In The Matter Of:

City of Doraville

State of Georgia

..City Council Meeting..

December 14, 2009

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the meeting 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 6:35 p.m., December 14, 2009.

* * *

APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilwoman Maria Alexander
Councilman Brian Bates
Councilman Robert Spangler
Councilwoman Donna Pittman
Councilman Bob Roche
Councilwoman Pam Fleming
Rhonda Blackmon, City Clerk
Murray J. Weed, City Attorney
Scott Haeberlin, City Planner

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: Here.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Here.

MAYOR JENKINS: Okay, Scott.

MR. HAEBERLIN: Sir, we're down to No. 3. This is old business, and we've already had the public hearing on this one.

At the last meeting, per the direction of Councilman Spangler, we gave clarification to the applicant of what we needed tonight to continue to review this item. I had not received anything as of Friday nor have I received anything today.

I did go back and try to give you a little

historical perspective -- this is the time line on massage establishments in the city -- to let you know items that are generally classified as massage. I would not say that these are specifically massage parlors; however, they would seem to fall under that category in the regulatory codes.

So I kind of gave you a time line of what is an existing. You also have a handout adjacent to that which shows you the history of the massage establishments before I got here and of course since I got here as well, and then you have the moratorium minutes as well.

Also, too, everybody received a copy of the Secretary of State's -- these are licensed massage therapists in the state of Georgia -- and a copy has been provided to the court reporter as well and the City Clerk, and that basically tells us who is licensed in the state to perform this function, which is a prerequisite within C-2.

As I've said, I have not received any updated information, so at this time I invite the applicant to come back and speak with the Council.

ATTORNEY WEED: And I would state for the record that the applicant did hand to me and then I delivered it to the Clerk some information that deals

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with what appear to be massage therapist licenses and license numbers, and I'm going to be giving that to the Council in just a moment.

CLERK BLACKMON: (Inaudible)

ATTORNEY WEED: If they care to. That's up to them.

CLERK BLACKMON: Would y'all like for me to pass this?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: (Presenting)

COUNCILMEMBER ROCHE: State of Georgia, Karen Handel, Secretary of State, massage therapist license number, expiration date 10/31/2010.

ATTORNEY WEED: And Councilman, that's what -- in fact, I was checking that against the master list from the Secretary of State that Mr. Haeberlin printed out apparently on December the 10th, and none of those licenses are reflected here. So I don't know if the Secretary of State has not updated the records or what the problem may be, but I will state in my place that they're not on this particular list that I've been handed. What the meaning of that is, I don't know, but I will simply state it as a fact.

MR. HAEBERLIN: As well, I'd like to see a copy of those items.

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I would like to note for the record that there has not been any of those previously supplied to me with the application material, so -- but I'd certainly be willing to look at whatever is supplied tonight.

MAYOR JENKINS: Will you have the applicant come up and explain why it's not on the . . .

Yes, come on up.

MS. NEI: How are you tonight?

My name is Maggie. Last name's Nei, (spelling) N-e-i.

You know, since last meeting, we haven't told the Council, we been closed, our shop, for whole month, okay, and there was just nobody working. The shop is completely shut. You know, it's been shut down. So we have rehiring people. The people previously just is not -- you know.

COUNCILMEMBER BATES: So the store is closed? It was locked?

MS. NEI: Yeah, because we having Mr. Scott telling us we should get a different kind of license for the business keep going.

COUNCILMEMBER BATES: So was it locked or was it --

MS. NEI: Well, they give us a hair salon

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license, okay, for which the -- is not totally for the hair salon. And we don't have anybody working as hairdresser, you know, no pedicure, anybody.

COUNCILMEMBER BATES: So were the doors locked or --

MS. NEI: You know, the door is -- is not locked. I have somebody just -- you know, just sit in there. It's nothing. Just looking at the shop, somebody just -- nobody's working, actually. I don't have any employee there. It's just a couple friends, old friends go there and talk.

So we hired new people, whichever one -- whoever had, you know, license from the state massage is the ones you require, have two weeks starting, having working hours, pass for, waiting for the test, which last time we had the meeting, be okay to learn from the -- you know, the teacher, which have the license. But so far, we only have three peoples right now just waiting for working. They have the license. And I -- nobody to -- but I don't know anybody to notice the documents you give to who, you know. All we thought is come to the meeting, just bring it to the Council. I try to e-mail and I don't get any answer, so, and I do have all the license provide, and I --

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So that's what we do. We hire the people who have license for work that the City require, and then we hope we get the same treatment like last time you approved another one, because we do try to hire the people who have license. We want the same treatment you've given to Treat Your Feet. Okay. Because when we first come apply this license, we do have one person having a massage therapy license, which is one -- but it's only one person, you know.

And Mr. Scott was telling, saying we don't have anybody having this license. This is not correct. On the record, we do have one person, she have the license, and I don't know why he is telling, you know, the Council we don't have anybody having the license. And also it's not correct, in the state of Georgia, the person who having license, not 2,000. It's 5,915. Last time -- I was to check online. It's almost 6,000 people have a massage therapy license, not couple thousand. So this is the information he provide. This is not correct.

And I hope the Councilmens take a look, and I want to get the same treatment, because you gave the same treatment last time for the Treat Your Feet, which you granted on their information provided. So we are only hoping to get the same treatment.

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ATTORNEY WEED: And I would also like to correct the record. The three licenses of the persons that had been given to me -- whether they're employees or not, I don't know, but they are actually on the list. I've gone back and double-checked, and I have been able to find all three of them.

COUNCILMEMBER ROCHE: Well, again, as someone said, I mean we kind of went through all this last meeting, and we had two in a row that were pretty much essentially the same, and at the time, we decided to table this one and then we granted the next one on the agenda.

And we tabled this one, waiting for, I believe, the licenses. So it seems like if the licenses are here and we granted one just a minute ago or -- sorry -- we granted a very similar situation last time, I don't see why we shouldn't just bring it up to a vote. I mean we've already had the public hearing and everything.

COUNCILMEMBER ALEXANDER: The concerns I have is when this location was originally approved, it was never approved for full-body massage. It was only approved for feet.

MS. NEI: Uh-huh.

COUNCILMEMBER ALEXANDER: Never full-body.

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The difference between this location and the location that certain council members approved for the new location is you are next to a church.

MS. NEI: Actually, it's a halfway house.

COUNCILMEMBER ALEXANDER: The halfway house is behind the church. There are two buildings on that piece of property adjoining yours. One is a church and one is a -- is a shelter.

MS. NEI: Well, the one behind us, next to us, actually is a law office.

COUNCILMEMBER ALEXANDER: No. The property next to you has two buildings on it. One is a church, and the one behind that is Interfaith Outreach shelter.

There is another building on your property behind you that is a medical and law office.

MS. NEI: Actually, full massage and foot massage is to create healthy. It's not something bad, you know, service. Actually, it's relaxing. So I don't understand the image for you, doing massage actually is bad or what is this --

COUNCILMEMBER ALEXANDER: I'm trying to figure out how you went or whoever went from an approved use of foot massage and expanded that use without approval.

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MS. NEI: Well, that's why, you know, asking the Council why they give it to us last year, and that's a question I ask the City. And we get a license from you guys last year, and then we try to provide anything you wanted, and we can come back all the questions, so we don't what direction we should get, you know. There was so much change in the City, you know, and nobody knows it.

COUNCILMEMBER BATES: Now, you were approved for a foot massage occupational tax.

MS. NEI: Yes, sir.

COUNCILMEMBER BATES: Not full body massage.

So in between September 18th or whenever it was approved for foot massage only, your business was expanded to include full-body massage. That was not what was approved.

So I'm trying to get a -- and I apologize. I was not here at the last meeting --

MS. NEI: Yes.

COUNCILMEMBER BATES: -- so I'm trying to get caught up to speed.

How did you go for an entire year without getting a license to occupy --

MS. NEI: Actually --

COUNCILMEMBER BATES: -- the -- hold on, let

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me finish. How did you go for a whole year without getting an occupational tax license and expand the use from what was approved in September of 2008 to full-body?

MS. NEI: Well, I believe this is -- there was a lot of misunderstanding because it's based on the language. They will understand whatever the license they give last year is could do foot massage and the whole-body massage, and that was everyone -- you know, that's based on their common sense, everyone in Doraville in Asian community, they use -- already do the foot massage and whole-body massage.

And then when we find out our license expire and then we got a lot of information from the department, Scott, so we try to do the business to get things done right, and there's a lot of miscommunication. And we just try to do the business, even you giving the license for hairdressing. So we're just not open because that's not our business.

So we prepare everything to try to get it right and get a business license, and we just try to provide what we need, not what was past, because past is the City had a lot of informations that's not correct. So hopefully since we're looking for the future, not in the past, and we doing the all -- try

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1 to do the just business. And I know is a lot of
2 people having different thought about how people do
3 massages. They come from different mind, because they
4 give us something is not healthy, which, you know --
5 you know, City of Doraville is international people,
6 you know. People come, they all want to work. They
7 want to come to city of Doraville because this is
8 different culture. Okay. Even this has made us so
9 special about city of Doraville. It's not because
10 just certain group people. This is all the culture.
11 And that's what makes us different, Buford Highway.
12 They notice all the Asian special culture. And we
13 respect all of our different culture.
14 And that's why I hope City Councillors
15 understand we're doing business, not try to making
16 something, you know, legal or illegal. We just try to
17 do it in the way.
18 And the city getting so much different
19 (imperceptible) compared to (imperceptible), they
20 cannot understand --
21 COUNCILMEMBER BATES: Compared to what?
22 MS. NEI: (Imperceptible) They don't always
23 get the knowledges change. And we just try to do
24 business, not who's at fault. You know, the fault is
25 past. We're just looking for the future.

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1 And we try to do the right thing, and then
2 we try to get more information from -- you know, from
3 the City. You know, whatever is need to change, we
4 try to do. But brought applications on the October
5 22nd, which is before City Council get permits
6 November 2nd. And actually it's our fault license
7 expire.
8 But we fill out application, ask anything
9 need to be changed, and the last meeting we get the
10 fax from City Council or not -- from City Hall on
11 Friday 6 o'clock, and so, and Scott was gone for the
12 whole week of vacation, so we don't know what we
13 wanted to change. But who else are we going to talk
14 to? Nobody we can talk to. I think this is what we
15 discussing last time.
16 So all of this time, we want to just get us
17 an attorney because we provide anything they need, you
18 know. The one massage therapy called Treat Your Feet
19 last time is the same, based on the same foundation.
20 So we just try to this time come back, get all the
21 information, get same treatment. It's just nothing
22 that complicated.
23 COUNCILMEMBER FLEMING: Mr. Bates, based on
24 the -- I was trying to do a little research before
25 tonight's meeting, and based on the minutes of

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1 September the 12th, though we did not have the
2 advantage of a court reporter, this particular
3 application, as far as the minutes were concerned, it
4 was for V&W Day Spa, and there's no notation in here
5 as to what was discussed as to whether it was foot
6 massage or full body.
7 I requested a copy of the original applica-
8 tion for an occupational permit or tax, and that's
9 what we were trying to find prior to the meeting. At
10 this time, we cannot find the original from September
11 of '08 to determine how they actually were applying.
12 So that's where I stand on this right now.
13 I was trying to go back to the original to see the
14 actual application for September of '08.
15 COUNCILMEMBER BATES: Sure. And having
16 voted for the approval of that occupation tax license,
17 we approved a number of massage -- foot-massage-only
18 businesses during that moratorium, and it was foot
19 massage only. We did not approve any business that
20 was going to do regular full-body massage during the
21 moratorium hearings.
22 So I'm concerned that the usage was expanded
23 beyond what was approved by Mr. Roche and myself,
24 because we were the only two who voted in favor of
25 issuing that occupational tax license. Ms. Alexander

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1 voted against it. But it was expanded beyond --
2 obviously beyond what was approved at that time, to
3 include full-body massage, and that was not part of
4 the discussion. I can assure you we asked those
5 questions regarding what type of massage are you going
6 to be doing, and we were assured foot only.
7 COUNCILMEMBER FLEMING: Well -- and I
8 totally agree with you a hundred percent. I was
9 trying to find the paper trail. I wanted to see what
10 was actually on the application when it came to
11 Council that you members during the moratorium never
12 saw. Did you not hear it from --
13 COUNCILMEMBER BATES: We heard it from the
14 applicants themselves.
15 COUNCILMEMBER FLEMING: You heard it from
16 the applicant but didn't see the document.
17 COUNCILMEMBER BATES: That would be correct.
18 COUNCILMEMBER FLEMING: Okay, and that's --
19 I wanted to try to see that.
20 COUNCILMEMBER ROCHE: And I think part of
21 the issue was, if I remember correctly, at the last
22 meeting, the issue came up that even if -- it was my
23 understanding from what I was hearing from staff, that
24 even if it was foot-massage only, that massage therapy
25 licenses were required. I don't think I've gotten the

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1 transcript for that just yet. I'm not sure if that's
2 been in our mailbox yet or not.
3 Now, subsequently, we did get an e-mail
4 saying that for foot massage only, the licenses were
5 not required, so I'm not sure, you know, where we are
6 with this.
7 I mean it seems to me that what we're here
8 to decide tonight was whether or not to grant a
9 conditional use. And granting a conditional use
10 means, okay, you can have that use. That doesn't mean
11 that the fire marshall doesn't have to come and
12 inspect the property. That doesn't mean that -- you
13 know, if we granted a conditional use for a doctor's
14 office, that doesn't mean that the doctor wouldn't
15 have to have a license to practice medicine in the
16 state of Georgia. There are a lot of other things
17 that have to be gone through. But all we're here for
18 now is whether or not we are willing to grant -- I
19 guess, in this case, extend the conditional use for
20 this business at this place.
21 All this other stuff, I'm not sure. Again,
22 you know, if we say yes, then they still have to --
23 you know, if they're going to do full-body massage,
24 they still have to have their licensing. But that
25 would be a separate thing. I believe that the police

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1 department would have to also check. They would have
2 to get through that. You know, there's other hoops
3 they have to jump through.
4 So I'm just wondering if we're just -- we're
5 kind of going all over the place instead of just
6 focusing on what we're here to decide tonight.
7 So as far as whether massage licenses are
8 needed, I kind of feel like that's a question for
9 another day, I mean, or another thing that you have to
10 have before you can open.
11 ATTORNEY WEED: Are you asking for an
12 opinion on that, Councilman?
13 COUNCILMEMBER ALEXANDER: I believe we've
14 been educated that full-body massage requires a state
15 license under the state code.
16 COUNCILMEMBER ROCHE: Okay. And then
17 apparently --
18 ATTORNEY WEED: That is correct.
19 COUNCILMEMBER ROCHE: -- when you've
20 produced --
21 ATTORNEY WEED: Tonight I think the question
22 the Councilman is asking is can you decide whether or
23 not to grant this conditional use based upon whether
24 or not the applicant has a state-issued massage
25 therapy license, and my opinion on that would be that

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1 issue is irrelevant for the purposes of tonight's
2 decision.
3 COUNCILMEMBER ROCHE: Thank you.
4 ATTORNEY WEED: There are eight standards
5 that you have to apply to the question before you.
6 Whether the applicant behaved illegally before tonight
7 should be considered but at a different time. That
8 should be considered by the police department.
9 Whether they're in violation of the law right now,
10 that should be considered but not tonight. That is
11 another issue for the police department.
12 So while you may approve this or deny it
13 based upon the eight standards, their past sins or
14 lack thereof will certainly catch up with them but not
15 in the conditional use permit or the issuance thereof,
16 because past illegalities or licenses for this purpose
17 will not apply.
18 So I would refer you to the eight standards,
19 and if you find based upon the facts presented to you
20 that the applicant meets those eight standards, then
21 you should grant the conditional use permit. If you
22 find that they fail to meet those standards, then you
23 should deny it.
24 COUNCILMEMBER ROCHE: Personally, I feel
25 like they have -- you know, they have been operating

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1 there for a while. I don't like to shut down
2 businesses, so I would support a motion to go ahead
3 and grant this.
4 MAYOR JENKINS: Form of a motion?
5 COUNCILMEMBER ROCHE: I'll make a motion
6 that we grant the conditional use to Spa 18,
7 5164 Buford Highway, whatever these numbers are,
8 18-297-07-011.
9 COUNCILMEMBER FLEMING: Now, I'm showing
10 your license to be or your business to be Spa 18
11 Beauty & Massage Salon. Is that correct?
12 MS. NEI: Yes, ma'am.
13 MAYOR JENKINS: Do I get a second on that
14 motion?
15 COUNCILMEMBER FLEMING: Second.
16 MAYOR JENKINS: We've already had a public
17 hearing; is that correct?
18 ATTORNEY WEED: Yes, sir.
19 MAYOR JENKINS: Anymore discussion at the
20 table?
21 COUNCILMEMBER ROCHE: Just one thing. For
22 the benefit of the public that's here, we did pass an
23 ordinance recently that limits the number of massage
24 establishments in Doraville. This establishment was
25 already in business. They did apply before we passed

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that ordinance. And as I was saying to someone earlier tonight, don't take it wrong, anybody, but I hope this is the last massage therapy or massage establishment we approve for Doraville ever.

MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER ALEXANDER: Aren't they going to have to comply with the state law regarding the signage and all that, or they don't have to now that they have people that have licenses?

ATTORNEY WEED: First off, whatever happens tonight, tomorrow morning, my advice to you is to have the police department do what should be done and carefully investigate this applicant as well as anybody else who is using the word "massage" or claims to be performing massage therapy in this city to find out whether or not they are state licensed, and, if not, then I believe that we should take action against those establishments -- not limited to this one, but to anybody who's in violation of the law.

The answer to your question, though, hypothetically, assuming that these three people actually work at this establishment, which is an unknown fact at this point, based upon an investigation, if they do work there, then they would be able to utilize the word "massage" in their advertisement and they would

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be able to utilize the word "massage" in their signage. Obviously, they've still got to comply with the height, size, lighting of the signs under the sign code, but it would be allowed.

COUNCILMEMBER BATES: And the window coverage?

ATTORNEY WEED: Once again, we'd have to refer back to the sign ordinance to see if there's a prohibition on the amount of window coverage and also on the massage ordinance to see if any part of that is relevant that hasn't been preempted. We have to go back and check.

COUNCILMEMBER BATES: If I remember correctly, those windows are a hundred percent blacked out.

ATTORNEY WEED: And that -- I'm sure that they are. Whether they can be blacked out or not, I don't know off the top of my head without referring to the sign ordinance. I'll need to look.

COUNCILMEMBER BATES: Okay. Because I mean that, to me, is just one of those subtle indicators of what's happening inside. And you know, perceptions become reality, and when you see, you know, the adult entertainment and the adult businesses where you know what's happening in there and your business looks like

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those businesses because all the windows are blacked out and it's neon signs and it looks shady, you can understand that the --

MS. NEI: Yes, sir. I --

COUNCILMEMBER BATES: -- the perception --

MS. NEI: -- definitely understand that.

COUNCILMEMBER BATES: -- the perception is that there's naughty things happening.

MS. NEI: Of course I understand.

The point is we try to do everything City ask for, and we have the application sitting months -- you know, before the last meeting. And we -- I have come to City Hall time to time, ask Scott, you know, if anything need to be changed, we'd love to work with it, because, you know, we find the notice November 2nd we're going to be no more new business or renew. So we try to work very hard.

But the point is it's not fair for us to get the review from the city planner and telling what things is not right, because we want to change, too. But when we come by here, there's nobody here to telling us what to do because he was on vacation from Monday until next Monday, which is November 30. So this is not fair. I'd like to mention that too.

We do try to work real hard, even with shop

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that is down for the whole month. We're paying the rent. There are no employee. Actually pay several employees, you know, which they have -- some have license, for the, you know, the two weeks pay (imperceptible) and the business is shut down. And even they give us the license, want us to operate that as a hair salon. We're not doing that. That's not what we're here for.

COUNCILMEMBER ROCHE: Excuse me. Is this part of -- is a sign part of the standard of review for a conditional use? Not that I can see.

ATTORNEY WEED: No, sir, I don't believe that signage is part of one of the eight standards for a conditional use.

COUNCILMEMBER ROCHE: And obviously if and when we have a sign ordinance, then obviously you'd have to comply with the sign ordinance.

But again, what we're here to focus on tonight, the reason we're here tonight is to make a conditional use.

COUNCILMEMBER BATES: Well, and I would say that it would be under compatible with and preserves the character and integrity of adjacent developments and -- and neighborhoods. You have a church and a facility that supports individuals who are trying to

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1 get back up on their feet adjacent to property, and,
2 to me, the perception of character and integrity don't
3 match.
4 MS. NEI: Well, the question is all the
5 therapy has a state license. They are not adult
6 entertainment. Yeah, maybe the sign, but we will
7 change that.
8 But the whole business is legitimate health
9 business, not any adult. This is some point a lot of
10 people give the way --
11 COUNCILMEMBER BATES: I understand.
12 MS. NEI: Yeah. I mean, I'm really upset
13 because my future inlaw was -- I was thinking take my
14 boyfriend to massage, this is my girlfriend's place.
15 And all his mom just say, oh, did you know what kind
16 of place you get in there? Come on, this is my girl-
17 friend. What are you thinking they are?
18 You know, this is, you know, first minds
19 come to, you know; because Asia people do massage,
20 must have been something adult entertainment.
21 COUNCILMEMBER BATES: And there are -- on
22 the back of Creative Loafing and other magazines,
23 there are a lot of businesses that say massage --
24 MS. NEI: Well --
25 COUNCILMEMBER BATES: -- that are not.

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1 MS. NEI: -- you have to open eye, seeing
2 things the worst, okay.
3 I mean I travel all over the world. There's
4 is different kind of massage. You know, I went to
5 Taiwan. There's Thai massage, completely different.
6 They are like tear your body away. You know, it's
7 just all kind of massage, and it is a culture thing.
8 And I feel this is unfair sometimes in treating Asian
9 people, because we do try to do legitimate business
10 and we do shut up business waiting for this permit
11 use, and I don't know how to -- you know, this is
12 common sense for people in thinking about massages --
13 COUNCILMEMBER ROCHE: You know --
14 MS. NEI: -- but --
15 COUNCILMEMBER ROCHE: Sorry. Not to belabor
16 the point, but I'm not sure if character/integrity
17 would be mitigated with a big old -- with Bob Roche
18 sitting in front of a big picture window with my feet
19 getting massaged. I'm not sure how much that would
20 contribute to the visual whatever, either, so --
21 COUNCILMEMBER BATES: How about open, warm,
22 inviting?
23 ATTORNEY WEED: The answer to your question
24 would be 14-A, subsection (b): Window signs cannot
25 exceed 30 percent of the window area. That's the

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1 answer to the last question.
2 COUNCILMEMBER BATES: Thank you.
3 COUNCILMEMBER ROCHE: But wouldn't that be a
4 separate issue than what we're here tonight to decide?
5 ATTORNEY WEED: Signage is not -- it's not
6 specifically listed in one of the eight standards.
7 COUNCILMEMBER ROCHE: Okay.
8 ATTORNEY WEED: However, some standards are
9 more expansive than others. And I would say that that
10 would probably end up at the end of the day being up
11 to the discretion of the Council to apply the stan-
12 dards to the facts.
13 The Council does have the authority to
14 discuss with the applicant whatever additional
15 conditions it warrants. Just reminding you of that.
16 MAYOR JENKINS: More discussion?
17 - - -
18 (No response)
19 - - -
20 MAYOR JENKINS: Call the roll, please.
21 CLERK BLACKMON: Councilmember Alexander?
22 COUNCILMEMBER ALEXANDER: No.
23 CLERK BLACKMON: Councilmember Bates?
24 COUNCILMEMBER BATES: No.
25 CLERK BLACKMON: Councilmember Fleming?

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1 COUNCILMEMBER FLEMING: Yes.
2 CLERK BLACKMON: Councilmember Pittman?
3 COUNCILMEMBER PITTMAN: Yes.
4 CLERK BLACKMON: Councilmember Roche?
5 COUNCILMEMBER ROCHE: Yes.
6 CLERK BLACKMON: Councilmember Spangler?
7 COUNCILMEMBER SPANGLER: Yes.
8 CLERK BLACKMON: Motion carried.
9 MAYOR JENKINS: Yes.
10 MS. NEI: Thank you.
11 MR. HAEBERLIN: The next items we have,
12 we're going to need a motion and a second to recess
13 these.
14 Murray, should we do the whole three of
15 these together, 4A, 4B, 4C?
16 ATTORNEY WEED: You can --
17 COUNCILMEMBER FLEMING: Can you --
18 ATTORNEY WEED: -- if you care to.
19 COUNCILMEMBER FLEMING: -- do them one at a
20 time, please --
21 MR. HAEBERLIN: Okay.
22 COUNCILMEMBER FLEMING: -- because I'm going
23 to have some questions.
24 MR. HAEBERLIN: Yes, ma'am.
25 On 4A, we have a conditional use request,

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1 billiards hall, which is El Billiard Cafe
2 Entertainment, Jimmy Thanh Nguyen, Intown Plaza
3 Shopping Center, 5090 Buford Highway, Suites 203, 204
4 and 205, zoned C-2, and staff is requesting recessing
5 to January 26, 2010, due to the overall site's parking
6 variance needed by the owner, which is a code
7 violation, per the plans approved 5/27/08.
8 COUNCILMEMBER ROCHE: When did they apply
9 for their -- for this conditional use?
10 COUNCILMEMBER FLEMING: 11/7/09.
11 COUNCILMEMBER ROCHE: Okay. And the issue,
12 then, isn't so much this specific use. You're saying
13 the issue is the overall site parking?
14 MR. HAEBERLIN: Yes, sir. The entire site
15 is not compliant with the city zoning ordinance and is
16 ineligible at this time for a certificate of comple-
17 tion or a certificate of occupancy.
18 To move forward, the rest of these indi-
19 viduals with interior finish permit requests, much
20 less the conditional use procedure, which again has a
21 criterion of conformity to the code. And in my
22 criterion in the previous discussion of the one we
23 just looked at, I would not be able to certify that it
24 was in compliance with the parking requirements of the
25 code.

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1 So those are the criterion given to me by
2 the Council.
3 COUNCILMEMBER FLEMING: So the owner of
4 InTown Plaza is aware of the parking variance he needs
5 to come?
6 MR. HAEBERLIN: It's actually a lady. And
7 yes, ma'am, she is.
8 She did send her superintendent in today to
9 see me. He did get a copy of the variance application
10 and the fee schedule, and I told him that I would like
11 to meet with him and the owner to go through this to
12 make sure; if there would be any language barrier,
13 there would be somebody present that could speak on
14 our behalf.
15 COUNCILMEMBER FLEMING: Okay. And can you
16 give us just briefly how many parking spaces that
17 you're looking at that they need that are not there?
18 MR. HAEBERLIN: It's substantial. There's
19 about 41 parking spaces which are not accounted for on
20 the site. The entire site was calculated as office
21 zoning -- excuse me -- office use, and there is
22 nothing that has been applied for yet that's office
23 use. And the difference between office and retail or
24 shopping center is 300 versus 200, so that creates a
25 substantial amount, which is -- 41 spaces is pretty

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1 significant.
2 COUNCILMEMBER ROCHE: So if it was all
3 office, then they would have enough parking spaces?
4 MR. HAEBERLIN: Well, that could be argued,
5 because it is developed as a shopping center. Thus
6 far, we haven't had any re- -- we haven't had anything
7 other than retail uses apply.
8 COUNCILMEMBER ROCHE: Well, how many -- is
9 anyone there at all today?
10 MR. HAEBERLIN: It does not have a certifi-
11 cate of occupancy or completion. Everything thus far
12 has either been a conditional use which is retail or a
13 retail use which is not a conditional use -- an
14 outright permitted use. So thus far, they have a
15 grocery store, the karaoke bar, the billiards hall.
16 And I just got another one. It was another retail
17 establishment. So we've had four or five come in.
18 COUNCILMEMBER FLEMING: Is the karaoke the
19 comedy club coming up next?
20 MR. HAEBERLIN: Yes, ma'am.
21 COUNCILMEMBER FLEMING: Okay.
22 COUNCILMEMBER BATES: I'll make a motion to
23 recess Item 4A to January 26, 2010.
24 COUNCILMEMBER PITTMAN: Second.
25 MAYOR JENKINS: Anymore discussion?

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1 COUNCILMEMBER ROCHE: I just hate to delay
2 these things but I guess I'll support the motion.
3 MAYOR JENKINS: Call the roll, please.
4 CLERK BLACKMON: Councilmember Alexander?
5 COUNCILMEMBER ALEXANDER: Yes.
6 CLERK BLACKMON: Councilmember Bates?
7 COUNCILMEMBER BATES: Yes.
8 CLERK BLACKMON: Councilmember Fleming?
9 COUNCILMEMBER FLEMING: Yes.
10 CLERK BLACKMON: Councilmember Pittman?
11 COUNCILMEMBER PITTMAN: Yes.
12 CLERK BLACKMON: Councilmember Roche?
13 COUNCILMEMBER ROCHE: Yes.
14 CLERK BLACKMON: Councilmember Spangler?
15 COUNCILMEMBER SPANGLER: Yes.
16 MR. HAEBERLIN: Item 4B again is a
17 conditional use request, comedy club with alcohol
18 sales -- they refer to it as karaoke -- Bao Hong Shi,
19 InTown Plaza Shopping Center, 5090 Buford Highway,
20 various suites zoned C-2. Again, staff requests
21 recess to January 26, 2010.
22 It's going to help me resolve the situation
23 with the property owner hopefully in some -- some
24 manner, and it may -- I want to warn the Council: It
25 may dictate rewriting the entire parking code. The

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entire parking ordinance is significantly a deterrent to redeveloping the city, and so I want you to be aware of that.

And that's not a bad thing, because this is not the only property affected in this manner. And so it may come down to that. I'm not for certain that with the variance criteria -- and again, it's your decision. I don't know how successful that would be.

But there's going to be a couple avenues looked at, and one of them would be shared parking, rewriting the code or a variance or some combination thereof. We're going to have to get creative, because, really, this is just not the only space. I mean it would be very difficult on the owners of shopping centers to tear them down and to put a larger facility back there and meet the parking criteria, particularly with the impervious limits we have today.

So it's a long-term project. It's actually a mandate as an issuing authority, that I was going to address with the Council at a later date. But we really do need to rewrite the parking, as an issuing authority, and we need to get that done by I believe May of 2010.

COUNCILMEMBER ROCHE: When was this application submitted?

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COUNCILMEMBER FLEMING: 11/05.

COUNCILMEMBER ROCHE: Am I missing something somewhere?

COUNCILMEMBER FLEMING: On the applications themselves.

COUNCILMEMBER ROCHE: Oh, okay.

MR. HAEBERLIN: And what I do when I get the applications, I process the initial up front. I get into the standards of review and start looking at the meat and potatoes. And this discussion arose from your previous discussion about the Plaza One shopping center.

Again, this site, they have continuously changed or altered the approved plan sets without coming to the City first, and we're just progressing down this road to the very end where we will not have an as-built that matches what's on the ground, much less the parking being complete.

Again, staff requests recess the same with the other one.

COUNCILMEMBER BATES: I'll make a motion to recess to January 26, 2010, Item 4B.

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: More discussion?

- - -

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(No response)

- - -

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.

MR. HAEBERLIN: The next item is a special use permit with variance -- now, this is a new cell tower -- T-Mobile South, which is 2901 Woodwin Road, which is the corner of Winters Chapel and Woodwin Road -- and of course the folks have seen the sign up on the property -- zoned M-2.

The reason I'm requesting a recess to this is I am trying to get an official action from the FAA. Our current zoning map as we have over at that location (indicating), that's perhaps not the

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certified copy in the Clerk's office but a representation thereof, does not show the airport transition zones on it. However, your original 1966 archival map, which I was able to locate, has a very good zone. It shows a swath of where we need to be concerned about height and interference with an airplane operating, and this site is definitely in one of those areas.

And so at the time of preparing this agenda, we do not have that information. I do apologize. We are going to need to update the zoning map once again to add this information back. We do have airport overlay standards that are in place and that we need to enforce. Again, we request recess on this one.

COUNCILMEMBER FLEMING: Well, is the sign located where they want to put the cell phone tower?

MR. HAEBERLIN: No, ma'am. The entire parcel is about 24 acres, and I put it at that miter of the two roads so people could see. It's actually behind the gold metal building that's on Woodwin Road and there's a power line transmission right behind it. So it's about three quarters of the way onto the property.

So because it's one parcel and it's not subdivided, I didn't specifically put it at the

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1 location where the tower's going to be. I put it at
2 the most visible intersection of two public roads.
3 COUNCILMEMBER FLEMING: Can Council ask
4 questions about this item before we recess?
5 MR. HAEBERLIN: Sure, and I'll try to answer
6 them the best I can.
7 COUNCILMEMBER FLEMING: I had asked and I
8 wasn't sure whether we had got a definitive answer on
9 regulatory fees or franchise fees from cell phone
10 towers. Do we get those at all? Does anyone know?
11 MR. HAEBERLIN: That, I don't know.
12 CLERK BLACKMON: Yes, we do.
13 MR. HAEBERLIN: The City Clerk would
14 probably know better.
15 CLERK BLACKMON: Yes, we do.
16 COUNCILMEMBER FLEMING: Is there a specific
17 -- I mean --
18 CLERK BLACKMON: We receive --
19 COUNCILMEMBER FLEMING: -- is it a dollar --
20 CLERK BLACKMON: -- approximately $1,800 a
21 month from cell tower franchise fees.
22 COUNCILMEMBER FLEMING: And I believe,
23 Mr. Haeberlin, you were going to try to get us a list
24 of the number that we have in the city --
25 MR. HAEBERLIN: Yes, ma'am.

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1 COUNCILMEMBER FLEMING: -- the locations?
2 MR. HAEBERLIN: Most of these obviously
3 significantly predate me, and I'm doing kind of a
4 drive-about, but I'm finding more of them all the
5 time. So I am working on the list for you guys.
6 There is no prior existing list and there is
7 no archival history to kind of tell me how they got
8 there, but I am going to work on a list for you guys.
9 COUNCILMEMBER BATES: What's the
10 responsibility of the cell phone tower as far as the
11 maintenance and upkeep of that? Does it become the
12 property owner? Is it the company's?
13 MR. HAEBERLIN: Well, they have a lease
14 agreement, so I think that would be covered by the
15 lease agreement.
16 ATTORNEY WEED: That's correct.
17 MR. HAEBERLIN: And in this situation,
18 recall that this one also needs variances, and the
19 variances are to have an accessory use in a front yard
20 building setback which is immediately adjacent to
21 Woodwin Road. And also, too, its overall height
22 exceeds that of the district requirement. That's not
23 so particularly clear from your SUP ordinance, but
24 definitely its location. So that's a variance that's
25 mandated.

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1 Now, that site is traversed by all sorts of
2 underground lines and all sorts of, you know,
3 interesting information that we probably don't have an
4 as-built on due to the age of the property.
5 COUNCILMEMBER BATES: Would they need to get
6 permission from the tank consortium to verify location
7 of lines and . . .
8 ATTORNEY WEED: No, sir. What they would do
9 is they'd contact UPC. That agency would go and mark
10 the lines.
11 MAYOR JENKINS: Scott, the height, is it in
12 that particular area? Would it come in to conform on
13 the height?
14 MR. HAEBERLIN: Well, it's similar to the
15 other towers in the city. You know, we've got things
16 between like 124 and 160 feet. And ultimately, the
17 decisionmaker on this -- really I guess we should
18 defer to the experts -- is the FAA.
19 You know, the height is not inconsistent
20 with other towers you have in the city. We have the
21 city property that has a cell tower. We have a cell
22 tower that is down Stewart Road. It's kind of hidden.
23 There are some behind the Doraville Square, the
24 Halpern/Chick Fil-A location -- people will know that
25 one -- and there are some others scattered throughout

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1 the city, but they're consistent. I mean this is
2 pretty much what you see throughout the city.
3 COUNCILMEMBER ROCHE: But it's less than 200
4 feet.
5 MR. HAEBERLIN: Pardon me?
6 COUNCILMEMBER ROCHE: It's less than 200
7 feet.
8 MR. HAEBERLIN: Overall height?
9 COUNCILMEMBER ROCHE: Yes.
10 MR. HAEBERLIN: Yes, sir. Yes, sir, based
11 on what I got.
12 COUNCILMEMBER FLEMING: How far off the road
13 did you anticipate it being?
14 MR. HAEBERLIN: I think they showed it like
15 49 feet off the road. It was pretty close.
16 COUNCILMEMBER FLEMING: Off of Woodwin.
17 MR. HAEBERLIN: Off Woodwin.
18 COUNCILMEMBER FLEMING: Okay. Is there a
19 reason why we would have to wait for the FAA opinion
20 for us to vote on this or to have the public hearing?
21 MR. HAEBERLIN: I think it would be in your
22 best interests.
23 And again, I'm not prepared otherwise to
24 discuss it tonight because I have not provided you
25 with a report.

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1 COUNCILMEMBER FLEMING: Okay.
2 MR. HAEBERLIN: And really, again -- I've
3 discussed this with Mr. Weed -- the zoning ordinance
4 map needs to be updated, but I don't know that that's
5 really holding us back. But I think that FAA is a
6 definitive answer.
7 The variance will go on the variance
8 criteria. If you choose, if you feel that there's not
9 a hardship, you won't grant a variance, and that'll be
10 a decision of the City Council.
11 COUNCILMEMBER ROCHE: If it's under 200
12 square feet, that location, I don't think it's going
13 to be an issue with the FAA. They're not so much
14 concerned about aircraft -- airplanes as they are
15 helicopters. And usually, coming in from there,
16 you're about 500 feet off the ground anyway. So I
17 don't think the FAA is going to be an issue.
18 I will say that the last three items, I'm
19 concerned that we -- I mean we're doing these
20 recesses, but, you know, what if we decided we didn't
21 want a recess? I think it would be better if in the
22 future, that -- I mean obviously we've got the stuff
23 for the cell tower but not the whole -- not the staff
24 report.
25 And I'm concerned that, you know, these two

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1 -- the first two we looked at were requested over a
2 month ago, and anything we can do to expedite these to
3 be ready to go if and when the Council does want to
4 make a decision or if the Council decided for whatever
5 reason not to postpone something, that we could
6 actually act on it.
7 As it is, we basically don't have a choice,
8 because we don't have the staff recommendation, unless
9 we wanted to proceed without the staff recommendation.
10 So I'd ask in the future that if you're requesting a
11 recess on a particular item, that you also provide the
12 staff recommendation so that if we want to, we can act
13 on it.
14 MR. HAEBERLIN: Certainly.
15 COUNCILMEMBER ROCHE: I heard some --
16 MR. HAEBERLIN: It's always --
17 COUNCILMEMBER ROCHE: I got a call --
18 MR. HAEBERLIN: Uh-huh.
19 COUNCILMEMBER ROCHE: -- today from someone
20 that was complaining about the length of time it takes
21 getting any decisions to be made.
22 MR. HAEBERLIN: Well, sir, having worked in
23 this for 15 years, I respectfully disagree that we as
24 a city, in processing applications for public hearing,
25 are remiss in any manner. Most jurisdictions, you

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1 will wait a minimum of 90 to 120 days.
2 We have had some situations occur with
3 staffing certainly in terms of the staffing. You have
4 to be at the office and to handle some other very
5 imminent problems that have occurred. However, we're
6 processing these things I think at a very rapid rate.
7 I think that people should be proud that we are doing
8 that. But you know, there's a structure present. And
9 in the situation of the prior two situations, it's an
10 obvious code violation that needs to be handled by the
11 staff.
12 COUNCILMEMBER ROCHE: So absent that code
13 violation, you're saying we would have the staff
14 report tonight?
15 MR. HAEBERLIN: They're written. Yes, sir.
16 But I would hate to recommend denial based on the fact
17 that the entire property is in violation of the zoning
18 ordinance.
19 COUNCILMEMBER ROCHE: No, no. My question
20 was if there was no zoning code violation, then you're
21 saying we would have received the staff report
22 tonight?
23 MR. HAEBERLIN: Yes, sir, you would have.
24 The signs are on the property. The ads have been run.
25 I have talked with each of the applicants, talked with

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1 a representative from the property owner, and so
2 they're fully aware of the situation. And we did not
3 drop the ball in terms of doing what was needed to get
4 it here tonight; however, again, the way the code is
5 structured, and looking at under administration, it
6 says that the staff is charged with enforcing the code
7 as the council has adopted it.
8 Unfortunately, in this situation, the
9 parking is clearly in violation of the code, and so
10 that we would be remiss in allowing something to come
11 to you that creates this problem, and this is what
12 should be handled in-house with the building official
13 and the city planner.
14 COUNCILMEMBER BATES: Back on the cell phone
15 tower, since that's the topic that's at hand, how long
16 do you anticipate the FAA to take in providing the
17 overlay flight plan?
18 MR. HAEBERLIN: I put a call in and I've had
19 quite a -- going around in a circle, trying to find
20 the right people to talk with. Mr. Calcaterra, who
21 previously worked with Dekalb County, in this
22 situation actually visited the Peachtree Dekalb
23 Airport for further information, and then we got
24 referred to Hapeville have not heard back from the
25 gentleman.

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I may just send a certified return-receipt package, you know: If you would like to comment on this item, since he's not returned my phone call, please do. If you don't comment by such-and-such date, we're going to proceed.

But I would feel safer, you having something official to the City.

COUNCILMEMBER BATES: Thank you.

COUNCILMEMBER ROCHE: They're in the process of consolidating several FAA offices down in Hapeville now.

COUNCILMEMBER ALEXANDER: I still think that would be good information for us to add to the zoning map for future development is to have the altitudes and the path size --

MR. HAEBERLIN: Well, actually --

COUNCILMEMBER ALEXANDER: -- for approach.

MR. HAEBERLIN: -- your code requires it.

Mr. Weed and I were not here, but we don't know what happened between 1966 and the present zoning map, but it's not appeared on many of them.

COUNCILMEMBER ALEXANDER: I don't know that it changed. I mean there used to be occasional commercial flights out of PDK, and they no longer do that. So I don't know that it changed or not based on

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the size of the aircraft that's allowed to land there.

I also had -- I don't have my drawing packet with me because I saw the postponement and didn't pack it. On the plat -- because I'm assuming this is Plantation Pipeline's land.

MR. HAEBERLIN: Uh-huh. Yes, ma'am, it is.

COUNCILMEMBER ALEXANDER: On their drawing, did they have their pipeline marked?

MR. HAEBERLIN: I know that they had the overhead power line marked adjacent to the site.

One of the problems -- and again, your code is very generic, okay -- the city zoning ordinance requires me to have an overall site plan. So really I need a site plan for 24 acres, which I don't have. I just have that little subset.

And you know, you do have a water body present on the site, and so that's a concern of mine as well is where the stream buffer falls on the site. We've got recharge areas. So you've got some environmental situations that really a full-size site plan would be of benefit to you, and we need it in terms of the zoning code.

COUNCILMEMBER FLEMING: That's not what these are?

MR. HAEBERLIN: Well, that's just a subset,

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ma'am. That's a small subset of the entire property. Again, it's 24 acres.

COUNCILMEMBER FLEMING: Okay.

MR. HAEBERLIN: And you have various buildings, you have various overhead lines, you have fences and all sorts of things. It's not an undeveloped property.

COUNCILMEMBER BATES: I'll make the motion to postpone Item 4C to January 26, 2010.

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

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.

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CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MR. HAEBERLIN: The next item is the Executive Session, litigation, with Mr. Weed.

ATTORNEY WEED: Mr. Mayor and members of the Council, the next item is a matter of pending and future litigation. I think it's best to address that in an executive session. And after that's over, I would ask Council to come out and affirm by vote if they so desire, the matter that will be discussed in the Executive Session.

COUNCILMEMBER ROCHE: I make a motion that we enter into Executive Session for the purposes of current and future litigation.

COUNCILMEMBER FLEMING: 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?

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COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
- - -
(Executive Session)
- - -
(A motion was made by Councilmember Spangler to recess Executive Session. The motion was seconded by Councilmember Fleming. The motion was passed by unanimous vote.)
- - -
COUNCILMEMBER ALEXANDER: I make a motion to affirm the action taken during the Executive Session.
COUNCILMEMBER ROCHE: Do we need to come out of the Executive Session first?
COUNCILMEMBER FLEMING: We did.
MAYOR JENKINS: We already did.
CLERK BLACKMON: No, we --
ATTORNEY WEED: Well, you did that in the executive session. They voted to come back to --
CLERK BLACKMON: Oh, okay.
ATTORNEY WEED: -- the regular meeting.
COUNCILMEMBER ROCHE: Okay.
ATTORNEY WEED: And I think it's frankly a matter of some legal debate whether you have to

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restart the meeting again, because in my opinion it's automatically restarted when you come back in here. But just to play it safe, I just want to make a motion to reopen the meeting.
COUNCILMEMBER ALEXANDER: So I rescind my previous statement, and I make a motion to continue the regular meeting.
MAYOR JENKINS: Second?
COUNCILMEMBER ROCHE: 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.
COUNCILMEMBER FLEMING: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
COUNCILMEMBER ALEXANDER: I make a motion to affirm the action taken during the Executive Session.

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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.
COUNCILMEMBER ROCHE: Motion to adjourn.
MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Bob beat me.
COUNCILMEMBER ROCHE: Oh, I'm sorry. I withdraw my motion to adjourn.
COUNCILMEMBER SPANGLER: Well, Maria was going to do it.
Motion to adjourn.
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?

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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: Thank you. Everybody have a merry Christmas.
- - -
(Meeting adjourned at 7:35 p.m.)
-o0o-

C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 21st day of December 2009.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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12th (1)
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18-297-07-011 (1)
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