
8 MAYOR JENKINS: Okay.
9 ATTORNEY WEED: I'm just saying you
10 opened it up to either have an option to hiring
11 full time or not, and you might want to -- in
12 order to actually hire somebody --
13 And you could do this business at some
14 other meeting, but before you actually hire
15 them, you're still going to have to deal with
16 budgeting for that position as well. You don't
17 have to do it now but you'll have to do it
18 sometime.
19 MAYOR JENKINS: Okay. Well, we can do
20 that later; is that correct?
21 ATTORNEY WEED: Yes, sir.
22 MAYOR JENKINS: Do I get a motion?
23 COUNCILMEMBER FLEMING: I'd like to
24 make a motion to set a budget amount of $80,000
25 for accounting services.

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1 COUNCILMEMBER PITTMAN: Second.
2 MAYOR JENKINS: Anymore discussion?
3 COUNCILMEMBER SPANGLER: I don't feel
4 you can get a decent person for $80,000 that's
5 going to be able to straighten out the mess
6 we're in now since we haven't had an accounting
7 person.
8 MAYOR JENKINS: I think we can, sir.
9 We've already interviewed some people, and if
10 the Council -- we can interview again, if
11 necessary, have our Councilmen sit in on the
12 interviews.
13 COUNCILMEMBER SPANGLER: Why weren't
14 the interviews made at a time when all
15 Councilpeople could actually make the inter-
16 views?
17 MAYOR JENKINS: Because it was not a
18 department head.
19 COUNCILMEMBER ROCHE: Actually, Mayor,
20 when I was sitting in the interview last Friday,
21 the person being interviewed, apparently it was
22 his understanding that he may start out
23 reporting to the City Clerk but it would very
24 soon turn into a department director --
25 MAYOR JENKINS: I didn't --

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1 COUNCILMEMBER ROCHE: -- position.
2 MAYOR JENKINS: -- say that, sir. You
3 put that in an e-mail, and I couldn't understand
4 it. No.
5 COUNCILMEMBER ROCHE: No. That's what
6 the guy said.
7 It sounds like what you're trying to do
8 is to go around the Council.
9 MAYOR JENKINS: That's what you think.
10 No.
11 COUNCILMEMBER ROCHE: Well, I'm looking
12 at the Charter, Section 2-11, Organization. It
13 says the Council shall -- by such ordinance will
14 establish, abolish, merge, consolidate offices,
15 positions of employment, departments and
16 agencies of the City, et cetera, et cetera.
17 MAYOR JENKINS: We're hiring a person
18 that will be under Rhonda and of course the
19 Mayor, which is a day-to-day activity.
20 COUNCILMEMBER ROCHE: You're talking
21 about someone that's going to be making more
22 than the City Clerk, you know, someone that's
23 going to have probably an advanced college
24 degree.
25 MAYOR JENKINS: I hope for Rhonda's

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1 sake that they don't stay that way.
2 COUNCILMEMBER ROCHE: Sorry. I don't
3 understand that, Mayor.
4 MAYOR JENKINS: Sir?
5 COUNCILMEMBER ROCHE: I don't
6 understand what you mean by that.
7 MAYOR JENKINS: I'm saying I hope we
8 can bring Rhonda up to a good pay also. She
9 does a lot of work for the City.
10 Okay. We've got a motion and a second.
11 Anymore discussion?
12 - - -
13 (No response)
14 - - -
15 MAYOR JENKINS: Call the roll, please.
16 CLERK BLACKMON: Councilmember
17 Alexander?
18 COUNCILMEMBER ALEXANDER: Yes.
19 CLERK BLACKMON: Councilmember Bates?
20 COUNCILMEMBER BATES: Yes.
21 CLERK BLACKMON: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BLACKMON: Councilmember Pittman?
24 COUNCILMEMBER PITTMAN: Yes.
25 CLERK BLACKMON: Councilmember Roche?

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1 COUNCILMEMBER ROCHE: Yes.
2 CLERK BLACKMON: Councilmember
3 Spangler?
4 COUNCILMEMBER SPANGLER: No. Again, I
5 don't think we could get the quality of person
6 that we need for that little bit of money.
7 MAYOR JENKINS: Okay. If you want to
8 be in the next interview if we have another
9 interview --
10 COUNCILMEMBER SPANGLER: Mayor, you
11 didn't ask. Always before, you've asked the
12 Council when -- you know, what would be a good
13 time for you to make these interviews. This
14 time, you didn't do that. You set the inter-
15 view up and then put the word out that the
16 interview was going to be at 2 o'clock or
17 whatever on such-and-such a day.
18 MAYOR JENKINS: I let you know, didn't
19 I?
20 COUNCILMEMBER SPANGLER: Well, after
21 the fact.
22 COUNCILMEMBER PITTMAN: Mr. Weed, could
23 I get some clarification on that because I had
24 inquired as well about the interviews and I was
25 told that it was probably not appropriate for

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1 Council to be there, that it was quite
2 appropriate for the Mayor to conduct the inter-
3 views, the first round of interviews. Is that
4 correct or --
5 MAYOR JENKINS: First round.
6 ATTORNEY WEED: I don't know who told
7 you it was appropriate or not appropriate but I
8 will tell you what's legal.
9 COUNCILMEMBER PITTMAN: Okay.
10 ATTORNEY WEED: Under 2.12 Subsection
11 (d) and those subsections (3), (4), (5), (6),
12 it's clear that the Mayor conducts the
13 interviews. (6) says in the case of City Hall
14 positions, the City Council may elect to
15 participate in the interview process after
16 qualified candidates have been identified by the
17 Mayor. So the Mayor's got full authority to do
18 that.
19 COUNCILMEMBER SPANGLER: But --
20 COUNCILMEMBER ROCHE: Are you looking
21 at the employee manual or the Charter?
22 ATTORNEY WEED: I'm looking at the
23 employee manual. However, the --
24 COUNCILMEMBER ROCHE: Yeah, because the
25 Charter seems to be in conflict with that

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1 because the Charter section 2.11 seems to be in
2 direct conflict with that. Plus our practice,
3 at least since I've been in office, is that
4 every time we've had a new position, the Council
5 sets the position, the Council sets the budget
6 for the position, the Council sets the job
7 description, the Council receives all the
8 resumes, the Council reviews all the resumes;
9 the Council does all the interviewing.
10 ATTORNEY WEED: With regard to the
11 potential conflict, I think the two sections can
12 be pretty easily harmonized because the Charter
13 indicates plainly that the Council can, by
14 virtue of ordinances, you know, delegate their
15 authority with regard to hiring, firing,
16 et cetera. And you've adopted the personnel
17 policy as an ordinance; therefore, they do
18 harmonize pretty succinctly.
19 Now, with regard to what your SOP has
20 been just by practice, I wouldn't deny that
21 maybe this varies from it, but it's not illegal.
22 In fact, this is akin with what -- you're
23 actually following the Codes now.
24 COUNCILMEMBER ROCHE: Well, why are we
25 doing it differently now, Mayor?

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MAYOR JENKINS: We've got a motion and a second. It's been passed.

The next item on the agenda is approve the accounting position. Do I get a motion?

COUNCILMEMBER PITTMAN: So you guys have interviewed them -- is that correct? -- already, the one that you're wanting? When you say "approve the accounting position. . . "

MAYOR JENKINS: We have hired nobody. If the Council wants to come back and interview, that is fine with me. If the Council wants to interview these people again, it's perfectly all right with me.

COUNCILMEMBER BATES: I apologize for my voice, folks.

By approving the position or lifting the hiring freeze for the position and budgeting it, have we not approved the position?

COUNCILMEMBER PITTMAN: That's what I was --

MAYOR JENKINS: We have.

COUNCILMEMBER BATES: I don't think --

COUNCILMEMBER PITTMAN: We don't need to do that.

COUNCILMEMBER BATES: -- sir, we need

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to do that.

MAYOR JENKINS: Well, I'll go to the next one, then, which was hire an accountant.

Does the Council want me to pick out the person? Do they want to re-interview or what do we want to do?

We need to get on with it. I'll set it up to where everybody can come if they care to.

COUNCILMEMBER ROCHE: I think this is a very important position and I think that the Council needs to be able to interview them.

MAYOR JENKINS: Okay. I'll set up, and by tomorrow, I'll let you know when we --

COUNCILMEMBER ROCHE: Can we get the resumes that came in?

Only two resumes were submitted?

CLERK BLACKMON: Only two qualified people submitted resumes.

COUNCILMEMBER ROCHE: No. How many resumes were submitted?

COUNCILMEMBER SPANGLER: How many resumes were actually --

CLERK BLACKMON: I believe we got one other, that was not qualified, that she -- that was an e-mail in.

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COUNCILMEMBER SPANGLER: So you had a total of three resumes sent in.

CLERK BLACKMON: Three for accounting.

COUNCILMEMBER ROCHE: Yeah. I'd like to see all three resumes. I think the Council should get all three resumes.

MAYOR JENKINS: Very good. You'll have them tomorrow.

COUNCILMEMBER ROCHE: That way, we can select who we want to --

CLERK BLACKMON: Council has two of them already.

ATTORNEY WEED: Mr. Bates, in answer to your query, Subsection 2.12(a) says, no hiring action shall be taken except for a position that is budgeted and approved by the City Council.

Based upon that, out of an abundance of caution, I believe that's why these items are set up as budgeted and then another one for "and approved."

COUNCILMEMBER SPANGLER: Okay. This --

ATTORNEY WEED: But one could make the argument -- a reasonable person could make the argument that if you, you know, lifted a hiring freeze and you budgeted for a position, inherent

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in that is approval of the position. So that's not an unreasonable thing that you've done or suggested; however, the word is "and," and my duty's to tell you that it's budgeted and approved.

COUNCILMEMBER SPANGLER: Okay. So, now, this money was in the budget but this money has been spent. So that means you have to put it back in the budget.

ATTORNEY WEED: Which I believe you have just done.

MAYOR JENKINS: That's what we just did.

COUNCILMEMBER BATES: I'll make a motion to approve the budgeted accounting position.

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

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1 CLERK BLACKMON: Councilmember Bates?
2 COUNCILMEMBER BATES: Yes.
3 CLERK BLACKMON: Councilmember Fleming?
4 COUNCILMEMBER FLEMING: Yes.
5 CLERK BLACKMON: Councilmember Pittman?
6 COUNCILMEMBER PITTMAN: Yes.
7 CLERK BLACKMON: Councilmember Roche?
8 COUNCILMEMBER ROCHE: Yes.
9 CLERK BLACKMON: Councilmember
10 Spangler?
11 COUNCILMEMBER SPANGLER: No.
12 MAYOR JENKINS: Motion carried.
13 I believe that is all we need to do.
14 Is that right, Murray?
15 COUNCILMEMBER ROCHE: What about the
16 RFPs that we -- the responses to the RFP for the
17 I.T. position? I mean we just throw those away
18 and start over?
19 MAYOR JENKINS: That's entirely up to
20 you.
21 COUNCILMEMBER ROCHE: Well, I don't
22 know. I mean we just --
23 MAYOR JENKINS: Do you want to go to
24 that trouble again and advertise it again, fine.
25 You're talking about money, budgeting

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1 money. You've seen this is adding all the time.
2 COUNCILMEMBER ROCHE: No. I just want
3 to know what happened with those. I mean
4 obviously someone put out an RFP. The Council
5 didn't --
6 MAYOR JENKINS: They're here.
7 COUNCILMEMBER ROCHE: Sorry?
8 MAYOR JENKINS: They are here.
9 COUNCILMEMBER SPANGLER: Always before
10 when we put out RFPs, we kind of had a little
11 feedback into the . . .
12 COUNCILMEMBER ROCHE: Yeah, the Council
13 approved (overspeaking).
14 MAYOR JENKINS: Well, we will when we
15 get ready to interview.
16 Maria, English Oak Park, old business.
17 ATTORNEY WEED: Well, Mr. Mayor, I just
18 want to get a clarification because Mr. Bates'
19 voice is kind of rough.
20 Did you approve? Was your motion to
21 budget for or --
22 COUNCILMEMBER BATES: My motion was to
23 approve the accounting position.
24 ATTORNEY WEED: Thank you. I'm sorry.
25 I just didn't hear it. Pardon me.

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1 MAYOR JENKINS: We've already approved
2 it.
3 We did call the roll on that one?
4 CLERK BLACKMON: Yes, sir.
5 ATTORNEY WEED: Mr. Mayor, did the
6 Council decide to hire anybody for that or are
7 you going to have interviews again?
8 MAYOR JENKINS: I'm going to have
9 interviews again. I'll set it up and call all
10 the Council and set it up for their convenience.
11 COUNCILMEMBER ROCHE: Are we going to
12 come up with a job description for an I.T.
13 person and do that process also?
14 MAYOR JENKINS: Whenever you get ready
15 for the interviews, we'll set them up.
16 COUNCILMEMBER ROCHE: For I.T.
17 MAYOR JENKINS: Yes.
18 COUNCILMEMBER ROCHE: I'm not talking
19 about accounting.
20 MAYOR JENKINS: Yes.
21 COUNCILMEMBER SPANGLER: Now, is the
22 I.T. position going to be contract or is it
23 going to be employee, and is the accounting
24 person going to be an employee of the City Clerk
25 or is it going to be a department head?

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1 MAYOR JENKINS: Full-time person under
2 the City Clerk.
3 COUNCILMEMBER SPANGLER: So it will
4 never be --
5 MAYOR JENKINS: And the Mayor.
6 COUNCILMEMBER SPANGLER: -- a depart-
7 ment head, will never be a department head
8 position.
9 MAYOR JENKINS: No, not that I know of.
10 I don't see any reason for it to be.
11 Maria?
12 COUNCILMEMBER ALEXANDER: As everyone
13 remembers, we had a citizens committee formed to
14 go over our park rules for all our parks and
15 they did a very good job. And Mr. Weed has
16 presented us the official ordinance to address
17 the suggestions and to repeal some things -- for
18 example, the task force rules.
19 I did have two questions. On page 3,
20 we do have designated organized sports in Brook
21 Park because that's another set of tennis courts
22 there.
23 And then on page 4, I would like
24 Council to decide, because we are now allowing
25 leashed dogs in the park, and I think that's

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1 something we want to continue. That's on page
2 4, and I would like Council's input on that.
3 COUNCILMEMBER FLEMING: I spoke to Ms.
4 Stephens today in regards to her comments on the
5 park rules. That was one of hers, because it
6 should just say pets there, I believe, not the
7 comment pets not allowed, and it should just say
8 leashed pets allowed because you may, you know,
9 want to bring your leashed cat. You never can
10 tell; right? So it should say leashed pets
11 allowed.
12 But I threw in owner will be
13 responsible for refuse disposal because I don't
14 want to see us getting into buying little
15 baggies to put in each park and going to an
16 extra expense. So I wanted to see that added if
17 we allow animals, leashed animals.
18 MAYOR JENKINS: Maria?
19 COUNCILMEMBER ALEXANDER: I think Mr.
20 Weed is making notes.
21 ATTORNEY WEED: Well, yes. Is there
22 something else? I'm sorry.
23 COUNCILMEMBER ALEXANDER: Did you get
24 that?
25 ATTORNEY WEED: Yes, I did. That's

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1 what I was doing.
2 COUNCILMEMBER ALEXANDER: Do we need to
3 make a motion to waive first reading?
4 ATTORNEY WEED: Yes. If you'd like to
5 go ahead and pass this tonight, you should do
6 that.
7 COUNCILMEMBER ALEXANDER: I'd like to
8 make a motion that we waive first reading of the
9 ordinance regarding park rules.
10 COUNCILMEMBER PITTMAN: Second.
11 MAYOR JENKINS: Anymore discussion?
12 COUNCILMEMBER FLEMING: Now, we will
13 have the signs listed that are in the ordinance
14 where the uniform signage is going to go in
15 every single park; is that correct?
16 COUNCILMEMBER ALEXANDER: Yes.
17 COUNCILMEMBER SPANGLER: Did we allow
18 the motorized?
19 COUNCILMEMBER ALEXANDER: Wheelchairs,
20 yes. We modified the motorized vehicle
21 ordinance to include mobility scooters and
22 wheelchairs.
23 COUNCILMEMBER SPANGLER: And what did
24 we actually agree on as far as organized sports?
25 COUNCILMEMBER ALEXANDER: That's

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1 another --
2 MAYOR JENKINS: That's why we said by
3 the size of the park.
4 COUNCILMEMBER ALEXANDER: Section 12-
5 30.
6 COUNCILMEMBER SPANGLER: What does it
7 say?
8 COUNCILMEMBER ALEXANDER: "For purposes
9 of this article, City parks shall be divided
10 into active or passive parks and recreation
11 facilities. Active parks or recreation
12 facilities shall mean any City owned land or
13 structure designed for and used for organized
14 sporting activities even if the same has passive
15 facilities located thereon. Passive parks or
16 recreation facilities shall mean any City owned
17 land or structure designed and used for non-
18 organized play, walking, running, excluding
19 heavy use sporting activities that are more
20 appropriately manifested at active parks or
21 recreation facilities."
22 And then Mr. Weed listed the parks, and
23 he needed to add Brook Park because of the
24 tennis courts.
25 So "Halpern, Honeysuckle, Flowers Park

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1 and the Doraville Boxing Club and Brook Park
2 shall be deemed to be active parks or recreation
3 facilities. All other City parks and recreation
4 facilities are deemed to be passive."
5 MAYOR JENKINS: We've only got one
6 person signed up on that, and that's Steve
7 Koontz.
8 MR. ANDERSON: I didn't sign up because
9 I didn't think it was necessary. I apologize.
10 MAYOR JENKINS: Come on up, Steve.
11 MS. KOONTZ: Stephe Koontz. I was the
12 chairman of our little committee. And we
13 discussed the wordage of active and passive
14 parks, and we didn't think that was a good idea
15 to be designating like one park an active park
16 or a passive park. It's very confusing.
17 I thought that the simple thing was
18 what was already in the ordinance right now,
19 that designated areas -- that organized sports
20 are restricted to designated areas. That was
21 pretty simple. And this thing of going active
22 park/passive park, if it's deemed that part of
23 the park is active and part's passive, that's
24 really convoluted and confusing. We've turned
25 two sentences into three paragraphs.

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When we discussed all this, that's what we decided, was what was there was fine and it already covered the problem and it just needed to be on the sign; that instead of saying no skateboards on the tennis courts or whatever, that specified areas have specified activities as far as organized sports.

What was just read, I mean we didn't get sent any of this to look at. But what she just read is -- I don't -- just very confusing for somebody to try to understand what that even is supposed to mean.

So that's my comments on that.

MAYOR JENKINS: Maria?

COUNCILMEMBER ALEXANDER: I think there's another person.

MAYOR JENKINS: You weren't on the sign-up, Mr. Anderson.

MR. ANDERSON: I --

MAYOR JENKINS: Next time put your name on the list.

MR. ANDERSON: Yes, sir, I apologize. I didn't think there would be controversy over this.

What Stephe said is correct about

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designated areas for activities, and the other designated area is for parking. It takes care of motorized this, motorized that. You can park where it's designated and you can activity where it's designated, and it makes it simple.

Thank you.

MAYOR JENKINS: Thank you.

Maria?

COUNCILMEMBER ALEXANDER: We have waive first reading and we've got a second.

MAYOR JENKINS: We've already got a second?

COUNCILMEMBER ALEXANDER: I thought we did. Did we?

COUNCILMEMBER PITTMAN: We did. Is there --

MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER PITTMAN: Yes, actually. Is there a way to simplify that again?

ATTORNEY WEED: Well, what's in the current ordinance is that it's up to the Mayor and Council by written resolution to actually designate what would be an active and what would be a passive park and decide, you know, each time what will occur as a permitted or

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prohibited use.

And what Carol Stephens and I were very much concerned about would be we don't want to have that happen every single time somebody wants to use the park -- you know, defining which is a valid active use and which is not a valid active use. I just think, you know, that's ripe for danger.

Carol and I talked about a number of goals that she wanted to accomplish, which would be, you know, how to maintain the parks, how to keep the grass in the parks alive and healthy yet have active sporting programs on them, and that's where the concept of the active/passive park came from.

MAYOR JENKINS: Do you want to leave the motion as it is?

COUNCILMEMBER ALEXANDER: Well, that was just to waive the first reading, sir.

MAYOR JENKINS: Excuse me?

COUNCILMEMBER ALEXANDER: That was just to waive the first reading.

MAYOR JENKINS: Oh, okay. Call the roll on the first reading.

CLERK BLACKMON: Councilmember

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Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: No.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: No.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: No.

CLERK BLACKMON: Tie vote.

COUNCILMEMBER BATES: It's got to be unanimous to waive; right?

ATTORNEY WEED: That's correct. The first reading is not waived.

MAYOR JENKINS: Do what, now?

ATTORNEY WEED: The first reading is not waived.

CLERK BLACKMON: It's not unanimous.

MAYOR JENKINS: I vote yes on the first reading.

ATTORNEY WEED: It doesn't matter,

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1 Mayor, because it's got to be a unanimous vote.
2 COUNCILMEMBER ALEXANDER: So what does
3 Council wish to do?
4 MAYOR JENKINS: So it'll have to be
5 either postponed or do the second reading; is
6 that correct?
7 ATTORNEY WEED: Well, after tonight,
8 this will count as first reading. So the first
9 time you could vote on it now would be at the
10 next meeting or a special-called meeting. This
11 will automatically be first reading.
12 COUNCILMEMBER FLEMING: On that
13 particular issue, though -- and that's the
14 reason why I voted no to waive it -- is that
15 could we not --
16 Organized sports will be available at
17 designated parks, and that's where you list the
18 parks, rather than the passive versus the active
19 and all of that.
20 COUNCILMEMBER ALEXANDER: Well, he did
21 list the parks in that section also.
22 COUNCILMEMBER FLEMING: That's what I
23 was referring to: to list the parks but just
24 say organized sports will be at the following
25 designated parks, bam.

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1 COUNCILMEMBER SPANGLER: And actually
2 list what organized sports are. There's no harm
3 in -- we did a 20-page ordinance for other
4 things or we've done 47-page ordinances for
5 other things, so why can't we be more specific
6 and let the residents know what they can do in
7 these parks?
8 We've had children and adults both
9 asked to leave the parks, so let's make it
10 clear. Even if we have to add a couple/three
11 more pages, let's make it clear what they can do
12 and what they can't do; what's an organized
13 sport and where they can do the organized
14 sports.
15 COUNCILMEMBER ROCHE: And how are we
16 going to get all this on a sign?
17 COUNCILMEMBER ALEXANDER: It's not.
18 The sign is suggested in 12-34.
19 ATTORNEY WEED: You don't have to put
20 people on notice of every point that's in a
21 statute, and the --
22 COUNCILMEMBER ROCHE: Obviously. I
23 just -- you know, I --
24 ATTORNEY WEED: The statute refers to
25 the actual section; therefore, law enforcement

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1 can always enforce the statute.
2 COUNCILMEMBER ROCHE: I mean before I
3 came on the Council, I didn't know what, you
4 know, passive park meant or active park meant or
5 whatever. I mean I know that tennis courts,
6 they look like tennis courts and that's where
7 you play tennis, I mean. Other than that, I
8 could throw a frisbee, I guess, or get up a
9 little pick-up softball game or something.
10 I agree with some of the other
11 comments: that it just seems like we're making
12 this way more complicated than it needs to be.
13 ATTORNEY WEED: Well, perhaps this
14 should go back to the committee and they can
15 maybe define what will be an organized sport.
16 COUNCILMEMBER ROCHE: Well, it would be
17 good to hear from Ms. Stephens, too. I'd like
18 to see her input on all of this.
19 ATTORNEY WEED: She had input with me,
20 and she didn't clarify it any further than what
21 I shared with you, but there might be something
22 else she hasn't thought of.
23 MAYOR JENKINS: Bill, I'm going to give
24 you a chance. From now on, you'll have to sign
25 on the sign-up sheet to speak. Can you make it?

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1 Come on up to the microphone.
2 MR. ADAMS: Talking about parks -- my
3 name is Bill Adams -- put signs up in the park,
4 and if the Police Department has a problem with
5 it or gets complaints, they can't enforce signs.
6 You have to make that into an ordinance to give
7 them enforcement powers. You could put signs
8 up, but they couldn't make an arrest off of
9 signs. There has to be an ordinance.
10 MAYOR JENKINS: Right. Thank you,
11 Bill.
12 You say that's all, Maria?
13 COUNCILMEMBER ALEXANDER: Yes.
14 COUNCILMEMBER BATES: Yes.
15 MAYOR JENKINS: Okay. Bob Roche, next
16 item.
17 COUNCILMEMBER ROCHE: Yes, the
18 Occupancy Rate Ordinance. We worked on it over
19 the last time.
20 We have made progress. First of all,
21 all this was over in the Zoning Ordinance, and
22 at least my goal or the goal of bringing this up
23 is to try to find a way that -- something that's
24 enforceable so that we can close down these
25 obvious rooming houses but at the same time not

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1 make things illegal that are currently illegal
2 such as having a roommate is currently illegal,
3 I mean by the strictest definition of the
4 ordinance.
5 So I think what we've decided to do so
6 far is three things. First of all, we're going
7 to move the whole thing out of the Zoning
8 Ordinance into the regular ordinance. That'll
9 make it easier, because I mean this thing is
10 kind of a moving target and we'll be able to --
11 it's a little -- a lot easier to modify a
12 regular ordinance than a zoning ordinance.
13 The second thing is I think we're
14 getting rid of the concept of trying to define
15 what a family is. What happens now is you go
16 and there's 15 cars out there and 22 people
17 living in a -- guys living in one house. And
18 you say, "This is a rooming house." They say,
19 "No. This is my cousin and that's my second
20 cousin and that's my brother," and suddenly
21 everybody's related by blood and you can't do
22 anything about it. And the government shouldn't
23 be in the business of trying to define what a
24 family is, anyway, so we're going to get rid of
25 that.

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1 We also had the rental provision that
2 at least for the moment we want to get rid of,
3 which basically says now that you can't have a
4 roommate. This year, I got a call from a
5 citizen that lived in Northwoods that had a QOL
6 show up at their door and basically tell them
7 that -- it was a young couple, and they had a
8 roommate, living in a three-bedroom house, and
9 they were told that the roommate had to move out
10 within a week. I mean obviously we made sure
11 that didn't happen, but part of my thing was to
12 get that so we didn't have to do that.
13 Last but not least, though, is how many
14 people can live in a house, number of rooms or
15 whatever? Originally I was thinking in terms of
16 number of people per bedroom, but I've been
17 educated since then that typically you do that
18 in terms of square feet, and that's fine. You
19 know, whatever works.
20 What we have is Section 2-260. The
21 first paragraph is, I think -- in my opinion, I
22 think that's all we really need. It says
23 "excluding bathrooms and rooms used for cooking"
24 -- and I would probably insert "and hallways" --
25 "shall contain at least 300 square feet for the

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1 first two occupants and 200 additional square
2 feet of floor area per additional occupant." And
3 to me, that basically, I think solves the
4 problem.
5 The rest of this, there's information
6 about required space in sleeping rooms. Well,
7 if we're not interested in the number of people
8 per sleeping room, I'm not sure why we need to
9 define that.
10 It gets into minimum ceiling height
11 which, I don't know, I guess I'm open to
12 persuasion on why that would be. I guess you
13 could say that if you have a ceiling that's
14 below six feet tall, it's not very, you know,
15 livable space or whatever.
16 So I guess I could see where we may
17 need to define what "living space" means. But I
18 don't know that we need to define what "sleeping
19 rooms" means because, again, we're basing the
20 number of occupants on square footage.
21 And then there's a whole thing about
22 conditions to inhabiting a basement. It just
23 seems like this should belong someplace else
24 like in the building codes or someplace else.
25 I'm not sure.

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1 So anyway, that's kind of where we are.
2 I would prefer to just leave A, and then if we
3 need some kind of definition about living
4 spaces, leave that in but basically take out
5 anything else that we don't need.
6 I guess from a legal standpoint, I'll
7 ask Attorney Weed to weigh in on his opinion on
8 the . . .
9 ATTORNEY WEED: I like your sugges-
10 tions. Generally, I definitely think B we can
11 live without.
12 Just to give a little historical
13 background, what we tried to do of course was do
14 the minimum amount of changes to the Code
15 necessary, underneath your general view that you
16 want the minimum amount of changes necessary,
17 usually.
18 I do tend to think, though, we're
19 probably going to need ceiling height. I think
20 that might end up being important. And I think
21 we probably ought to keep E. That's language
22 about who's responsible for complying.
23 And I would lean towards to leaving B
24 (ph) in because I'm a little worried that people
25 are going to try to occupy basements, but I

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1 would also defer to John Calcaterra's judgment,
2 from the Building Inspector. But I also -- but
3 I also completely concur with you that I don't
4 think B is any longer necessary.
5 COUNCILMEMBER ROCHE: Well, I would
6 like to make a motion that we -- I mean this is
7 a draft, but I would make a motion that we
8 delete paragraph B from the draft and go from
9 there.
10 ATTORNEY WEED: And I assume you'd like
11 "and hallways" added to A?
12 COUNCILMEMBER ROCHE: I'm sorry. And
13 add "hallways" to A, yes.
14 MAYOR JENKINS: Excuse me just a
15 minute. We've got to find that before we can
16 comment on that. I want to find mine.
17 COUNCILMEMBER ROCHE: Does anyone else
18 -- I only have one copy but I can share.
19 MAYOR JENKINS: I don't seem to have a
20 copy of it. Let me --
21 COUNCILMEMBER ROCHE: Sure.
22 MAYOR JENKINS: You say delete
23 paragraph B?
24 COUNCILMEMBER ROCHE: Yes.
25 COUNCILMEMBER FLEMING: B as in boy.

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1 MAYOR JENKINS: What did I say?
2 COUNCILMEMBER FLEMING: No, no, no. I
3 just commented because when Mr. Weed said B and
4 D, it was a little --
5 COUNCILMEMBER SPANGLER: It sounded the
6 same.
7 COUNCILMEMBER FLEMING: -- hazy, so
8 that's --
9 ATTORNEY WEED: B as in boy.
10 COUNCILMEMBER FLEMING: -- the reason.
11 MAYOR JENKINS: You say you want to
12 delete required spaces in sleeping rooms?
13 COUNCILMEMBER FLEMING: Correct.
14 ATTORNEY WEED: Keep D. D is
15 conditions in having basements.
16 MAYOR JENKINS: You mean square foot,
17 or what are you referring?
18 COUNCILMEMBER FLEMING: We don't want
19 to define sleeping rooms. We don't want to have
20 so say a bedroom has a ceiling, a window, a
21 door, a closet.
22 MAYOR JENKINS: Well, if you don't
23 define it, what if they consider a bathroom a
24 sleeping room?
25 COUNCILMEMBER ROCHE: Well, that's

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1 covered in the first paragraph.
2 Again, the whole point is that we're
3 trying to limit the number of people that can
4 occupy a certain space, living space.
5 MAYOR JENKINS: Yeah.
6 COUNCILMEMBER ROCHE: I mean, for
7 instance, you could have a studio where
8 technically that's not a bedroom. It's just one
9 big room with, you know, everything in it.
10 MAYOR JENKINS: And how many square
11 foot would each person take up? How many could
12 you --
13 COUNCILMEMBER ROCHE: That would be
14 paragraph one, which is 300 for the first two
15 people and then 200 for each additional
16 occupant.
17 MAYOR JENKINS: Okay. I was just
18 curious about that feet.
19 COUNCILMEMBER ROCHE: And all we're
20 saying is that since we're not going to base
21 this on bedrooms, then we don't really need to
22 define a bedroom.
23 MAYOR JENKINS: Steve, come on up.
24 MS. KOONTZ: I like what y'all -- the
25 direction you're going with just going by square

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1 footage instead of trying to define what a
2 bedroom is. And like you said, if you're going
3 to be excluding kitchens and hallways and
4 bathrooms, there's no reason to define bedrooms
5 because you're not restricting them to a
6 bedroom. You're not -- still, you're measuring
7 living rooms and everything in determining the
8 square footage. So there's no reason to define
9 the kind of rooms they're in.
10 I would think, though, in this part we
11 had the exclusions where you're adding hallways,
12 it would be pretty simple to just go ahead and
13 add to that part, if you're worried about low
14 ceiling heights, to have "excluding rooms with a
15 ceiling below" blank, and exclude basements as
16 defined in wherever it's defined, if you're
17 worried about people living in basements, and
18 have all the exclusions to the square footage
19 calculation in that same sentence so -- or in
20 that same paragraph so you don't have some
21 exclusions here and other exclusions in another
22 part of the Code like we've had happen in other
23 parts of the Code that I've seen written lately.
24 I think it's better if you have all the
25 exclusions in one area and it simplifies

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1 calculating the square footage that's allowed
2 per person.
3 COUNCILMEMBER ROCHE: Yeah. And in
4 fact, that's our goal, basically. The first
5 paragraph, paragraph A, would have the people
6 per square feet; delete B, which is the sleeping
7 -- and C, well, it would turn into B and C. It
8 would be immediately afterwards.
9 I realize people don't have a copy of
10 this.
11 And a silly question, I guess. This
12 does not apply to jail cells?
13 ATTORNEY WEED: The City is, you know,
14 not subject to its own ordinances.
15 COUNCILMEMBER ROCHE: We don't want to
16 have to start tearing down walls in the jail,
17 too, to make it bigger.
18 MAYOR JENKINS: Stuart, do you want to
19 speak on this?
20 MR. ANDERSON: I'm sorry about your
21 loss, Brian.
22 If I go over the five minutes, there's
23 two items here, so I'll just continue on with
24 the next five minutes that I'm given for items
25 five and six.

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1 We'll back up a little bit. I've got
2 something to say about FARs, people in the
3 building and how to relate to that.
4 Back to the 260 and what Mr. Roche said
5 about taking these matters out of the Zoning
6 Ordinance and putting them in the Municode's
7 260, at first, I'm either way with that. But
8 what I'm worried about is the --
9 I'll just read this: Indemnifies the
10 FARs regulated below into the Municodes,
11 allowing the Quality of Life to have police
12 powers over dwelling space or occupancy
13 densities. Fine at first blush.
14 However, this aimed at letting the City
15 start to use administrative warrants -- this has
16 been brought up before but it was not brought up
17 tonight -- which goes against the Constitution
18 of the United States and allows nonjudicial
19 warrants or intrusions because the City, to
20 quote Mr. Weed, hasn't inspected a dwelling for
21 ten years.
22 This has been used in large cities for
23 dangerous buildings by building officials where
24 a health hazard is suspect, not for the purpose
25 of intrusion, police powers. 2-260 should

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1 address commercial structures only. It's
2 dangerous in so many ways.
3 What does it say about a city that
4 misuses a general-welfare tool to circumvent
5 civil liberties when there are other ways of
6 managing quality of our housing? which I'll get
7 to in a little bit.
8 I'll ask you to exclude FARs from the
9 Municodes, as I stated above, because of the
10 administrative warrant. 260 should be applied
11 to commercial structures if at all.
12 And we should also put into place a
13 review mechanism for the consideration or
14 implementation of administrative warrants. This
15 is a really far-reaching, dangerous-in-my-
16 opinion concept that we're letting people,
17 without going before a judge, just go into the
18 house. It's not good for civil liberties and it
19 doesn't look good for us if we start doing that
20 at the whim of the building official or the
21 building code.
22 Item 607 is deleted or we're asking to
23 delete that, which says no renting in
24 residential housing. That's of course correct;
25 we should delete that. But as a matter of --

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1 607 should be handled separately from 809,
2 building spaces, FARs.
3 607 should read: Rental Provision --
4 Owner occupied -- and this is important -- Owner
5 occupied single-family dwellings may rent space
6 to an extent outlined in the FARs of the Zoning
7 Ordinance of Doraville. However, furthermore,
8 from the time of adoption of this revision, this
9 ordinance may -- ordinance, any single-family
10 dwelling that is occupied as a rental shall not
11 be -- shall not only comply with the FARs as
12 outlined by the City Ordinance of Doraville for
13 single-family detached housing but shall each
14 year obtain an occupational tax renewal
15 certificate. Nonowner-occupied rental
16 properties shall be considered as a for-profit
17 enterprise for taxation purposes and shall be
18 inspected for health and safety reasons by the
19 Quality of Life department or department the
20 City so tasks for that inspection.
21 This concept will get rid of our
22 rooming houses. It leaves the owner-occupied
23 capability of having a large family or of taking
24 in a student, et cetera. But the houses that
25 are just rental -- if you have two houses and

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1 you live in one and you want an extended family
2 in one, that's fine. But if you own a house and
3 you want to rent it out completely and you don't
4 live there, then you will be -- then you'll get
5 a tax license and you'll be inspected, and when
6 they go in there and inspect that and they see
7 beds everywhere, et cetera, et cetera, then we
8 control those 16 cars in the parking lot without
9 doing a -- it's creating a business for those
10 people, and that's why they bought the house as
11 a rental house, so they could get money off of
12 it. By just inspecting those businesses as it
13 were, making it a fact so that those are
14 businesses, then we look at 90 percent of this
15 boarding house or rooming house situation.
16 Since I haven't run out of time,
17 Section 809, which is FARs, should contain the
18 following living space density guidance. And
19 this really simplifies things, and I know where
20 you guys are going in defining things, bedrooms,
21 et cetera.
22 Living space density guidance entitled
23 FARs, floor area ratios, for R-1 zoning or
24 single-family detached: Every dwelling unit
25 shall contain at least 300 square feet for the

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1 first two or one occupants with an additional
2 200 square feet for additional occupant. Fine.
3 All sleeping spaces shall have fenestration
4 equal to but not less than eight percent of the
5 floor space, so all sleeping spaces shall have
6 an operable hinged door and one closet that is
7 part of the dwelling structure.
8 Actually, Ms. Fleming brought that up,
9 and it's a standard of consideration when you're
10 having a house inspected for purchase or sale.
11 That -- I'll finish this on the next
12 item which is next.
13 MAYOR JENKINS: Bonita?
14 MS. HOFFMEISTER: Bonita Hoffmeister,
15 Oakcliff Estates.
16 I, too, support Stuart's concern about
17 police rights, and I have another concern. When
18 you try to make renting a home a business, I
19 think it was either Maryland or Virginia, a town
20 in one of those tried that, and they did have
21 legal problems, so beware of that.
22 But my concern, my personal concern as
23 an owner of a small home -- and there are
24 several small homes in Doraville -- is that when
25 you start limiting this for a family to square

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1 footage and you don't have an either/or, then
2 you start limiting a home such as mine to only
3 three people, because mine is a very small home,
4 and you start taking out the kitchen and the
5 bathrooms and the hallways, you're not left with
6 much room. There have been several families in
7 this city who have raised large families in
8 small homes, and therefore, I would ask you to
9 take that into consideration and put like -- it
10 would not be too unreasonable to expect a home
11 to be able to house at least six people no
12 matter what the configuration and the footage,
13 because a family could have two parents and four
14 children. I grew up in such a family, as I'm
15 sure other people did, too, and possibly more.
16 Thank you.
17 COUNCILMEMBER PITTMAN: Mr. Weed, the
18 current ordinance that we have now, it limits
19 you to no roommates; is that correct? Is that
20 spelled out in there?
21 ATTORNEY WEED: Well, it's -- it is a
22 bit Draconian, but it -- well, I'll just read it
23 to you.
24 COUNCILMEMBER PITTMAN: And I just have
25 a question. I know the -- or a statement. The

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1 last Council, we worked pretty hard in
2 developing the ordinance that we currently have.
3 And I don't know if Captain Atkinson
4 can answer the question or not, but do we have a
5 problem other than the officer getting into the
6 homes, of enforcing that and making that stand
7 in court? Are we having problems that you're
8 aware of?
9 CHIEF ATKINSON: Not that I'm aware of.
10 The issue is getting into the home.
11 COUNCILMEMBER PITTMAN: Right. That's
12 always been the issue. And we worked a long
13 time on the ordinance to fine tune it -- the
14 past ordinance, the current ordinance -- the
15 past Council.
16 ATTORNEY WEED: Well, I think what
17 you're thinking about would be Section 809. The
18 subsections aren't lettered in this particular
19 case but it's the rental provision.
20 In any single-family residence, there
21 shall be no rental of space to boarders,
22 students, transients or other nonfamily members.
23 COUNCILMEMBER ROCHE: Right.
24 ATTORNEY WEED: So essentially if you
25 have someone living with you, they currently

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need to be a family member. And then we, the government, are defining what constitutes a family member. That's my opinion.

COUNCILMEMBER PITTMAN: Right. Okay.

ATTORNEY WEED: That's the current law right now.

COUNCILMEMBER ROCHE: Well, again, I don't have a problem readdressing the first paragraph, the number of people per square feet, but I'm just -- to make some progress and to try to clean this up a little bit, I think -- I still have -- I don't know if someone seconded it or not.

COUNCILMEMBER ALEXANDER: It's not.

COUNCILMEMBER ROCHE: To start off by removing paragraph B, and then we'll go look at A after that. So I still have a motion to remove paragraph B from this draft ordinance.

MAYOR JENKINS: Do I get a second on that?

COUNCILMEMBER BATES: I'll second that.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

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MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

COUNCILMEMBER ROCHE: And I should have said the original one that we -- and hallways.

I'm starting to catch what you're catching, I think.

COUNCILMEMBER BATES: It's not contagious.

COUNCILMEMBER ROCHE: Okay. Well, good.

Do we need to address paragraph A with the number of people per square footage or do we

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need to have a situation where if someone does live in a small house and QOL shows up to the door, you know, the Mayor or the building person could come over and say, "Well, you got three kids that are this big. You know, you're okay." I mean some kind of a waive thing? I don't know.

ATTORNEY WEED: No, sir. I hope you don't do that.

COUNCILMEMBER ROCHE: Well, I don't know.

ATTORNEY WEED: I just think that would be -- that's completely illegal in my opinion. I wouldn't suggest you do that.

COUNCILMEMBER ROCHE: Okay. Well, I don't know. Do we need to address paragraph A? I'm open to suggestions.

ATTORNEY WEED: And everyone knows my philosophy about that. Someone decided how long a football field would be. I ran these numbers by John Calcaterra and he thought they were fair and appropriate based upon the conditions on the ground. That's the Building Inspector's opinion. You don't have to go with that. You can increase them; you can make them lower.

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COUNCILMEMBER ALEXANDER: I guess my question was I thought one of the things that we wanted to try to do was to make this ordinance to be able to be easily enforced. And I think one of the things that we had discussed previously was utilizing the Dekalb County tax database and looking at the square footage on the tax databased for the home.

And doing this, you can't really do that because you don't know how big somebody's bathroom is or how big their kitchen is, so you cannot deduct the square footage from what is quoted on the tax database, and I thought we were trying to make it easily enforceable; you call up my house and it's 1385 square feet or whatever in the tax database, and that's what you go with.

COUNCILMEMBER SPANGLER: And I agree with that. I mean if you've got 1385 foot, that includes the bathrooms, the kitchen, the whatever. You can't take those out and say I've got 600 square foot of bedrooms and have a family of five children and two parents. It would be illegal for them to live in it. Our constitutional rights prevail here.

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ATTORNEY WEED: And I'm curious as to what point the Code Enforcement/Quality of Life, when do they check the tax information and at what point in the investigation does that lock itself into stone.

In other words, if there's some work on the house between times where the tax information doesn't reflect reality on the ground, when does the tax information come into play?

I'm not saying -- I think maybe you could do it that way, but you're going to have to have a definitive time where, at X moment, based upon the written language in the ordinance, that's when the square footage as listed by Dekalb County tax records -- that is what it is. And if it varies from that, that's problematic.

COUNCILMEMBER ALEXANDER: So your solution is to go into someone's home with a tape measure?

ATTORNEY WEED: Yes, ma'am. That's called investigative work. That's what you do.

COUNCILMEMBER ALEXANDER: I disagree with that.

COUNCILMEMBER SPANGLER: What happens

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when --

ATTORNEY WEED: You're welcome to disagree with it, and I don't have a problem with you disagreeing with it, but the alternative would be you are setting up some system that you have no control over and rely upon its integrity to enforce a local ordinance -- having faith in the Dekalb County tax system.

And that may be particularly legitimate, that may be fine to do that, but that system, it's a sliding system whose information may not be accurate, that you've got no control over.

You've always got control over it is X-square feet, and I, the officer, have measured it, or I, the building inspector, have measured it. I swear under oath that's the measurement.

That's what people do in any investigatory case when they measure the tire tracks on an accident, when they find out whether you have a DUI and you read the intoximeter. That's what the police are supposed to do.

COUNCILMEMBER SPANGLER: So what you're actually saying is that the Building Inspector should go in each and every residence in the

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city limits of Doraville and measure everybody's home for livable space.

ATTORNEY WEED: If that --

COUNCILMEMBER SPANGLER: Not go by what the Dekalb County Tax Assessor's Office has on their books.

ATTORNEY WEED: That is what I'm saying.

However, you're not going to go to each and every home. You're only going to go to the homes that trigger an investigation of some kind. Someone gets a complaint because there are 20 cars in the yard and they never leave, or there are 20 cars in the yard and they rotate on a regular basis and nobody stays. You're still going to have some probable cause to have someone get the attention of the Quality of Life unit or the police to actually go look at the house. Otherwise, people will be left alone.

COUNCILMEMBER PITTMAN: But they still don't have to let you in unless you go to get the --

ATTORNEY WEED: They don't have to let you in unless the police go to a judge and get an administrative search warrant.

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There's no such thing as a nonjudicial search warrant. You know, you have to establish probable cause. You have to go to a judge. The judge has got to sign the form.

There's some impression that the Building Inspector is just going to go into people's home. That is not true. That will not happen. That cannot happen.

Now, when the police or Quality of Life go to the door and they ask, "Can I come in?" and somebody lets them in, that's fine, too. In fact, most cases are made that way rather than going to get a warrant.

COUNCILMEMBER FLEMING: But triggering the investigation of whether it's just a minor thing of looking at how many cars are in the driveway, okay, that Quality of Life person could go to Dekalb County tax base and indicate how many square feet that resident is -- I mean they've got the number -- and determine by the number of vehicles there or by our calculations here about how many per square feet, the number of people that should be in that house based on the Dekalb County tax digest. And with that, she wouldn't have to worry about pulling out her

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1 tape measure when she walked in. She would
2 already be on guard that there are six or eight
3 vehicles in the . . . in the car [sic]. She
4 would have probable cause to then ask for
5 entrance.
6 ATTORNEY WEED: I agree with everything
7 you said, but that scenario is completely
8 different than writing an ordinance that bases
9 the entire standard upon the Dekalb County tax
10 code and relying upon some third-party standard,
11 the reliability of which I wouldn't advise you
12 to put your faith in. I think the evidence
13 would indicate that there would be errors in the
14 Dekalb County tax code with regard to the
15 measurements of these homes and how often that's
16 updated. And if it's updated on a great,
17 regular basis, terrific. I wouldn't have that
18 faith.
19 COUNCILMEMBER ALEXANDER: I think
20 perhaps -- I guess we have sort of a
21 misunderstanding here.
22 I just don't think it's efficient to
23 have someone try to calculate without entry in
24 the home, the excluded square footage base,
25 which is what we're doing here with excluding

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1 the bathroom, the hallways, the kitchen. And I
2 guess you're thinking I wanted to put Dekalb
3 County in our ordinance.
4 I'm trying to make this or I'm
5 suggesting that we make this as simple as we
6 possibly can to accomplish our goal. That's all
7 I'm trying to do. And my first gut is you type
8 in the address and then it says 1365 square
9 feet.
10 ATTORNEY WEED: And while I think
11 that's a great investigatory tool which could
12 very easily lead to --
13 That's exact investigatory information
14 an officer would provide to a judge to get
15 probable cause to enter the space. That's
16 exactly what you do. That's the right thing to
17 do. That's good detective work.
18 I don't think you can base it on a
19 sliding scale on each individual home and the
20 footprint or the registered square footage in
21 the tax base for each individual home.
22 COUNCILMEMBER BATES: You would still
23 need to get an administrative warrant even based
24 on the Dekalb County tax code, though; correct?
25 Just because the tax code says it was --

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1 ATTORNEY WEED: Yes.
2 COUNCILMEMBER BATES: -- 1200 square
3 feet, you would still need to go through that
4 process of the investigation and getting an
5 administrative -- or getting a judge to sign off
6 on a warrant to gain entry.
7 ATTORNEY WEED: That is correct.
8 COUNCILMEMBER BATES: And there's
9 nothing in the ordinance as drafted that would
10 preclude the Quality of Life officers from going
11 to the tax code. That would be in addition to,
12 over and above.
13 ATTORNEY WEED: I hope that they would
14 do that. I would certainly agree that's the way
15 to do it as far as the investigation.
16 But crafting that as part of the
17 ordinance, I just don't -- I think that's --
18 attaching it to a sliding scale for each
19 individual home, I don't think that's a good way
20 to write law.
21 COUNCILMEMBER SPANGLER: I don't think
22 it's a good way to exclude bathrooms, hallways,
23 dens and kitchen.
24 I think if a house is 1500 square feet,
25 then there should be eight people allowed to

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1 live in that 1500 square foot house if you go by
2 what's in the ordinance now -- 300 for the first
3 two, one for each 200 square foot after that. So
4 I mean that's simple. Why complicate it by
5 going in and measuring and taking out the
6 bathrooms and the kitchens and hallways and
7 dens?
8 ATTORNEY WEED: If you're asking me,
9 Councilman, I feel better about that change than
10 attaching it to the Dekalb County tax code. But
11 I think the concept . . .
12 And please bear in mind I'm not the
13 author of the zoning ordinance. The original
14 language is directly what's current law right
15 now. I didn't write that. And the only -- and
16 I haven't made any changes for A, which you have
17 just heard, from what is in the current
18 ordinance.
19 Bearing that in mind, I mean if you set
20 it as the -- you could set it as the external
21 footprint of the home, that if the external
22 footprint included a garage, you know, whatever
23 the structure is based upon what's on the
24 foundation is X-amount of square feet, with that
25 number, only blank number of people could live

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there, that would be fine with me.
You know, you'd still have to enter the home eventually to find out how many people were inside, but you could just do an outside measurement.
COUNCILMEMBER SPANGLER: Yeah. Like I said, you don't need to go in the home and measure the bathrooms the kitchen and all that and take it out. I mean, you know, the tax assessor's going to be pretty close to being right.
ATTORNEY WEED: And maybe I just don't -- I just worry about a sliding scale, the fact of which I've stated already.
MAYOR JENKINS: Ms. Adams --
MS. ADAMS: I have a question.
MAYOR JENKINS: -- give your name, please.
MS. ADAMS: Elaine Adams.
I had a question about excluding the basement. Like in my house and a number of them on the street, we have two bedrooms downstairs -- doors, windows, walls, closet and a bathroom, and then, you know, an open space that could be a living area. And what if I had five kids?

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I'd have to move? They couldn't live downstairs in the bedrooms?
ATTORNEY WEED: No, ma'am, that's not correct. They would still be able to live there. That would be allowed.
MS. ADAMS: Thank you.
MAYOR JENKINS: Thank you.
COUNCILMEMBER ROCHE: How about this? As Councilwoman Pittman mentioned earlier, they spent a lot of time crafting this particular ordinance, you know. The only real tweak we've done to this is to include hallways -- I can take that out, I don't care, or we can take that out, I don't care -- remove paragraph B. But the other thing we're doing that's important is that we are -- if it's in the Zoning Ordinance, to make any kind of change to this, it takes a long time and the Planning Commission and a whole bunch of stuff that has to happen.
Why don't we just take what the previous Council did, move it out, put it in the regular ordinances, adopt it as it is and then see how it goes? You know, three months from now, if it's not working at all, we can always come back and readdress it and we can address it

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fairly quickly and fairly efficiently. And then at least that way, we've got a new ordinance to try to hang our hat on and move forward with. Otherwise, we'll be discussing this. I mean there's always nine, you know, different ways of doing this. If we could just take what we have today, adopt this, come back in three months. If it's working, fine. If it's not working, then we can fix it then, and it'll be a lot easier to fix.
MAYOR JENKINS: Put it in the form of a motion.
COUNCILMEMBER ROCHE: I make a motion that we --
Have we had the first reading?
ATTORNEY WEED: I believe this ordinance has appeared on another agenda. Yes.
COUNCILMEMBER FLEMING: Yes.
COUNCILMEMBER ROCHE: Well, it was. It just -- it wasn't exactly the same.
MAYOR JENKINS: Do I get a second?
COUNCILMEMBER PITTMAN: Well, what's the motion?
COUNCILMEMBER ROCHE: Well, I haven't made a motion yet.

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I make a motion that we pass the current version of this draft ordinance, Section 2-260, and we've already removed paragraph B.
MAYOR JENKINS: Do I get a second?
Do I get a second?
COUNCILMEMBER SPANGLER: Second.
MAYOR JENKINS: More discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: No.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.

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CLERK BLACKMON: Motion carried.
MAYOR JENKINS: Thank you.
ATTORNEY WEED: And just for my own personal edification, does the final version include the hallways or not? I know we got rid of paragraph B and you got a motion and a second and a vote on that, but --
CLERK BLACKMON: I have to add hallways to paragraph A.
ATTORNEY WEED: Okay.
COUNCILMEMBER ROCHE: The first time I stated it had hallways, the second time I stated it didn't have hallways.
ATTORNEY WEED: It looks like the one that had hallways in the past, yeah.
COUNCILMEMBER BATES: And for the record, my second was including the hallways.
ATTORNEY WEED: Thank you.
COUNCILMEMBER SPANGLER: So how are you going to write this, Mr. Weed?
ATTORNEY WEED: It's going to be exactly the way you have it in your hand, excluding subsection B. I'll reletter all the other sections, and the word "hallways" will be added to read in A, "Minimum living space:

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excluding bathrooms, hallways, and rooms used for cooking," blah, blah, blah.
COUNCILMEMBER ROCHE: And again if it doesn't work, we can always revisit it in the future.
MAYOR JENKINS: All right, Bob.
COUNCILMEMBER ROCHE: I'm done.
MAYOR JENKINS: You got both of them?
COUNCILMEMBER ROCHE: Yeah. The other one was -- I think we already talked. Yeah. I don't have the variances.
MR. ANDERSON: I have time on the other one.
MAYOR JENKINS: Excuse me?
MR. ANDERSON: I have signed up for the other one.
MAYOR JENKINS: Oh, okay.
COUNCILMEMBER ROCHE: Yeah. The confusion is that part of this is taking out the part that we take out of the zoning. So that's why it's two separate items. That will be addressed in the next zoning.
COUNCILMEMBER FLEMING: I have questions.
MR. ANDERSON: Go ahead.

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COUNCILMEMBER FLEMING: No, go ahead.
MR. ANDERSON: I'd like to address Maria's. I agree it needs to be simplified, all of this definition of hallways, et cetera, et cetera.
What I was about to say was, and to address Bonita's also, yes, it might be difficult to create a business requirement for rental houses, but nobody said this was going to be easy. We've been trying to fight this problem. We're at 40 percent-plus rental, and it's a big problem that we've got in the city and that's why we're trying to solve this.
Nonowner-rented properties will be considered for-profit enterprise. That allows, and what I said earlier, allows owner-occupied to have as a big a family as they want, et cetera, et cetera. They might be under the FARs, but there's not going to be a problem with them complying with that unless they have loud parties, et cetera, like Mr. Weed said.
And I appreciate what Mr. Weed said about the warrants. His comments before was what made me think that anybody could walk in or the QOL.

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Anyway, Section 809, FARs, should contain the following living-space densities like we talked about. The item's entitled FAR, Floor Area Ratios, Zoning, R-1 zoning. Every dwelling unit contains 300, which we agreed on with 200, et cetera, which you just passed.
All spaces should have fenestration equal but not less than eight percent of the floor space of that space.
All sleeping spaces shall have an operable hinged door and at least one closet that is part of the dwelling structure.
The window, the fenestration, for fire purposes, should be openable so you have an ability to get out.
This is really all you need. You don't need all the rest of this.
The calculation of floor area for this section will be based on the gross footprint. This is very important. The calculation of the floor area for this section will be based on the gross footprint of the structure. The gross footprint of the structure will not include porches, patios, decks, et cetera. This is very important.

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If you have both owner-occupied -- and I agree once again with Mr. Weed -- both owner occupied and . . . owner and occupants of the dwelling shall be responsible for compliance.

By just having the rental houses under a business situation for profit, then you get -- you end up by just defining the sleeping spaces as the door that works, the window of a certain space or size relative to the room, and a closet, nothing more is needed. You can plug in all the people and all the scenarios you want into those two situations where you have that small definition of sleeping area and that the dwelling unit shall contain 300/200/200. If you have a 1200 square foot building and there's no porches, no et cetera, et cetera, you know how many people are supposed to live there. And if it's for business and it's gone and inspected, you can see how many -- automatically you can see how many beds and how many sleeping situations are left in there. It makes it simple is what Maria's asking for, just those two areas of consideration.

MAYOR JENKINS: Bonita, do you want to comment on that?

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MS. HOFFMEISTER: No. I've already said what I have to say.

COUNCILMEMBER FLEMING: I need to ask Mr. Weed something.

Mr. Weed --

ATTORNEY WEED: Yes, ma'am.

COUNCILMEMBER FLEMING: -- this is agenda item number 6, if I'm not mistaken, the rental provision. I mean 6 and 7, correct --

ATTORNEY WEED: Yes, ma'am.

COUNCILMEMBER FLEMING: -- is what we're discussing.

Okay. I still believe that we need a rental provision so that it will be allowed, but I'm concerned about owner occupied versus rental homes that are not occupied by the owner. Should there not be two categories or do you feel that we should not have any rental provision in here at all?

ATTORNEY WEED: There may be certain categories of zoning where you might want to not allow any form of rental occupancy. And would that legally be possible? My opinion would be yes, you could make that a nonpermitted use.

However, as a general rule, you don't -

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- as a general rule, if you want to exercise the power of zoning, you usually have to say what you don't want, and if you say what you don't want, then that's supposed to mean very literally you don't want it.

If the ordinance doesn't address the idea, then usually in the case law interpreting zoning ordinances, the tie goes to the runner. So if it's not specifically prohibited, oftentimes it's considered to be generally allowed.

So essentially, I don't think you'd need to have a provision that says rental is allowed in particular areas. I think that can be -- that's ordinarily assumed. Can you do it that way? Yes, you can. Can you specifically limit it in certain zones? Yes. Can you specifically allow it? Yes.

What zones that it would be best for, that's really a better question for the Planner than me, but yes, you can do that.

COUNCILMEMBER FLEMING: The one thing that concerns me, and maybe I'm just thinking too inside the box, is that owner-occupied rental, there's security there because the owner

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is there and they are going to be, you know, watching out for their property. They've got the property rights there.

If I own a home -- like I said, I'm thinking within the box -- that I'm going to rent my home not occupied, to a family of some sort. But there is a possibility with no rental provision at all, that I could then rent my house to 15 different people and you've got 15 different sole people in that particular house.

ATTORNEY WEED: That is a problem, and what you're attempting to do, I think, is address it by virtue of 2-260. And that's -- I would concur with you that at least in my experience dealing with these things, it usually isn't when it's owner-occupied and they're renting to a college student or they're renting to whoever, because they live there and most of the people are highly motivated to keep their property up.

Usually it's nonresident owners who are -- you know, it was mom and dad's house and they live in Florida now, and they don't care any-thing about Doraville or what happens in Doraville as long as they're getting their check

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every month, and then there's lots of people who are great absentee landlords, too. However, in my experience, that's usually what we're trying to combat, that type of situation. I think it's covered now by 2-260.

COUNCILMEMBER FLEMING: Mr. Anderson brought up a point of business license, but I don't agree with that, but could we not have a rental permit?

ATTORNEY WEED: That's been tried before. Title 48 is the tax code in Georgia. And the realtors essentially have a very strong lobbying group. And from 1996 when the occupation tax law went into effect changing business licenses to occupation tax, that realty group was very highly represented at the capitol, and essentially, you know, boarding houses, renting to students, you know, homeowner-occupied rental, that's exempt from the occupation tax generally.

One of the other cities -- I believe it's Alpharetta -- there was a big court case very recently where they were simply trying to have mandatory inspections on what was clearly a commercial rental facility -- for individual

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families, true, but it was clearly an apartment complex. That went down in flames as well. The realtors group is a very strong lobbying group with the legislature. I don't see those laws changing any time soon.

COUNCILMEMBER FLEMING: Okay. Thank you very much.

- - -

(Brief recess)

- - -

MAYOR JENKINS: Meeting come to order. Murray?

ATTORNEY WEED: Yes, sir. I know I'm listed on 7 and 8, Mr. Mayor, but these items really just carry over from the last agenda. They have been discussed by both myself and by the Planner, so I don't have anything additional to add.

MAYOR JENKINS: Okay, good.

Maria, number 9?

COUNCILMEMBER ALEXANDER: Community gardens. We discussed last week about having community gardens in the city, and we had some information supplied by the city of New York, who's supposedly the expert on community

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gardens. And Mr. Weed had taken the information that we received and he had come up with a packet for community gardens and specifically addressed Windsor Oak Park and Wheeler at the triangle at Chestnut.

I did have a few questions, then we have an issue we need to address at Windsor Oak Park.

On page 12 of the volunteer agreement, do we need the paragraph where it starts "The following information may be needed"?

ATTORNEY WEED: In my opinion, we do.

COUNCILMEMBER SPANGLER: Is this what you would call a simple agreement?

ATTORNEY WEED: Yes, sir. It is.

COUNCILMEMBER SPANGLER: I don't know how --

ATTORNEY WEED: Perhaps someone else can write it more simply than I can. However, these agreements, the entire Assumption of Risk and Release From Liability is two pages. It can't get much more simple than that in my opinion.

COUNCILMEMBER SPANGLER: How many total pages are in this ordinance?

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ATTORNEY WEED: No, sir, it's not an ordinance, but this is the package that --

COUNCILMEMBER SPANGLER: Agreement. I'm sorry. The agreement.

ATTORNEY WEED: There are 20 pages total, and it's a variety of different documents. The Assumption of -- the one waiver is two pages. So I think you can't -- you can't do much better than that as far as making it simple in my opinion.

COUNCILMEMBER SPANGLER: So in order for anybody to use any of the City property for a community garden, they're going to have to read through all 20 pages of this and sign an agreement.

ATTORNEY WEED: I think that they should. Obviously no one's required to read through all of this if they just simply signed it, but I hope that they would.

COUNCILMEMBER ALEXANDER: And four pages are the membership list for the association.

ATTORNEY WEED: Right. A number of the pages of the document are essentially, you know, information. One is a two-paragraph page about

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1 the instructions. One is just simply who to
2 contact. Another is the Membership Procedure.
3 The Membership List I think takes up four pages,
4 as the Councilman said, and that's just your
5 e-mail address and names. Open Hours is one
6 pages, and that's essentially what might be on a
7 sign. The Volunteer Agreement is there, but
8 that's really between the gardening organization
9 and the volunteers.
10 What we care about predominantly is the
11 two-page liability waiver so that anybody that
12 might get hurt there won't be able to sue the
13 City.
14 And the License Agreement essentially
15 gives them permission to use the property and
16 the basic rules about how they're going to use
17 the property, which is required by Georgia law,
18 essentially; otherwise, it would be an
19 unconstitutional gratuity.
20 COUNCILMEMBER FLEMING: If they're
21 assuming the risk and liability in regards to
22 this, I can't see why they would need to list
23 their allergies and the medications they're
24 taking and their tetanus shot and so forth. I
25 mean I can see where we might ask them to list

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1 their health insurance coverage but not their
2 date of last tetanus shot.
3 ATTORNEY WEED: That's a good-faith
4 effort to try to help people. If someone got
5 injured, the first thing they would do is
6 probably -- we're assuming that they would get
7 injured on our property doing whatever
8 activities. And then what we would do of
9 course, you know, we would go pull the form and,
10 you know, we would call it in, saying, you know,
11 this person signed this form and they've got
12 these allergies.
13 Are we required to do that? No. Is it
14 a nice thing to do for our volunteers? In my
15 opinion, yes. There's no legal requirement to
16 do it.
17 COUNCILMEMBER SPANGLER: So in other
18 words, if they didn't to do this, if they didn't
19 want to fill this out, they wouldn't have to.
20 ATTORNEY WEED: If they didn't want to
21 do it and wouldn't fill it out, then they would
22 not be able to participate.
23 COUNCILMEMBER SPANGLER: That's not
24 what you just said, though, if I --
25 ATTORNEY WEED: No.

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1 COUNCILMEMBER SPANGLER: -- understood
2 what --
3 ATTORNEY WEED: I'm sorry. I was
4 asking the Councilman's question --
5 COUNCILMEMBER SPANGLER: I'm sorry.
6 ATTORNEY WEED: -- which was, was the
7 medical information required on the two-page
8 Assumption of Risk/Liability waiver. And the
9 answer to that, in my opinion, no, it's not.
10 However, is it a nice thing to do? Yes. Is it
11 helpful to the first responder? Yes. Is it
12 required? No.
13 But the Licensing Agreement very
14 specifically says if you are an individual and
15 you haven't signed the Liability Waiver
16 benefiting the City, you don't get to
17 participate in the program.
18 COUNCILMEMBER BATES: But --
19 ATTORNEY WEED: Once again, are you
20 required to do that? No, but you're taking all
21 that risk upon yourselves. If you want to do
22 that, you can.
23 COUNCILMEMBER BATES: Let me perhaps --
24 if a participant doesn't fill out their
25 allergies or their healthcare, they're not

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1 required to fill that out, though.
2 COUNCILMEMBER SPANGLER: That's what I
3 was asking.
4 COUNCILMEMBER ALEXANDER: Yeah. That
5 is my problem.
6 ATTORNEY WEED: If it's on the form, I
7 would want our personnel to make them fill out
8 every part of the form.
9 COUNCILMEMBER ALEXANDER: I'm not --
10 I'm not crazy about that.
11 ATTORNEY WEED: Otherwise, we'll take
12 it off.
13 COUNCILMEMBER ROCHE: Yeah, it's -- I
14 mean medication like Prozac? Who knows what the
15 medication could be, I mean.
16 ATTORNEY WEED: Then, the individual
17 once again takes their chances with the first
18 responder which is perfectly legal. That's
19 fine.
20 COUNCILMEMBER ALEXANDER: Yeah. I just
21 saw that. I'm not very -- From "The following
22 information may be needed," down, I'm not --
23 even about the health insurance coverage, we
24 definitely need to have, "In case of emergency,
25 please contact." We need to have emergency.

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1 And I would include -- if we're going to specify
2 the phone numbers, include a cell also.
3 COUNCILMEMBER SPANGLER: And you could
4 do that over here in the other information where
5 you're asking for the e-mail and all.
6 COUNCILMEMBER ALEXANDER: So I would
7 suggest that we remove that section.
8 MAYOR JENKINS: Which section?
9 COUNCILMEMBER ROCHE: Or at least make
10 it voluntary. But it just seems to me too much
11 of an invasion of someone's privacy.
12 COUNCILMEMBER SPANGLER: We could make
13 it voluntary, yes.
14 COUNCILMEMBER BATES: I'd just as soon
15 take it out.
16 COUNCILMEMBER PITTMAN: Yeah.
17 COUNCILMEMBER ROCHE: I mean for that
18 matter, wouldn't we request this of everyone who
19 sets foot in one of our parks?
20 ATTORNEY WEED: You could if it was --
21 COUNCILMEMBER ROCHE: No, whoa, whoa.
22 ATTORNEY WEED: That would be perfectly
23 legal, but you'd need to monitor the park, and
24 you certainly don't want to. I mean why would
25 you want to do that?

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1 COUNCILMEMBER ROCHE: And I'd love to
2 see the citizens be able to do -- and I
3 understand you're a lawyer, being a lawyer, but
4 it's just --
5 ATTORNEY WEED: My job is to protect
6 the City. The other guy, that's his problem.
7 COUNCILMEMBER ROCHE: Well, I under-
8 stand that. The other guy is --
9 COUNCILMEMBER FLEMING: Wouldn't it be
10 easier if we left the document as-is and just
11 put additional information, and then comma, not
12 required, and then if they wish to fill it out
13 they can?
14 COUNCILMEMBER ALEXANDER: Can we do
15 that, Mr. Weed, mark that section optional?
16 ATTORNEY WEED: I would want to put an
17 instruction there saying, you know, optional or
18 something like that, to indicate to the people
19 that -- you know.
20 MAYOR JENKINS: If you were to have
21 this at all, wouldn't you be liable if they
22 didn't sign it if you passed it?
23 ATTORNEY WEED: Because you're the
24 government, you've got some basic sovereign
25 immunities. And the sovereign immunities are

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1 dependent upon whether something is a
2 ministerial function or whether it is a
3 discretionary function. If you have notice
4 about a certain defect in a piece of property
5 that you are in control over, then arguably your
6 sovereign immunity might be waived up to the
7 limits of the relevant insurance.
8 So the answer to your question is,
9 could you operate -- could you let people on
10 your facilities with no rules at all, with no
11 waivers at all? Sure you can. Of course you
12 can. What you can't do is give away your
13 property.
14 You could even let people come onto
15 your property and work the property, but
16 anything that came out of the garden,
17 technically you would have to keep because they
18 would not be able to keep it because it's your
19 property as the City. If they gave it away,
20 you'd violate the anti-gratuities clause.
21 But the answer is, are you ever
22 required to have a waiver of liability?
23 Certainly not.
24 As your lawyer, am I ever going to
25 recommend you do that? Certainly not. I'll

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1 always want you to have a waiver of liability,
2 and I hope that any decent lawyer would tell you
3 the same thing.
4 MAYOR JENKINS: I personally thought we
5 were just going to set up some places and have a
6 community garden and everybody take what they
7 could or whatever and not get into all of this,
8 but I guess it's got into.
9 COUNCILMEMBER ALEXANDER: I think
10 that's what we're trying to do. This basically
11 is just giving the citizens permission to do it.
12 Page 16, Access (i), that minimum of 20
13 hours differs from page 10.
14 MAYOR JENKINS: In other words, we're
15 going to put fences around all these parks?
16 ATTORNEY WEED: In my opinion, you
17 should, Mr. Mayor.
18 COUNCILMEMBER ALEXANDER: I haven't
19 gotten there yet, sir.
20 MAYOR JENKINS: Oh, okay. I'm sorry.
21 When I seen gates, I knew you'd have to
22 have a fence.
23 COUNCILMEMBER ALEXANDER: Yes, sir.
24 MAYOR JENKINS: Go ahead. I apologize.
25 COUNCILMEMBER ALEXANDER: No. I think

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1 Mr. Weed is looking for what I'm referring to.
2 ATTORNEY WEED: I found it.
3 COUNCILMEMBER ALEXANDER: Okay.
4 ATTORNEY WEED: Yeah. I mean you can -
5 - 10 hours, 20 hours, five hours, whatever. It
6 doesn't matter to me.
7 COUNCILMEMBER ALEXANDER: I think
8 that's something that I would like for the
9 gardening organizations to decide upon and then
10 we'll get back.
11 Council have any feedback on that?
12 COUNCILMEMBER SPANGLER: What are you
13 actually asking here for? For whatever parcel
14 of property that they're going to be gardening,
15 that they be allowed a minimum of 20 hours per
16 week. Well, 20 hours is nothing, you know,
17 depending on how large the garden is.
18 COUNCILMEMBER ALEXANDER: Uh-huh.
19 COUNCILMEMBER SPANGLER: Depending on
20 how many people you have, you may need more than
21 20 hours.
22 COUNCILMEMBER ALEXANDER: Well, that's
23 just the minimum.
24 COUNCILMEMBER SPANGLER: Okay. But the
25 minimum should be more than 20 hours.

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1 COUNCILMEMBER ALEXANDER: I guess the
2 minimum in the information from New York was
3 that the City of New York requires the garden to
4 be open minimum hours to allow all the citizens
5 involved in the garden, access, and I guess that
6 was their objective.
7 Mr. Haeberlin had brought up an issue
8 which Ms. Blackmon has a -- I don't know if it's
9 a plat or what of Windsor Oak Park. Evidently,
10 the entrance to Windsor Oak Park is a right-of-
11 way for Plantation or Colonial Pipeline, and I
12 don't now that it technically belongs to the
13 City.
14 MAYOR JENKINS: It don't belong to the
15 City. We've always used the access to clean it
16 up.
17 COUNCILMEMBER ALEXANDER: And I guess
18 my concern there is do we have anything in
19 writing with that entity that says we have
20 permission to do so? Do we need to have
21 something in writing with that entity that says
22 we have permission to do so?
23 MAYOR JENKINS: I don't think --
24 ATTORNEY WEED: Obviously, Mr.
25 Haeberlin has not shared any of those documents

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1 with me; therefore, I haven't had the
2 opportunity to do any real research on, you
3 know, whether or not there is an easement.
4 The government usually operates under
5 what are called prescriptive easements, which
6 are there's no, you know, paper backing any kind
7 of prescriptive easement. It's simply by
8 maintenance, by use. So we'll have to research
9 to find out if the City was ever granted some
10 form of easement, or just by vir- -- have we
11 been acting upon the property? Is it paved?
12 You know, I'm sure we've been mowing it and
13 paving it for 20-plus years.
14 If you did an actual -- tried to do a
15 title search on most of your streets, you'd
16 never find anything, because most of your
17 streets were the old -- they were cattle -- you
18 know, they were deer paths and they were, you
19 know, cattle paths and they were wagon paths.
20 Then they got some sidewalks that were wood and
21 then they maybe got paved. But there's no
22 actual dedication of that right-of-way to the
23 City. You have them by a prescrip-tive
24 easement.
25 So the answer to your question is I

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1 don't know. We'll just have to look.
2 COUNCILMEMBER ALEXANDER: Mr. Haeberlin
3 also suggested that we fence in property. I
4 don't think it's that much of an issue at
5 Windsor Oak, but I believe it would be
6 beneficial at the Chestnut/Wheeler triangle.
7 And in fencing it off, too, I think that would
8 assist the citizens in judging the stream buffer
9 restrictions because there is a creek that I
10 believe bisects that property.
11 MAYOR JENKINS: It goes right
12 practically through the middle of it.
13 COUNCILMEMBER ALEXANDER: Yeah, I think
14 so.
15 MAYOR JENKINS: There wouldn't be any
16 property left if you deal with the stream
17 buffer.
18 COUNCILMEMBER FLEMING: Are we talking
19 about temporary fencing or are we going to
20 invest into chain-link fencing?
21 COUNCILMEMBER ALEXANDER: He suggested
22 chain-link fencing, and I thought maybe, you
23 know, that's something that if it didn't work
24 out, that we could uninstall that fence and use
25 it elsewhere.

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COUNCILMEMBER SPANGLER: Well, do they do this in New York? Do they have --
COUNCILMEMBER ALEXANDER: Yes, they're fenced off.
COUNCILMEMBER SPANGLER: -- those properties fenced in?
COUNCILMEMBER ALEXANDER: Yes. They're fenced off and gated because, that way, they're -- I believe they're still subject to park rules, that they would be closed at dusk.
COUNCILMEMBER ROCHE: I had one quick question under the law. Page 15, Section 3, Subsection (ii). It says, "Licensee shall keep sidewalks, passageways and curbs adjacent to and within the Garden clean and free from snow, ice, garbage . . . " Does that mean if it snows or we have an ice storm, that they have to come out and clear the ice off the sidewalk?
ATTORNEY WEED: That's exactly what that would mean.
COUNCILMEMBER ALEXANDER: And there's no sidewalk here.
COUNCILMEMBER ROCHE: Well, I'm just saying.
ATTORNEY WEED: Obviously there aren't

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yet. But why wait until they exist? There will be pathways, there will be walkways. You're going to have to provide some sort of access to these facilities.
If what you are contemplating is simply a flower garden -- my understanding was you wanted to have a produce-producing garden. If you do that, that has a whole host of new problems as opposed to flowers because you are now creating literally a valuable asset because it is produce, and there's a whole set of laws that deal with agricultural products even if it's a garden and you are the government.
So it's not any individual's produce. It is the government's produce. And you can't give it away unless you make arrangements to give it away by virtue of a contract without violating the anti-gratuities laws in the constitution. If it was simply a flower garden, much of this would go right out the window. You wouldn't need it. But you're essentially using governmental property to produce something, something of value. That's the exception rather than the rule. Can you do it? Yes. Does it need more regulation? Yes.

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COUNCILMEMBER ALEXANDER: I would like permission to share this project registration suggestion packet with the gardening group which I believe is meeting at City Hall tomorrow.
MAYOR JENKINS: Are you making a motion?
COUNCILMEMBER ALEXANDER: So that would be making a motion to waive attorney-client privilege on this document, Mr. Weed?
ATTORNEY WEED: Yes, that's fine.
COUNCILMEMBER ROCHE: I'll second that motion.
MAYOR JENKINS: Susan Crawford?
MS. CRAWFORD: Susan Crawford, Oakcliff.
I just wanted to say I appreciate your researching this, and I'm sure it can be done. I don't know. I did see the gardens all over in New York City just interspersed in the middle of the pollution and the buildings and the traffic and the smog, and I thought it would be a very nice thing to do here for a number of reasons, not the least of which would be seeing people work together and getting along on a project that would benefit everybody.

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It occurred to me, Mr. Weed, that vegetables are flowers first. Maybe we could just . . . bud first and then turn into produce?
ATTORNEY WEED: Would the Council like me to answer that question and respond?
MAYOR JENKINS: Yes.
ATTORNEY WEED: There are hundreds of years of jurisprudence in Georgia on agricultural products. Men and women have died often over who owns what produce from what tree or plant. There are just volumes of law on the subject. Plus if you don't have any kind of fence in your control over it, I don't know if you're going to have a garden long. You know, you're going to have to worry about vandalism, you're going to have to worry about, you know, are you going to be able to leave anything there. And then you are having what can be called sort of an attractive nuisance. You also have an attractive nuisance just by virtue of having playground equipment in a park, but you are doing something beyond and above a passive facility. You are producing something that has sellable value that's worthy of theft, that's worthy of use.

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And by the way, I'm not trying to make this more complicated. New York has done this. They've done this for years. They've worked through a lot of the kinks and the problems, and I think we can learn now from their mistakes.

In the alternative, you can leave it wide open and you can take your chances. That's always a viable option. Doing nothing is always an option.

MS. CRAWFORD: Thank you.

No. I think it should be and probably must be fenced in, not only to secure it from people just coming and vandalizing but also maybe for creatures that might want to come and help themselves.

But anyway, I just wanted to report that there was quite an interest in this project. And it's being called a community garden, but I think that really what it is is it's a community gardening group under which there will be neighborhood gardens, and Windsor Oak is one of those, and I've forgotten the name of the one in Northwoods. And hopefully in the Tilly Mill area there's some good space that can be utilized.

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And it's my hope that if we can get this done, and maybe we can and maybe we'll end up with a flower garden, but that the different nationalities will come together and the different politically-persuaded people will come together in each neighborhood, and then maybe, since it's under an umbrella of this city-wide group, we can have dinners where we everybody contributes and that sort of thing.

Anyway, thank you for your input and your help.

MAYOR JENKINS: Ben?

MR. CRAWFORD: Ben Crawford, Oakcliff.

I think Murray's document is a good thing to have, and I think the other part that City Council mentioned, making it optional is probably a good thing.

I just wanted to add my two cents' worth is that I've got 20 people from a Vietnamese family, three Hispanic families, two Indian families and other families that are all signed up to be part of that garden.

MAYOR JENKINS: Okay. Thank you.

Maria, did you make a motion to meet with the other group or what?

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COUNCILMEMBER SPANGLER: No. She wanted to -- I'm sorry, Mayor.

Go ahead.

COUNCILMEMBER ALEXANDER: No, that's fine. I made a motion and I believe Mr. Roche seconded it to waive the attorney-client privilege so I can print some of these up for the garden group to review tomorrow night, because I think you may have another meeting tomorrow night.

MAYOR JENKINS: That's fine with me.

Yes, ma'am. Come on up.

MS. CONWAY: Sally Conway. I live just around the corner from the triangle you're talking about at Weaver and Chestnut.

And it's such a visibility problem when you're turning right on Chestnut from Wheeler. I mean it's a 145-degree angle to get around that. You put a fence in, you put dense flowers or vegetables, you can have vegetables that are six foot tall, it's going to be a visibility problem both ways coming from Chestnut and Wheeler. So that's really got to be taken into account.

COUNCILMEMBER ALEXANDER: Will someone

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that's going to attend the meeting tomorrow bring that up, please? Okay.

MS. CONWAY: Is there somebody from Northwoods on the committee?

COUNCILMEMBER ALEXANDER: Mr. Seever's kind of a --

UNIDENTIFIED SPEAKER: Quite a few.

UNIDENTIFIED SPEAKER: I will bring it up.

MS. CONWAY: Good.

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

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1 MAYOR JENKINS: I have been asked by
2 some of the Council to move Mr. John Kim on
3 zoning issues up at the next item. Do I get a
4 motion?
5 COUNCILMEMBER BATES: So moved.
6 COUNCILMEMBER PITTMAN: Second.
7 MAYOR JENKINS: Call the roll.
8 CLERK BLACKMON: Councilmember
9 Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BLACKMON: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BLACKMON: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: Yes.
15 CLERK BLACKMON: Councilmember Pittman?
16 COUNCILMEMBER PITTMAN: Yes.
17 CLERK BLACKMON: Councilmember Roche?
18 COUNCILMEMBER ROCHE: Yes.
19 CLERK BLACKMON: Councilmember
20 Spangler?
21 COUNCILMEMBER SPANGLER: Yes.
22 MAYOR JENKINS: Mr. Kim, would you come
23 up to the microphone, please.
24 MR. KIM: John Kim. My name is John,
25 and my family and I have worked and practically

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1 lived here in Doraville since the late 1980s.
2 We own and operate a clothing wholesale business
3 on Buford Highway in the C-2 commercial zone.
4 And I've come here before you tonight to discuss
5 the City's decision to pass a law into the
6 City's corrected zoning ordinance.
7 Quietly, without any fanfare and
8 certainly without any notification to the
9 Doraville business community, the City decided
10 to effectively make unwelcome wholesale
11 businesses from any C-1 and C-2-zoned areas in
12 the city of Doraville.
13 Granted, existing wholesalers currently
14 in C-1 and C-2 have been grandfathered, so no
15 one is being forcefully removed. However, if
16 you decide to sell your business to someone
17 else, that person will not be permitted a
18 wholesaler license. If you decide to relocate
19 your business to another C-1/C-2 zone within
20 Doraville, you will be denied. And finally, if
21 you're a person new to Doraville who wants to
22 open a wholesale business in C-1/C-2, you will
23 be rejected.
24 Now, what this corrected ordinance does
25 is it effectively reduces the value of the

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1 wholesale business by limiting what you can do
2 with your business, be it through expansion,
3 downsizing, relocation or outright sale. In
4 effect, this has become a nightmare for those of
5 us who have invested their entire lives into
6 their business.
7 On paper, the City wants to make their
8 zoning ordinance consistent with those of
9 Dunwoody or Buckhead or Decatur, and the reality
10 is that Doraville is not these other cities.
11 Buckhead doesn't have a huge GM plant next to
12 City Hall and Decatur doesn't have a tank farm
13 within walking distance of commercial and
14 residential areas.
15 However, it is a city where even though
16 larger, better-known chain stores have balked at
17 developing in Doraville, smaller, more nimble
18 businesses can and do thrive.
19 Now, according to the City, the Zoning
20 Ordinance is a living document which cannot be
21 static or changing with the times, and it is
22 incumbent upon the City to effectively manage
23 its land-use portfolio in order to protect the
24 health, safety and general welfare of its
25 citizens.

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1 The question I put forth is: How does
2 banning wholesalers from C-1 and C-2 threaten
3 the health, safety or welfare of its citizens?
4 The thing I find even more disturbing
5 is the fact that with a tiny, one-sentence
6 correction to this ordinance, the City Council
7 can effectively say to an entire sector of
8 Doraville businesses that has been thriving here
9 since 1971, that "You are no longer welcome."
10 The residential citizens of Doraville
11 undoubtedly have a strong interest in the city.
12 But shouldn't the business citizens here also
13 have some say? Do they not have rights,
14 especially when it so directly and dramatically
15 impacts our livelihood? After all, we also pay
16 taxes that directly go towards funding the local
17 schools and government which pays for the local
18 police and for the improvement of roads.
19 Now, this so-called correction has a
20 very broad impact on the business community at
21 large. Wholesalers in particular have a huge
22 impact on the city of Doraville. We attract
23 hundreds if not thousands of customers daily
24 from not just out of town but from throughout
25 the entire Southeast. Wholesalers here have

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1 spent decades advertising in trade shows and
2 road sales, all in efforts to attract customers
3 to Doraville. Furthermore, these are business
4 customers with which the typical transaction
5 runs into hundreds or thousands of dollars, not
6 10 or 20 dollars.
7 During their visit to Doraville, these
8 customers frequent various grocery stores,
9 restaurants, hotels, gas stations and other
10 businesses along Buford Highway, bringing in
11 sorely needed funds into our community. In
12 addition, wholesalers have owners and employees
13 who eat here, live here and purchase goods here.
14 I personally buy general merchandise from
15 K-Mart, eat at Chick-Fil-A and Baldinos; get gas
16 from Citgo, I get my car fixed at Meineke, get
17 groceries from Buford Farmer's Market, banking
18 at Metro City and First IC; go to BrandsMart,
19 Lexus and had to lease space from Halpern. And
20 then those businesses in turn pay their
21 employees and also pay various taxes which, in
22 turn, are used -- again, used to fund the City
23 and County. And it's not just me. It's all of
24 us wholesalers who practically live in Doraville
25 due to our insane, 12-hours-a-day, 7-day work

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1 weeks.
2 It's a delicate business ecosystem that
3 has been adversely affected by the national
4 economic downturn. But now, in the midst of all
5 this turmoil, as if things weren't bad enough,
6 we face an even graver threat from our very own
7 city government that we thought was supposed to
8 help us, to encourage business and help them
9 thrive.
10 By the City's own estimate, as of the
11 beginning of the year, I believe it had a budget
12 shortfall of 1.2 million dollars. And how does
13 the City hope to make up for the shortage as it
14 simultaneously discourages businesses? Raise
15 property taxes or reduce police protection?
16 It boggles my mind why, amidst the
17 greatest economic decline since the Great
18 Depression, the City would hurt business and
19 drive it away while strip malls remain half
20 occupied and new developments under construction
21 must halt due to bank failures. Why is the City
22 intentionally placing undue hardship on the real
23 estate market and property owners who are
24 struggling to maintain property values here?
25 And what about the potential developers who want

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1 to build here that have been scared away because
2 of the City's disregard for existing businesses?
3 And I have a little bit more if you'll
4 just bear with me.
5 Please tell me, who is it exactly that
6 benefits from half-built projects and empty
7 store fronts?
8 This begs the question, why all of a
9 sudden is the City trying to make it harder to
10 do business in Doraville? What is its driving
11 force? I've yet to receive a satisfactory
12 response, or any response, for that matter,
13 except that it's merely a correction of the
14 ordinance. And this is not a matter of
15 convenience such as satellite-dish placement or
16 leash laws or not having a coffee shop nearby.
17 This so-called correction is absolutely nothing
18 less than a direct assault on the wellbeing and
19 livelihood of a large group of businesses that
20 have lawfully abided by the rules set forth by
21 the City for decades.
22 I have been asked questions such as,
23 "What's the big deal?" and "Why don't you just
24 move to another zone?" Now, these may be valid
25 questions if I were running a hot dog stand or

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1 an ice cream truck, but that is not the case
2 here. The truth is that moving is extremely
3 difficult, laced with expensive moving costs,
4 and anyone with an iota of business experience
5 knows this in ample detail.
6 And that is why I come here before you
7 today to ask that you please reconsider the new
8 restrictions that have placed in the C-1/C-2
9 zones. Not only does it place undue hardship on
10 a large sector of Doraville's businesses, it
11 will absolutely apply an extreme amount of
12 pressure on everyone's property values,
13 especially at a time when an entire nation is
14 already reeling from this economic crisis. Not
15 only will wholesalers suffer but their landlords
16 will suffer because their tenant base will have
17 shrunk. Real estate developers and their banks
18 and investors will avoid Doraville, and,
19 eventually over time, as businesses one by one
20 decide it's too risky to conduct business here
21 and once thriving stores give way to "Space
22 Available" signs, so, too, will the citizens of
23 Doraville suffer.
24 However, despite the potential peril to
25 our way of life, I have hope here. I have hope

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that eventually my fellow business owners will get more involved and play greater roles in city affairs. And finally, I have hope that all of us as citizens of Doraville despite the recent economic hardships can learn to come together and compromise, not just on this specific ordinance issue but for all future situations that may arise for the betterment of our city.

Thank you.

- - -

(Applause)

- - -

ATTORNEY WEED: Mr. Mayor --

MAYOR JENKINS: Thank you.

ATTORNEY WEED: -- I'd like to make one fact correction, just one fact correction.

Whether you change C-2 to whatever, you know, I have no interest in that whatsoever, but I want to explain to everybody that if your property currently allows a wholesaling use, the grandfathering applies to anybody you sell it to. So Mr. Kim's statement that you cannot sell your property and continue it as a wholesale use is not true. I'm sure he's just misinformed, but that is not true. The grandfathering

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continues on, and the next person who buys it after that person can use it as a wholesale use for all eternity.

COUNCILMEMBER FLEMING: Purchasing or renting?

ATTORNEY WEED: Both.

CLERK BLACKMON: Either.

ATTORNEY WEED: Either one.

And there was an article in the paper that someone was courteous enough to give me a copy of that essentially had the same, you know, invalid statement in it.

Grandfathering means grandfathering means grandfathering. And you can sell it, you can rent it, you can do whatever you want to with it. If the wholesale use is allowed by right as a legal, nonconforming use, that is a right within your bundle of rights, and you can sell, rent, et cetera. And if the government takes it away from you, it's an illegal taking.

So I just wanted to correct that fact.

MAYOR JENKINS: Thank you.

ATTORNEY WEED: If you change it, that's fine. Doesn't matter to me. But that statement was not factually correct.

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MR. KIM: I just have one quick question. Is that written anywhere?

ATTORNEY WEED: Mr. Kim, in dozens of cases.

COUNCILMEMBER SPANGLER: Is it written in the ordinance that we just --

MR. KIM: Well, I just had one quick -- about whether it's actually stated somewhere, because I just read the ordinance as it was written, and there is no real -- maybe I just need to be directed towards the right place, but I didn't see any actual document stating anything about grandfathering.

ATTORNEY WEED: I would direct you to Kathy Zickert. She is the counsel for Mr. Halpern and she's very well aware of that law.

MR. KIM: Okay.

MR. CUSHMAN: He is not a tenant.

MAYOR JENKINS: Come up here, sir.

COUNCILMEMBER ALEXANDER: I'm sorry?

MAYOR JENKINS: Up here.

COUNCILMEMBER PITTMAN: He is not a tenant of Halpern.

COUNCILMEMBER ALEXANDER: I thought he said he was.

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MR. CUSHMAN: No. He was.

MAYOR JENKINS: If you're going to speak, come up to the microphone, sir.

ATTORNEY WEED: Please let me clarify.

MAYOR JENKINS: Wait just a minute.

ATTORNEY WEED: Whether you change --

MAYOR JENKINS: Hold on.

ATTORNEY WEED: -- it or whether you keep it, I don't care. All I want to do is correctly state the fact.

MR. KIM: I just have one other question. What if you wanted to --

MAYOR JENKINS: Excuse me, sir. Mr. Cushman is next.

MR. KIM: Oh.

MAYOR JENKINS: I have no one signed up for this item.

ATTORNEY WEED: Mayor, can I say something?

MAYOR JENKINS: Maybe. Let me get this gentleman first.

Go ahead, Mr. Cushman.

MR. CUSHMAN: Jimmy Cushman.

No. I'm sorry. I just wanted to clarify one thing regarding to Kathy Zickert

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there, that he's not a tenant of ours right now. He was a tenant a couple years ago. I wish he still was a tenant, but he's not a tenant right now.

MAYOR JENKINS: You're saying Kathy Zickert is not?

MR. CUSHMAN: No, no, no, no.

COUNCILMEMBER PITTMAN: He's saying he's not a tenant.

MR. CUSHMAN: Mr. Kim is not a tenant of ours with regard to that.

MAYOR JENKINS: Come on up, Bonita.

MS. HOFFMEISTER: Bonita Hoffmeister, Oakcliff Estates.

I commend the Council for such an exceptional job in drafting the C-1 and C-2, the M-1 and M-2. It took a lot of hours and it was great work. Thank you very much.

As far as reducing the value of real estate, sir, if you drive up and down Buford Highway, Doraville is the only place that you find wholesaling. It was in our previous laws because it mirrored Dekalb's. It was taken advantage of by certain people.

I'm realistic. If you want to make

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this a little better legally, you might say that wholesaling can be restricted to 5 percent of your square footage so you can still be in compliance with Dekalb laws, so nobody can come back and say, we're being persecuted, and right next door somebody's allowed wholesaling.

If you drive up and down Buford Highway, this is it, and it looks horrible, and it does not attract business, and it does not increase the value of our homes, and it does not increase the value of anything but your property, and that is unjust.

Thank you.

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(Applause)

- - -

MAYOR JENKINS: Ben?

MR. CRAWFORD: Ben Crawford, Oakcliff.

I guess one thing I wanted to just bring to light is the fact that the gentleman that was speaking earlier, he does live in a city where he can attend his city council meetings and he can express his views on his ordinances where he lives and have no wholesalers where he lives, if he'd like, or

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restrict certain things that he'd like and have a vision for -- I believe he lives in Lawrenceville -- and have a vision for how Lawrenceville should look. So I believe the citizens of Doraville should have a right to have a vision for a comp plan for the vision of what Doraville should look like in the future. And I feel strongly about working with the business community, but I think the citizens are really looking for a better future for Doraville.

MAYOR JENKINS: Thank you, Ben.

- - -

(Applause)

- - -

MAYOR JENKINS: Anybody else?

- - -

(No response)

- - -

CLERK BLACKMON: I want to remind Council of the time.

MAYOR JENKINS: Excuse me?

CLERK BLACKMON: The time.

COUNCILMEMBER SPANGLER: Yes.

ATTORNEY WEED: It's your 10-minute

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warning.

MAYOR JENKINS: In order to have citizens comments, do we want to cut it off here?

COUNCILMEMBER SPANGLER: Well, we should have cut it off at 9 o'clock.

COUNCILMEMBER PITTMAN: If I don't do my tree, we can't plant trees.

COUNCILMEMBER SPANGLER: Let's do it next -- I mean we can carry these meetings on until 12 or 1 o'clock in the morning. It doesn't matter to me. We passed a resolution about what, three meetings ago, to let the meetings go until 9:30. We've taken all this time now. The citizens, are we not going to allow them to have --

MAYOR JENKINS: Yes, we are. We'll give them time. That's what I said.

COUNCILMEMBER SPANGLER: Well, we just keep adding and adding.

MAYOR JENKINS: Let's go ahead and have the police reports.

CLERK BLACKMON: Well, sir --

COUNCILMEMBER PITTMAN: I have to do my tree planting because it's this Saturday, and if

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1 I don't get this passed tonight, we'll not be
2 able to do it.
3 MR. ADAMS: I called here today, and
4 they said I could come up here and speak at
5 citizens comments. Are we not going to have
6 tonight?
7 MAYOR JENKINS: We're going to have it,
8 yes.
9 MAYOR JENKINS: Let's go ahead have the
10 police report right quick and after that we'll
11 get Donna and then have citizens.
12 CHIEF ATKINSON: Mayor and Council, I
13 just want to talk about one thing that I have.
14 I just need to let you know that the
15 Police Department has recently begun the process
16 of submitting an application for the Edward
17 Byrne Memorial Justice Assistance Grant. The
18 Police Department has been identified by the
19 Bureau of Justice Assistance as a local agency
20 qualified to receive funds through this program,
21 which is part of the economic recovery plan. We
22 could possibly receive as much as $44,466 in
23 funds for law enforcement programs and
24 technology improvement programs, and the good
25 thing about this is there's no matching fund

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1 requirement for this grant.
2 So I just need to make you aware of
3 that, and if it could please be in the minutes.
4 COUNCILMEMBER SPANGLER: Could this
5 also be used, Mr. Atkinson, for hiring new
6 employees?
7 CHIEF ATKINSON: No, sir, I don't
8 believe that's one of the uses that -- I don't
9 believe salary is one of the uses that it could
10 be used for.
11 COUNCILMEMBER ROCHE: Could you give us
12 an update on the counterfeit thing?
13 CHIEF ATKINSON: Yes, sir. We executed
14 four separate search warrants Friday, this past
15 Friday, four separate locations where
16 counterfeit merchandise was seized. According
17 to industry experts, the retail value of this
18 merchandise seized was approximately 2.9 million
19 dollars, and the investigation is continuing.
20 COUNCILMEMBER ROCHE: Now, are they
21 going to be charged under any City ordinances or
22 is this strictly going to be State or --
23 CHIEF ATKINSON: No. They were charged
24 with State charges.
25 COUNCILMEMBER ROCHE: Okay. But we can

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1 apply our City ordinance that we passed back in
2 May to take away business licenses?
3 CHIEF ATKINSON: I assume. I don't
4 know.
5 COUNCILMEMBER ROCHE: I think that was
6 just before your time. We passed an ordinance
7 in May.
8 ATTORNEY WEED: You're not going to
9 hear what I have to say, but a business license
10 really is just a payment of tax. It really
11 means nothing.
12 In the tax code there is a provision
13 which allows someone to do -- the government can
14 do more regulation. For example, palm reading,
15 massage parlors, pawn shops, there's certain
16 businesses that you can actually regulate. But
17 as far as a business license, there's no point
18 in really taking that away from someone because
19 it's simply the payment of a tax --
20 COUNCILMEMBER ROCHE: Okay.
21 ATTORNEY WEED: -- so we might as well
22 keep their money.
23 CHIEF ATKINSON: And real quick,
24 there's a scam going around. If you're
25 contacted by anybody with Prestige Sales USA

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1 trying to sell you magazines, stating that they
2 give their moneys to charities, that is a scam.
3 Please contact the police. They're confronting
4 people -- they're going door-to-door as well as
5 confronting people in shopping centers. So if
6 you're ever confronted by someone with Prestige
7 Sales USA attempting to sell magazines -- the
8 company is out of Phoenix, Arizona, but they
9 have put people out in different communities
10 trying to get people to so-called buy magazines
11 that never appear and the moneys never go to
12 charity.
13 MAYOR JENKINS: Thank you.
14 COUNCILMEMBER ROCHE: Thank you.
15 COUNCILMEMBER PITTMAN: Okay. I'll try
16 to make this just as brief as possible. You
17 know, we're having our annual clean-up day and
18 tree planting ceremony this Saturday. We're
19 going to meet here at City Hall at 9 o'clock.
20 We're going to be breaking up into various areas
21 within the city to clean. We also -- if
22 children would like to come -- I've been asked
23 that question -- we can have safety zones that
24 the children can assist in cleaning. It's going
25 to be a safe environment for them.

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If you would like to bring a picnic lunch and have lunch here at City Hall, and then afterwards, we're going to be doing a tree planting ceremony.

As you well know, we're trying to become a member of Tree City USA. And in order to do that, we have formed a committee, and the committee consists of Susan Fraysse from Oakcliff, Gordon Grant from the Tilly Mill area. And we have no one from Northwoods, and I believe the Mayor was going to choose someone from the businesses, local businesses, and he will be doing that hopefully really soon. And it's going to consist, I believe, of seven members.

Did we -- we have something here that added that into our tree ordinance; is that correct?

ATTORNEY WEED: It hasn't been adopted yet. I mean I --

COUNCILMEMBER PITTMAN: No. I mean --

ATTORNEY WEED: -- was asked to do a draft that would include the language and I have done that, but it hasn't been passed.

COUNCILMEMBER PITTMAN: So we have to

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waive first reading or --

ATTORNEY WEED: If you wanted to adopt it, yes, you need -- Yes, you need to waive first reading and adopt it if you want to do that tonight.

COUNCILMEMBER PITTMAN: It's here.

COUNCILMEMBER ROCHE: I have a lot of questions about the tree ordinance, frankly.

COUNCILMEMBER PITTMAN: Well, that's --

ATTORNEY WEED: Please bear in mind that the tree ordinance is -- what I transferred over is the same ordinance that was already in the zoning code, and that's current. That doesn't mean it's good, bad or indifferent, but I didn't write that. And all I've done is add the provisions required to do Tree City USA to what was in the zoning code and took it out of the zoning code.

COUNCILMEMBER PITTMAN: It's what we already have.

COUNCILMEMBER ROCHE: No, I know, but it has like a seven-member tree board and --

COUNCILMEMBER PITTMAN: Right.

ATTORNEY WEED: Correct. That's part of the Tree City USA requirements.

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COUNCILMEMBER BATES: It's not on the agenda to talk about.

COUNCILMEMBER ROCHE: Right.

COUNCILMEMBER PITTMAN: Well, it was part of the tree planting event. She just, I guess, didn't clarify, because we talked about it last time. But we don't have to talk about that.

We need to do a proclamation if we want to put it on the agenda for next time. We don't have to have it tonight, do we, in order to do what we are going to do Saturday?

ATTORNEY WEED: No. You've got --

MAYOR JENKINS: No.

ATTORNEY WEED: You have a tree ordinance and you've got a tree bank of money.

COUNCILMEMBER PITTMAN: Okay. That's perfect, then.

ATTORNEY WEED: You can plant as many trees as that will allow.

COUNCILMEMBER PITTMAN: Okay, good. Well, then, we'll get back to that the next time.

We also have a proclamation here. I will not read it unless they want me to read it.

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I believe the Council has it. So we need to adopt the proclamation for tonight.

And also we need to approve an amount to be able to purchase the trees for Saturday.

I will read this really quick. We are going to be placing three ginkgo trees at City Hall facing Central Avenue. The street side of the Library, we're going to be doing four Japanese zelkova trees. And then to the immediate left of the Library, we're going to be doing a Chinese elm.

Mr. Bates was wanting to -- we had talked, and we were wanting to do an outside reading area, so this is starting the process to be able to do that. We'd like to put some benches and some gardens and trees, but this is starting the process of that.

And then adjacent to the Mayor's parking space between City Hall and the Library, we would like to put one kousa dogwood.

And the cost per tree -- these are really nice trees, larger trees -- $300. This could be less because of the relationship that Gwinnett nursery has with the City, but we propose around $3,600 to get the twelve trees.

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And Dekalb County's going to be donating the mulch to us, so that helps. And I think our Maintenance Department will be digging the holes, so all the citizens have to really do is come and plant the trees.

MAYOR JENKINS: And what do you need a motion on?

COUNCILMEMBER PITTMAN: I need a motion on -- do I do a motion for the proclamation?

ATTORNEY WEED: Yes.

COUNCILMEMBER PITTMAN: Okay.

COUNCILMEMBER SPANGLER: I'm sorry. Is this money --

COUNCILMEMBER PITTMAN: This is --

COUNCILMEMBER SPANGLER: -- coming out of the tree bank?

COUNCILMEMBER PITTMAN: I apologize. Yes. Thank you.

This is going to be out of the tree bank, and we right now have one thousand eight -- seven hundred and six dollars.

CLERK BLACKMON: $108,706.

COUNCILMEMBER PITTMAN: -- eight thousand seven hundred and six.

I couldn't read your writing.

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CLERK BLACKMON: Sorry.

COUNCILMEMBER PITTMAN: I apologize. That's okay.

COUNCILMEMBER SPANGLER: So the money to pay for overtime to the Maintenance Department or --

MAYOR JENKINS: Yeah, whatever we need. We're going to

COUNCILMEMBER SPANGLER: -- Public Works Department?

COUNCILMEMBER PITTMAN: Well, they're going to be doing most everything during the --

MAYOR JENKINS: We hope everything by Friday and we'll have somebody to help us.

COUNCILMEMBER PITTMAN: We will have one person here.

COUNCILMEMBER BATES: But will those funds come out of the tree bank fund or are those coming out of regular salary?

COUNCILMEMBER SPANGLER: They should probably come out of tree banks funds also.

COUNCILMEMBER PITTMAN: Yeah. We should have one employee here on Saturday.

COUNCILMEMBER FLEMING: Will we have Manuel there?

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COUNCILMEMBER PITTMAN: Yeah, Manuel. I said one employee. Bobby -- Manuel will be there.

MAYOR JENKINS: One employee on Saturday. They'll set up Friday. Everything else -- they'll have the holes dug and everything on Friday.

COUNCILMEMBER PITTMAN: And he's usually always here for the clean-up day, anyway, because he has to bring the truck.

MAYOR JENKINS: Who is that?

COUNCILMEMBER PITTMAN: Manuel.

MAYOR JENKINS: Okay. Now, do you need a motion?

COUNCILMEMBER PITTMAN: I need a motion to pass the proclamation.

If anyone in the audience wants it, you can get a copy of it.

COUNCILMEMBER SPANGLER: And what was the proclamation for? To be able to spend that money for trees?

COUNCILMEMBER PITTMAN: No. The proclamation is just part of Tree City USA. It's just basically telling the history of Arbor Day.

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COUNCILMEMBER BATES: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER ALEXANDER: Second.

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

COUNCILMEMBER BATES: Move to use the funds from the tree bank to offset the cost of the trees.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

COUNCILMEMBER SPANGLER: And also could you add to that, Mr. Bates, any additional

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1 labor?
2 MAYOR JENKINS: Overtime labor.
3 COUNCILMEMBER BATES: If it's
4 allowable.
5 CLERK BLACKMON: I'm not sure it is.
6 I'm going to check that. I made a note of that.
7 ATTORNEY WEED: Well, what the
8 ordinance says is funds in the tree bank are to
9 be used totally for the purchase and planting of
10 trees for public benefit. Obviously, they don't
11 plant themselves, so I think that's probably
12 fine.
13 CLERK BLACKMON: Okay.
14 MAYOR JENKINS: Okay. Call the roll.
15 CLERK BLACKMON: Councilmember
16 Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK BLACKMON: Councilmember Bates?
19 COUNCILMEMBER BATES: Yes.
20 CLERK BLACKMON: Councilmember Fleming?
21 COUNCILMEMBER FLEMING: Yes.
22 CLERK BLACKMON: Councilmember Pittman?
23 COUNCILMEMBER PITTMAN: Yes.
24 CLERK BLACKMON: Councilmember Roche?
25 COUNCILMEMBER ROCHE: Yes.

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1 CLERK BLACKMON: Councilmember
2 Spangler?
3 COUNCILMEMBER SPANGLER: Yes.
4 MAYOR JENKINS: All right.
5 ATTORNEY WEED: Mr. Mayor, it's 9:30
6 just for your information.
7 MAYOR JENKINS: Citizens comments.
8 Who's first?
9 ATTORNEY WEED: Mr. Mayor, I'd
10 recommend two things: one, that the Council
11 modify the agenda to approve what just happened,
12 meaning you went out of order on the agenda and
13 therefore -- and you made one motion to move an
14 item, item 15 up to number 10. I think you need
15 to have a general motion saying that what just
16 did, you intended to do in the order in which
17 you did it.
18 COUNCILMEMBER BATES: So moved.
19 MAYOR JENKINS: Second?
20 COUNCILMEMBER PITTMAN: Yes.
21 MAYOR JENKINS: Call the roll.
22 CLERK BLACKMON: Councilmember
23 Alexander?
24 COUNCILMEMBER ALEXANDER: Yes.
25 CLERK BLACKMON: Councilmember Bates?

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1 COUNCILMEMBER BATES: Yes.
2 CLERK BLACKMON: Councilmember Fleming?
3 COUNCILMEMBER FLEMING: No.
4 CLERK BLACKMON: Councilmember Pittman?
5 COUNCILMEMBER PITTMAN: Yes.
6 CLERK BLACKMON: Councilmember Roche?
7 COUNCILMEMBER ROCHE: Yes.
8 CLERK BLACKMON: Councilmember
9 Spangler?
10 COUNCILMEMBER SPANGLER: I'm going to
11 say no because I really didn't understand the
12 statement that you just made.
13 ATTORNEY WEED: And then the second
14 thing I think you need to do, I would advise you
15 to do, would be make a motion to extend the
16 meeting I suppose until such time as you
17 complete public comment.
18 COUNCILMEMBER BATES: So moved.
19 MAYOR JENKINS: Finish --
20 COUNCILMEMBER PITTMAN: Second.
21 MAYOR JENKINS: -- citizens comment.
22 Call the roll?
23 COUNCILMEMBER FLEMING: There is not a
24 firm motion here, I don't believe.
25 ATTORNEY WEED: It would be until such

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1 time that you complete all public comment.
2 COUNCILMEMBER SPANGLER: All citizens
3 comments.
4 MAYOR JENKINS: Citizens comments.
5 COUNCILMEMBER FLEMING: Okay.
6 ATTORNEY WEED: Citizens comments, if
7 it helps. And you don't have to do it. You can
8 end the meeting.
9 COUNCILMEMBER SPANGLER: Okay. But we
10 could we say in the future, that we do need to
11 watch the clock and we need to cut it off in
12 time to give the citizens ample time to make
13 their comments?
14 COUNCILMEMBER BATES: So moved.
15 ATTORNEY WEED: The Clerk and I agree,
16 but we would have had to go tackle someone at
17 the podium in order to get them to stop talking.
18 MAYOR JENKINS: Have we got a motion?
19 ATTORNEY WEED: We hear you, and we
20 want to comply.
21 COUNCILMEMBER SPANGLER: What it
22 appears to me is that we're trying to keep them
23 from making their comments, okay --
24 COUNCILMEMBER FLEMING: No.
25 COUNCILMEMBER SPANGLER: -- when we run

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1 over on these meetings.
2 Well, that's the impression I get, but
3 anyway, I'm done.
4 ATTORNEY WEED: Yes, there's a motion
5 and a second, Mr. Mayor, to continue the meeting
6 for public comment.
7 MAYOR JENKINS: Call the roll, please.
8 CLERK BLACKMON: Councilmember
9 Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BLACKMON: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BLACKMON: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: We're extending
15 the meeting?
16 ATTORNEY WEED: Yes, ma'am, for public
17 comment.
18 COUNCILMEMBER FLEMING: That's the
19 motion.
20 ATTORNEY WEED: That's the motion,
21 correct.
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BLACKMON: Councilmember Pittman?
24 COUNCILMEMBER PITTMAN: Yes.
25 CLERK BLACKMON: Councilmember Roche?

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1 COUNCILMEMBER ROCHE: Yes.
2 CLERK BLACKMON: Councilmember
3 Spangler?
4 COUNCILMEMBER SPANGLER: Yes.
5 MAYOR JENKINS: Okay.
6 COUNCILMEMBER FLEMING: Now can I make
7 a motion, to when we finish citizens comments
8 that we continue this meeting on Thursday night
9 at 6:30, because we're going to end up having to
10 take up 4 through 9 again two weeks from now.
11 And we're still -- we stopped at item number 10
12 two weeks ago.
13 COUNCILMEMBER ROCHE: I think 5 is
14 done. We passed 5; right?
15 ATTORNEY WEED: You completed items all
16 the way 1 through 10.
17 COUNCILMEMBER FLEMING: No, we haven't.
18 We didn't do 10.
19 ATTORNEY WEED: Oh, I'm sorry. We
20 didn't get to 10. We did 1 through 9 and then
21 we did 14, 15 and 16.
22 COUNCILMEMBER ROCHE: Well, I think the
23 Occupancy Rate won't appear on a future --
24 ATTORNEY WEED: No.
25 COUNCILMEMBER ROCHE: -- because we

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1 passed --
2 ATTORNEY WEED: I mean the zoning part
3 will appear on zoning night.
4 COUNCILMEMBER ROCHE: On the zoning.
5 So 5 and 6 will go away next time.
6 MAYOR JENKINS: You got a motion? What
7 is that motion?
8 COUNCILMEMBER FLEMING: Well, sir, I'm
9 concerned that we're not getting through with
10 any one given agenda.
11 MAYOR JENKINS: I don't think we ever
12 will any more.
13 COUNCILMEMBER FLEMING: I'm sorry?
14 MAYOR JENKINS: I don't believe we ever
15 will any more. We stay on one item too long.
16 Do you want to make your motion?
17 COUNCILMEMBER FLEMING: If you don't
18 mind.
19 MAYOR JENKINS: Go ahead.
20 COUNCILMEMBER FLEMING: I'd like to
21 make a motion that we extend this meeting until
22 Thursday.
23 MAYOR JENKINS: What time?
24 COUNCILMEMBER FLEMING: 6:30, so that
25 we --

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1 ATTORNEY WEED: Just for some input,
2 I'm not going to be here Thursday. I've got to
3 be in Savannah for ACCG, the Association of
4 County Commissioners of Georgia. I'm doing the
5 training for them, for the county commissioners.
6 COUNCILMEMBER FLEMING: Can't do it
7 Wednesday, can't do it Thursday. Next Monday is
8 public hearing.
9 I rescind my motion.
10 ATTORNEY WEED: You don't have to have
11 me here to have a meeting.
12 UNIDENTIFIED SPEAKER: Why don't you
13 just continue on?
14 COUNCILMEMBER FLEMING: I rescinded my
15 motion.
16 MAYOR JENKINS: Well, I mean if you
17 want to extend it to next week sometime.
18 COUNCILMEMBER FLEMING: That's all
19 right.
20 MAYOR JENKINS: Okay. Citizens
21 comment.
22 MS. CRAWFORD: I hope I didn't somehow
23 cause all that.
24 I just wanted to say that something was
25 forwarded to me recently by Oakcliff Charter

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1 School, one of the 18 schools of its type in the
2 country, which I just found really, really
3 exciting not only because we have three
4 daughters who went there but because, to me, the
5 state of the schools in the community really
6 determines whether or not people are willing to
7 move in. And I found that very exciting, and I
8 think that it's maybe going to be a catalyst to
9 that -- and other things, neighborhood garden,
10 maybe, and other positive things are going to
11 propel us into the future. And I know that that
12 is, you know, growing pains and that changes are
13 difficult for all of us, but I hope that we
14 persevere and that we make it through to the
15 other side.
16 MAYOR JENKINS: Thank you.
17 Mr. Adams?
18 MR. ADAMS: My name is Bill Adams.
19 Mr. Mayor, the first thing I'd like to
20 say, I know I'm limited, so I know tonight
21 before I start.
22 Are we in a battle with Lithonia to see
23 what kind of bad publicity we can get on TV?
24 MAYOR JENKINS: You tell me, sir.
25 MR. ADAMS: I mean, you know, I've got

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1 a dear friend that was here for 40 years. He's
2 dying. Gene Lively was here for 20-something
3 years. We never had this mess going on.
4 MAYOR JENKINS: That's right.
5 MR. ADAMS: This is a crying shame. I
6 met a man outside City Hall tonight, lives in
7 Oakcliff. He said he's ashamed to tell people
8 he lives in Doraville. It's not because of the
9 police; because of people sitting up here.
10 Chuck, I know you. You don't know me.
11 But I've seen you come up through little league.
12 I know your father real well. My wife dealt
13 with him for 30-something years when she was
14 (imperceptible) and your daddy was at General
15 Motors. But I hope nothing happens to you like
16 Tommy McElroy. I think they did a damn good job
17 of putting you in charge.
18 Mr. Weed, I've heard you give this
19 Council more advice tonight than -- I attended
20 nine or ten meetings two years ago, and you gave
21 them more advice tonight than I heard in them
22 eight or nine meetings.
23 You touched on the drug forfeiture
24 money that the Mayor and Council is strictly
25 responsible for. We went through that one time

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1 before. Some of y'all sitting up on that
2 Council meeting were sitting up there when it
3 happened to Tommy McElroy, and somebody
4 somewhere black-balled him. Now, you don't have
5 to look at me when I look at you, but that's the
6 facts, and if it was you, you ought to hang your
7 head.
8 Mr. Roche talked about it when you was
9 talking about, you know, hiring two police
10 officers, bringing that officer who works for
11 the DEA. Well, I'm sure that Chief Atkinson
12 back here will tell you that whatever they
13 confiscate, the City gets a part of. And the
14 cities that I've worked with the police with
15 usually gets a whole lot more money back in the
16 coffer than their salary.
17 And that's all I wanted to say, but I
18 appreciate y'all letting me come up here. Thank
19 you.
20 MAYOR JENKINS: Thank you, Bill.
21 Yes, ma'am.
22 MS. ALLEN: I'm going to run to this
23 mike so I can get this done.
24 MAYOR JENKINS: Can I ask you a
25 question, ma'am?

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1 MS. ALLEN: I'm sorry?
2 MAYOR JENKINS: Are you a citizen?
3 MS. ALLEN: No. Actually, I'm not.
4 But I was locked up in -- from Doraville, so I
5 guess --
6 MAYOR JENKINS: You were what?
7 MS. ALLEN: I was locked up by
8 Doraville Police Department, so I felt that I
9 needed to come and mention some things because
10 obviously I've got a major situation going on.
11 So am I not allowed to talk because I'm
12 not a Doraville citizen?
13 MAYOR JENKINS: This is citizens
14 comments, but I'm going to give you -- I'm going
15 to give you three minutes, ma'am.
16 MS. ALLEN: All right. Thank you so
17 much. Let me put my donation thing up here real
18 quick.
19 MAYOR JENKINS: Wait just a minute.
20 THE REPORTER: Could I get your name?
21 MS. ALLEN: Yes, ma'am. Bernadette
22 Allen.
23 MAYOR JENKINS: Ma'am?
24 MS. ALLEN: Yes, sir.
25 MAYOR JENKINS: Take that money off of

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there. I don't know where that money come from.
Chuck, what is this? Can you tell me, sir?
CHIEF ATKINSON: Yes, sir. This is a situation where this lady was arrested by one of our officers and has since --
MAYOR JENKINS: That's a police matter, not a Council matter. Is that correct, Mr. Weed?
ATTORNEY WEED: Mr. Mayor, my understanding is that I believe the active criminal case with regard to Ms. Allen is actually over unless there's something further that I'm not aware of.
The vehicle that Ms. Allen was allegedly driving was an R.V. which is in impound and she may have -- she may be being investigated actively by some other agencies. I would turn to the police. I don't know if there's an active investigation with regard to this person or not.
If she wants to make some statement underneath public comments to the Council, that's fine. I would certainly encourage you not to respond to anything Ms. Allen has to say.

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Ms. Allen has filed a letter to the Police Department, which I've been a copy of, which I have responded to, and requested the Police Department essentially asking or seeking possession of her property, and we have responded accordingly. And I have told her that there's really nothing more the City of Doraville can do for her, and if she has some legal grievance, she should hire a lawyer and seek whatever remedies are in the law that she feels fit. Therefore, I certainly would advise you as your lawyer not to respond to anything Ms. Allen has to say, but I'd let her talk.
MAYOR JENKINS: Murray, I'm going to bring it to the Council.
I want a motion if we let this lady speak or not.
ATTORNEY WEED: And I will add one more thing. There is no legal requirement to ever let anybody from the public ever address the Council.
MAYOR JENKINS: I understand that.
Would that be the proper thing to do, for the Council to decide if she speaks or not?
ATTORNEY WEED: You can. There's no

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legal impediment to prevent you from doing that, because there's no legal requirement that you ever let anybody speak in a Council meeting other than other Council members and other than at a zoning procedure.
MAYOR JENKINS: Well, we've been through this before on whether it's a citizen or a business or whatever. Businesses have to get on the agenda.
COUNCILMEMBER BATES: I would say because there's potential of litigation, that we deny the request.
MS. ALLEN: But I have an RV that I'm trying to get out of the impound --
COUNCILMEMBER BATES: And that is not something that we can address --
MS. ALLEN: -- and it's a hold on it.
COUNCILMEMBER BATES: -- ma'am. I'm sorry.
MAYOR JENKINS: Excuse me, ma'am.
MS. ALLEN: Yes, sir. I'm sorry.
COUNCILMEMBER PITTMAN: Is that a motion?
MAYOR JENKINS: Do I have a motion that we let the lady speak?

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COUNCILMEMBER SPANGLER: I make a motion that we let the lady speak.
COUNCILMEMBER PITTMAN: He just made one.
COUNCILMEMBER SPANGLER: I know he made a motion not to let her.
COUNCILMEMBER PITTMAN: Well, he --
COUNCILMEMBER SPANGLER: But he just asked if he got another motion and I just made --
MAYOR JENKINS: Do I get a second on Brian's?
COUNCILMEMBER PITTMAN: Yes, second.
MAYOR JENKINS: Okay. Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?

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COUNCILMEMBER ROCHE: No.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: No.
COUNCILMEMBER ALEXANDER: Tie, sir.
MAYOR JENKINS: What was the motion?
CLERK BLACKMON: To not let Ms. Allen speak.
MAYOR JENKINS: I'm going to say yes on that motion. I apologize. I just wanted to make sure.
ATTORNEY WEED: Give me just one second and let me take a look at the Charter rules here. Give me one second because this may be relevant.
Nonresidents. This is under Section 2-35. Nonresidents --
And I assume, Ms. Allen, you don't live in Doraville; is that correct?
MS. ALLEN: No, sir, I don't.
ATTORNEY WEED: Nonresidents can submit an item in writing and the Mayor then decides if the item shall appear on the agenda.
Did you submit this item in writing, Ms. Allen --

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MAYOR JENKINS: No.
ATTORNEY WEED: -- in advance of this meeting?
MS. ALLEN: No.
ATTORNEY WEED: Okay.
MS. ALLEN: I've been submitting letters but --
ATTORNEY WEED: All right. That's fine.
Go ahead, Mr. Mayor, but I just wanted to quote you chapter and verse. You have every legal authority not to allow Ms. Allen to speak if you so choose.
And Ms. Allen, you can try to submit an item underneath an agenda under 2-35 at some future date but not tonight.
MAYOR JENKINS: You can come up any time and put in an application at the front window.
MS. ALLEN: All right.
MAYOR JENKINS: Thank you.
MS. ALLEN: Thank you so much, sir.
COUNCILMEMBER SPANGLER: I would like to ask before this meeting is adjourned, Mr. Adams made a comment about Mr. McElroy. Now, is

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it proper for me to bring this up at this time, Mr. Weed? He sort of made some allegations there that we blackballed Mr. McElroy.
ATTORNEY WEED: Councilman, there's nothing I can do to prevent you from making whatever responsive comment you want to.
I don't believe there's any active litigation -- Strike that. There is active litigation with regard to that matter. I would advise you not to respond at this time.
COUNCILMEMBER SPANGLER: Okay. How come we haven't heard of any litigation?
ATTORNEY WEED: I'm referring to the Jeff Drossman case. Mr. McElroy and whatever occurred, that's part of that case. That's my advice. You can always elect not to follow my advice.
COUNCILMEMBER SPANGLER: So you're saying that was part of the reason he was black-balled.
ATTORNEY WEED: No, sir, I'm not saying that. I don't know anything about that. I'm not handling the Jeff Drossman case.
What I can tell you is that Mr. McElroy -- he figured prominently in that case.

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COUNCILMEMBER SPANGLER: Well, my question is, I know Mr. McElroy. He did an excellent job.
And this goes back to Mr. Atkinson. I think he's going to do an excellent job while Chief King's gone.
Don't want the same thing to happen to Chief Atkinson that happened to Major McElroy. Okay? That's the consensus of most of the people in the Oakcliff area, and I'm sure Northwoods and the other area at Tilly Mill and Winters Chapel. We don't want to see this man do a good job and then six months after his temporary position is over with, then he gets gone and black-balled, not be able to go to another agency.
COUNCILMEMBER PITTMAN: And I will state for the record that this Council had absolutely nothing to do with Major McElroy being gone at all.
COUNCILMEMBER SPANGLER: And we never could get an answer why he was gone, and that's the thing that needs to come out. You know, the man did a great job. We gave him a proclamation for doing a good job, and then he gets gone, you

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1 know.
2 COUNCILMEMBER BATES: Move to adjourn.
3 COUNCILMEMBER PITTMAN: Second.
4 COUNCILMEMBER SPANGLER: No more
5 citizens comments?
6 COUNCILMEMBER BATES: Sorry. I
7 withdraw. I withdraw.
8 MAYOR JENKINS: Okay. Come on up.
9 MR. HOWARD: Clint Howard, Oakcliff
10 area.
11 Actually, Mr. Spangler, I'd like to
12 know actually what your feels are as to why he
13 got gone.
14 COUNCILMEMBER SPANGLER: Mr. Howard, I
15 cannot give you my feelings on why he got gone.
16 All I know is that he did a super job, we gave
17 him a proclamation and then it wasn't -- it was
18 a short while after that that he did get gone.
19 MR. HOWARD: Okay, because I've heard
20 different things and nobody's really said a
21 whole lot about it.
22 COUNCILMEMBER SPANGLER: Well, nobody
23 knows.
24 MR. HOWARD: Evidently, it's under,
25 still, investigation --

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1 COUNCILMEMBER SPANGLER: No.
2 COUNCILMEMBER PITTMAN: No.
3 MR. HOWARD: -- or a lawyer or
4 whatever.
5 COUNCILMEMBER SPANGLER: It's not under
6 any investigation, Mr. Howard.
7 We've asked in different meetings why
8 that happened, and we never did get an answer.
9 We never did.
10 MR. HOWARD: Thank you.
11 COUNCILMEMBER SPANGLER: Just like we
12 don't get information on the asset forfeiture
13 moneys.
14 MAYOR JENKINS: Who's next? Come on
15 up, Stuart.
16 MR. ANDERSON: Quick question. I
17 apologize. I was coming in when it was going
18 down, as it were.
19 Were conditions on approval of variance
20 and zoning ordinance updates set a side because
21 Scott wasn't here?
22 ATTORNEY WEED: No, sir. Those items
23 were handled. They've already appeared for a
24 first reading.
25 They will be discussed more thoroughly

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1 under the zoning advertisement on the zoning
2 night, on April the 27th. There is nothing
3 further to add at this time.
4 MR. ANDERSON: Thank you. And I don't
5 want to be facetious in this question. Can we
6 have a community garden on private land?
7 ATTORNEY WEED: Absolutely. You can do
8 whatever you want to on private land.
9 MR. ANDERSON: Well, that's --
10 everything was going kind of sideways so I
11 thought I'd ask that question.
12 MS. KOONTZ: I wanted to kind of
13 dovetail on what Susan was saying. There's so
14 much negative stuff that keeps going on about
15 Doraville. And like she said, the schools are
16 so important. That's what -- when you look at
17 these, like these real estate sites, they always
18 say this house goes to this school. And we need
19 to -- I know the schools in Doraville, from
20 probably 10 years ago, had got a really bad name
21 and people didn't want to move in these area
22 because we had, quote, bad schools, and I've
23 heard this from several -- I've actually heard
24 that as the excuse to why the police officers
25 don't want to live in Doraville is because the

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1 schools are so bad and -- that was years ago.
2 And I think that schools like Cary
3 Reynolds and now, obviously, Oakcliff have
4 improved a bunch in the last five or six years,
5 and I think that if the City can somehow
6 advertise or promote that the schools here are
7 doing so well and work with like the AJC and the
8 different media outlets to get it out in the
9 Atlanta area that the schools are good here now,
10 it will help our property values and it'll help
11 the whole city come up, because that's what
12 people base whether they want to move here or
13 not.
14 COUNCILMEMBER PITTMAN: And Stephe,
15 that was released at -- there was a media --
16 MS. KOONTZ: But with Cary Reynolds,
17 too, I know they've got different awards and
18 stuff. Kiwanis helped them with some of the
19 stuff, and they were talking about all these
20 awards they're getting. And it needs to get
21 publicized. I think it would help a lot.
22 MAYOR JENKINS: We have wonderful
23 schools. You cannot downgrade our schools.
24 Yes, ma'am.
25 CLERK BLACKMON: I just want to make a

comment before we adjourn, on the asset forfeiture. Sergeant Lopez turned in a report, I believe last Thursday, and I will make sure Council has a copy of it in their box tomorrow.

MAYOR JENKINS: Okay.

COUNCILMEMBER FLEMING: May I make a motion?

MAYOR JENKINS: Yes.

COUNCILMEMBER FLEMING: I'd like to make a motion that the next meeting of May 4th, that we begin the agenda, the first item on old business should be item number 10 -- going in sequence, 10, 11, 12, 13 and 17 -- we've yet to hear the attorney comments -- and then proceed with anything left open for old business that needs to be voted on.

COUNCILMEMBER SPANGLER: Second.

MAYOR JENKINS: Do I get a second?

COUNCILMEMBER SPANGLER: Second.

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: You got that, Rhonda?

CLERK BLACKMON: Sir?

MAYOR JENKINS: The way she put it, have you got that?

CLERK BLACKMON: Yeah. I was going to actually clarify it with her later.

MAYOR JENKINS: Very good.

COUNCILMEMBER BATES: Motion to adjourn.

COUNCILMEMBER SPANGLER: Second.

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

- - -

(Meeting adjourned at approximately 9:55 p.m. the same day.)

-o0o-

C E R T I F I C A T E

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I hereby certify that the foregoing transcript taken down, as stated in the caption, and the eedings were reduced to typewriting under my ction and control.

I further certify that the transcript is a true correct record of the evidence given at the said eedings.

I further certify that I am neither a relative mployee or attorney or counsel to any of the ies, nor financially or otherwise interested in matter.

This the 29th day of April, 2009.

_____

Theresa Bretch, CCR

Permit No. B-755

[SEAL]

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