In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

May 18, 2009

American Court Reporting Company, Inc.

52 Executive Park South

Suite 5201

Atlanta, Georgia 30329-2217

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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, May 18, 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. Will you call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: 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: I need to pass a resolution. In recognition and commending Oakcliff Elementary School for being named an Intel School of Distinction in Science Excellence. And I want to ask the Council to make a motion to pass this resolution so I can present it.

COUNCILMEMBER ALEXANDER: So moved.

COUNCILMEMBER BATES: Second.

MAYOR JENKINS: Any 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: Ms. Ardell Saleem, will you come up, please?

I'll read this again. It's in recognition and commending Oakcliff School for being named an Intel School of Distinction in

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Science Excellence. So we commend you on working hard to get that.

MS. SALEEM: Thank you so much, Honorable Mayor.

MAYOR JENKINS: Okay. Do you want to say a couple words?

MS. SALEEM: We just want to say to you, Honorable Mayor Jenkins and Councilmembers, that we are honored and we are humbled by this recognition. Know that this recognition will inspire us, encourage us and definitely propel us to continue to do the good work that we're doing at Oakcliff Theme School, and we know that it is as a result of the kind of support with this recognition tonight, the feeling that you're giving us, in addition to the long-term recognition as well as collaboration that we have with the city and Oakcliff Theme School.

Again, on behalf -- and we have several of our staff members here. May I quickly recognize them?

MAYOR JENKINS: Yes, go ahead and recognize them.

MS. SALEEM: Okay. Thank you.

I have my boss, our area superintendent

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for Region I in which Oakcliff Theme School is located, and that is Miss Beth Hackman. Come on up. Our counselor, Evelyn McKnight. Our assistant principal, Robert McLeer.

And please join me also in congratulating Mr. McLeer as to having been in education for over 37 years. He will be retiring at the end of this school year, so we are so honored to have him as an administrator in our school system and here in Doraville as well.

- - -

(Applause)

- - -

MS. SALEEM: Also we have Dr. Mindy DiSalvo who was instrumental in writing and letting us know about the grant that Intel offers to school of math and science distinction. So again -- also we have our office secretary, Lucy Jordan. She's here. So come up, come on up.

And once again, we know that this award was bestowed upon us as a result of the collaboration, hard work, and the efforts of our staff, students, and this wonderful community of Oakcliff.

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So again, Honorable Mayor Jenkins, we thank you, and we thank you, Councilmembers, also for this commendation.

- - -

(Applause)

- - -

MAYOR JENKINS: I present this resolution to you on behalf of the Mayor and the City Council of the City of Doraville (presenting).

- - -

(Brief photo session)

- - -

COUNCILMEMBER BATES: There may be members of the audience who may not be aware of why you're receiving this resolution and what the Intel grant is composed of. Could you share with everybody what you received, how much you received and why you received it?

MS. SALEEM: Okay. Sure.

Oakcliff Theme School was first named a finalist nationally. Intel awards Schools of Distinction in two areas, math and science, and one elementary, middle school and high school is chosen for each of those two areas, math and

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science. And about three weeks ago, we received notification that Oakcliff Theme School was a finalist, and at that time we received $2500 as being named a finalist. We also knew that if we were chosen as the elementary school -- there were two other schools competing with us; one was in California and one was in Florida. And so the idea of this small, wonderful school in Doraville, Georgia, being chosen was just a phenomenon.

But we knew that we had a really good chance because of the programs that we have at Oakcliff Theme School. The instructional quality that we offer our boys and girls, we have a Small Fry program, we have a garden club, we have a web event, just several other hands-on instructional activities in the area of science integrated with other course subject areas.

After having been chosen as a finalist, we were visited by one of the Intel representatives, and he was so impressed to see that our school, as multi-culture, as diverse as it is, a high percentage of free- and reduced-lunch students that attend our school, to see that we were offering the quality of education, hands-

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on, higher-order thinking, parental involvement, just really impressed him, what we were doing at our school here at Oakcliff.

One of the things that we stressed as we interviewed and talked with the representative was that we feel as a result of having the community involvement, the collaboration of our staff and faculty and professional learning. Dr. Mindy DiSalvo was instrumental in writing the grant as well as informing us of the grant, and so we definitely give her much kudos for that and her being instrumental in bringing the information to us.

So once we received the phone call that we were the finalist for an elementary school in the area of science, that meant that we would be receiving an additional $10,000 along with $100,000 of professional learning resources and technology from the Intel sponsors and the company itself. Also myself, along with a teacher, board member, area superintendent, will get an opportunity to go to Washington to receive this recognition and just be treated elegantly there.

So we are very humbled, and we know

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that to whom much is given much is expected. So we are still constantly striving to continue the progress and to ask that the community continues the support that it has given in the past and presently. So thank you so very much.

- - -

(Applause)

- - -

MAYOR JENKINS: Thank you. Thank you all for coming.

COUNCILMEMBER BATES: Thank you very much.

COUNCILMEMBER ALEXANDER: Thank you very much.

COUNCILMEMBER FLEMING: Thank you, and congratulations.

MAYOR JENKINS: We had to delay the first of the millage rates. I believe that's till the 28th?

CLERK BLACKMON: The 28th at 6:30 will be the deciding meeting on whether we will raise it or keep it the same.

MAYOR JENKINS: Yes. Will that be the deciding meeting or --

CLERK BLACKMON: That's the one --

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MAYOR JENKINS: -- the first meeting?

CLERK BLACKMON: -- where Council will decide what they want to do, and then there will be proceeding meetings depending on the yes-or-no.

MAYOR JENKINS: Okay.

CLERK BLACKMON: I'll have to advertise the following meetings afterwards.

MAYOR JENKINS: That will be the 28th at 6:30?

CLERK BLACKMON: At 6:30, yes, sir. It has already been advertised.

MAYOR JENKINS: Okay, good.

Resolution on Central Avenue sidewalks. Do we have that resolution?

MR. HOWE: Murray, do you have it?

MAYOR JENKINS: Murray?

ATTORNEY WEED: Yes, I do. The resolution was e-mailed to you, the first version, about a week ago.

Mr. Howe made some other comments which I thought were really insightful with regard to the history and the purpose of the resolution. I included those comments today, sent another e-mail with the modifications today. I have an

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original here if you choose to adopt the same.

MAYOR JENKINS: Is everybody ready to adopt the resolution?

COUNCILMEMBER ROCHE: I do have a question or two about that, Mayor.

MAYOR JENKINS: Go ahead.

COUNCILMEMBER ROCHE: On July 7th of last year, the motion was made and passed unanimously to allocate $150,000 to start building the sidewalk, and my question is why is it taking 10 months before anything's happened?

MAYOR JENKINS: I think there was a motion made also shortly after that that we would take that out of the budget.

COUNCILMEMBER ROCHE: Actually, there wasn't, Mayor.

MAYOR JENKINS: Sir?

COUNCILMEMBER ROCHE: No, it wasn't, Mayor.

MAYOR JENKINS: Well, then, maybe you can answer your own question. Why was it taken out?

COUNCILMEMBER ROCHE: No, it was not taken out of the budget, Mayor.

As part of a cost reduction program

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that was submitted or presented back in I think August of last year, we said, well, given that, we may want to delay it. But the cost reduction program was not accepted by the Council or anything else. So as far as this is concerned, it's still on the books, still ready to go.

Even if that had been, that was still August of last year when it was decided not to take this out of the budget. So to my knowledge, this has never been removed from the budget, there's never been a vote on it since then.

And I guess my question is why would it take 10 months? And then what we're doing here is apparently we're applying for a grant which we may or may not get.

Back on July 7th of last year, the Council voted unanimously to get started on the sidewalk. Nothing has happened. And I guess the point is, you know, what's the point of us voting to do these things if they're not going to ever take place?

COUNCILMEMBER ALEXANDER: Did anyone take minutes when we were having the budget review meetings?

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CLERK BLACKMON: Yes, and I was just thinking about that. I'll pull them, but I believe we decided we were going to put it off.

COUNCILMEMBER ALEXANDER: I think so. I thought Mr. Roche during the budget review meeting had said he wanted to postpone it.

CLERK BLACKMON: That was what I recollect, too, but I was going to make myself a note. I'll look.

COUNCILMEMBER ALEXANDER: Okay.

COUNCILMEMBER ROCHE: If that was the case, I think the budget review meetings were happening in December, so six full months had gone by with no action. Even then, six months had gone by with no action whatsoever.

MAYOR JENKINS: Did you say that somebody --

COUNCILMEMBER ROCHE: So it was going to be put off anyway, I guess.

MAYOR JENKINS: -- somebody did postpone it; is that correct?

CLERK BLACKMON: I believe we discussed, when we were doing the budget reviews, putting it off, and I don't think it's been brought up since, but I will go back and

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look at the minutes.

COUNCILMEMBER SPANGLER: I think somebody needs to go back and look at the minutes because it was said more than once that as soon as the sidewalk on Park is finished that we were going to start on the Central Avenue --

COUNCILMEMBER ROCHE: That was my --

COUNCILMEMBER SPANGLER: -- sidewalk.

COUNCILMEMBER ROCHE: -- understanding, too. That's not what we passed, but that was my understanding of what happened.

And again, at this point, we may or may not get this grant, so, you know, we're going to wait -- How long does it take to find out if we're going to get the grant?

MR. HOWE: June 5th.

Then we have a DOT. We passed a similar resolution in December that is almost identical to the one that I'm asking you to pass tonight, that we passed for support of the DOT grant which will be announced in July.

This is part of the stimulus package. Dekalb County has gotten the stimulus money, and we're asking them for a portion of the stimulus money to do the Central Avenue sidewalk.

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Now, if this doesn't materialize or the DOT grant doesn't materialize, then I think we can think about moving forward with spending our own money, but I would give this a chance to come to fruition before I would start spending money out of our own coffers.

COUNCILMEMBER ROCHE: Clearly, I mean I will support this resolution, but we didn't vote unanimously to look for grants. We voted unanimously to get started with this. And this is just another example of something that the Council has voted and passed and there's been no action taken.

MAYOR JENKINS: Why did you wait till now to bring it up?

COUNCILMEMBER ROCHE: I've been bringing it up over and over and over again, Mayor, but nothing ever happens.

MAYOR JENKINS: Come on up, Tom.

You put under Mayor's Comment, Sidewalks and Millage Rate. What's your name?

MR. HART: What?

MAYOR JENKINS: You did not write your name on here.

MR. HART: Oh. Thank you.

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1 Actually, the Central Avenue sidewalk
2 was voted on long before this. We sold bricks,
3 and we still have five pallets of bricks sitting
4 over at the maintenance center. They were paid
5 for and bought out of our $10,000 on the
6 Chestnut side, because, as you recall, the
7 original program was to go from Buena Vista to
8 the MARTA station, and the bricks were purchased
9 for that, and the pallets are still sitting
10 there. We were supposed to cross Buford Highway
11 but it was stopped at City Hall.
12 We bought boxes, crates of nails, pins.
13 The pins that were used to mount the trees over
14 here, they came from the Chestnut sidewalk
15 money. The materials were used across the
16 street on Park Avenue.
17 The Park Avenue sidewalk is still not
18 finished. It was not done properly. It was not
19 signed off by GDOT, and the fire truck apron at
20 Buford Highway and Park Avenue was never
21 completed properly and the sidewalk on Park
22 Avenue is still not completed.
23 As far as the stimulus money, I talked
24 to Dekalb County. They agreed and also GDOT
25 agreed about a traffic light at Chestnut, which

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1 was part of the Chestnut sidewalk project. The
2 intersection of Shallowford, New Peachtree and
3 Buford Highway intersection, they would also
4 like to do that because it's a major problem of
5 traffic. And Dekalb also GDOT would like to
6 participate, and they've already got preliminary
7 drawings on that.
8 It's not a matter of applying for
9 grants. It's talking to the proper people at
10 GDOT and Dekalb County and moving forward with
11 projects that we voted on two/three years ago.
12 So as far as the Central Avenue, we've
13 got five pallets of bricks that we paid for
14 already. We've already got boxes of materials
15 sitting over there that were paid for to go on
16 Central Avenue. It's just that if it's done
17 properly, the City could move forward with the
18 project without spending $150,000.
19 The problem is, like on Park Avenue, if
20 it's done improperly, if it's done without
21 drawings, it's done without GDOT signing off on
22 it, then it's not a proper way to move forward.
23 So when we finish the Park Avenue
24 project, then they should move forward with the
25 Central Avenue project.

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1 MAYOR JENKINS: What do we got to do to
2 Park Avenue?
3 MR. HART: Well, what was supposed to
4 have gone there were proper construction plans
5 so that it's within 500 feet of a GDOT highway.
6 It's supposed to have been signed off by GDOT.
7 When the buses go around the corner of Park
8 Avenue, off Buford Highway, there's not enough
9 room there.
10 Now, when we started the project, we
11 put a curb in the center section that widened
12 the road two feet. What didn't happen is
13 Georgia Department of Transportation never
14 signed off on it and never gave the okay, and
15 the apron down at the corner was never done
16 correctly. They just threw the sidewalk in and
17 didn't fix the curbs.
18 The other thing is they never painted
19 the crosswalks in for the ADA ramps, so it's
20 still not complete.
21 And it was cost shifted. Most of the
22 materials used for that project were taken off
23 the $10,000 that came off of Chestnut. All the
24 construction lumber, cases of nails, all the
25 pins that cost $4 apiece, all of our costs

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1 shifted to that from off the other project. And
2 all those materials are already sitting over
3 there at the Maintenance Department ready to go
4 up Central Avenue. It's just because it just
5 keeps stopping at City Hall.
6 MAYOR JENKINS: We don't need any
7 bricks on Central Avenue. We're putting
8 sidewalk in.
9 MR. HART: Well, they were purchased --
10 MAYOR JENKINS: -- like it's supposed
11 to be done.
12 MR. HART: Well, if --
13 MAYOR JENKINS: Tom, let me ask you
14 something.
15 MR. HART: Okay.
16 MAYOR JENKINS: Do you have anything to
17 comment on millage rate?
18 MR. HART: No. I think this time that
19 you raise the millage rate and go into recession
20 may be a little -- not the proper thing to do.
21 Thank you.
22 COUNCILMEMBER ROCHE: I'd like to make
23 a motion that we pass this resolution for the
24 Central Avenue sidewalk.
25 MAYOR JENKINS: Second?

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COUNCILMEMBER ALEXANDER: I second.
MAYOR JENKINS: Anymore discussion?
COUNCILMEMBER SPANGLER: Yeah. I would just like to ask Mr. Howe again when we will know whether or not we will get the stimulus money.
MR. HOWE: I was told around June 5th.
COUNCILMEMBER SPANGLER: June the 5th?
MR. HOWE: Now, it has to ultimately be approved by the Commission, and that's basically this resolution is asking Dekalb County for that money.
COUNCILMEMBER SPANGLER: So at what time would it be expected if we were to receive this money, for it to be received?
MR. HOWE: It'll be a shovel-ready project, so we'll have 120 days to get started after the day they decide to give us the money.
COUNCILMEMBER SPANGLER: And you're saying they're going to decide on June the 5th?
MR. HOWE: That's what I was told.
MAYOR JENKINS: Luke, make sure you were told that it's not set in stone, June 5th.
MR. HOWE: No, I don't think it's set in stone, but that's what I was told by the

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Dekalb County Department of Community Development.
COUNCILMEMBER SPANGLER: And then you feel like within 120 days of June the 5th if that is the day that they approve it, that we would be able to -- 120 days after June the 5th, we would be able to start construction on it.
MR. HOWE: Yes, sir.
COUNCILMEMBER FLEMING: You mentioned a GDOT grant that will come due or be available or the decision will be July?
MR. HOWE: Yes, ma'am. This was a grant we applied for at the end of 2008, December 2008, and we still have not -- that's still pending. They have not told us whether or not those -- Tilly Mill was also part of that. And I submitted Central as a shovel-ready project because I had concerns about the shovel-readiness of Tilly Mill.
COUNCILMEMBER FLEMING: But if we get the stimulus-money grant, if we get it and possibly be so fortunate to get the GDOT grant?
MR. HOWE: Then we would give the Central Avenue portion of the GDOT grant back and we would move forward with Tilly Mill.

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COUNCILMEMBER FLEMING: So it's just for sidewalks and not for, for instance, repaving Central or expanding -- not expanding but widening --
MR. HOWE: No, ma'am.
COUNCILMEMBER FLEMING: -- for the GDOT?
MR. HOWE: It would be for sidewalks.
COUNCILMEMBER FLEMING: Okay. All right. Thank you.
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?

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COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: I'd like to approve the minutes for 5/4/09. Do I get a motion?
COUNCILMEMBER PITTMAN: So moved.
MAYOR JENKINS: 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: 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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1 CLERK BLACKMON: Councilmember
2 Spangler?
3 COUNCILMEMBER SPANGLER: Yes.
4 MAYOR JENKINS: Okay. On this next
5 item of hiring an accountant or a finance
6 director, we run into a situation on our last
7 interviews, and the person that the Council
8 chose did not show up. He was supposed to be
9 here on the 4th -- Monday morning, the 4th.
10 I had to get one of my officers to go
11 to his home. He would not answer e-mails or
12 phone. I'm just bringing this up as background.
13 And finally they did get in touch with him, and
14 he said he got another job, and that's all. He
15 never let the Council or the Mayor or anybody
16 know anything.
17 So anyway, after that happened, I took
18 it on myself to set up a committee, and we
19 luckily got two more interviews and we
20 interviewed two other people. So we chose the
21 gentleman I gave you, Mr. Darlow A. Maxwell.
22 He's well qualified. He's got 21 years
23 experience in accounting.
24 This was what I call an emergency. I
25 did it as Mayor of the City of Doraville, and I

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1 certainly hope the Council backs me up. We've
2 got the audit in a little over a month that's
3 coming up. We got some IRS situations that we
4 have to get taken care of immediately. And I
5 asked the man to come in on Wednesday, of course
6 after the Council approves it.
7 I have an option, according to the
8 Charter, to get a committee and hire somebody
9 myself, but I have to have the Council to back
10 me up and approve it.
11 And this is the way it stands right
12 now. I've got him set up to come in Wednesday,
13 of course with the approval of the Council.
14 COUNCILMEMBER SPANGLER: Who was on the
15 committee, Mayor, to interview these people?
16 MAYOR JENKINS: My City Clerk and Luke.
17 COUNCILMEMBER ROCHE: I think it would
18 be better if the Council got a chance to
19 interview these people. First of all, we
20 actually did interview someone two weeks ago
21 Monday who was fully qualified also. She had
22 five years experience as an accountant for
23 cities and towns and governments. She had a
24 master's degree in public administration. I
25 mean if we were so desperate, why wouldn't we

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1 just offer it up to the second person?
2 MAYOR JENKINS: Because the Council
3 chose to go from her to the other person that we
4 hired.
5 COUNCILMEMBER ROCHE: So, then, why
6 wasn't she still a candidate?
7 MAYOR JENKINS: We had two people that
8 approved of that particular person and four for
9 the man.
10 COUNCILMEMBER ROCHE: Well, actually we
11 didn't have a vote on that second person.
12 MAYOR JENKINS: No. Well, we actually
13 did when we chose the man. We interviewed three
14 people.
15 COUNCILMEMBER ROCHE: Okay. So the
16 first person didn't show up that Monday morning.
17 Of course we didn't find out about this until --
18 I found out about it Friday, later.
19 MAYOR JENKINS: You probably found out
20 before I did.
21 COUNCILMEMBER ROCHE: No, I didn't.
22 MAYOR JENKINS: I was very confused. I
23 gave him every chance to come. I even sent a
24 Police officer out so that if he happened to be
25 sick or he had to go out of town or something.

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1 And it didn't work out that way. I don't know
2 what happened.
3 But, now, we can sit here and talk
4 about it all night, but I have done according to
5 the Charter. And if I get the Council to back
6 me up, this man will be here Wednesday morning.
7 He is of course 90 day probation, and he'll go
8 through the full background check. But we must
9 get somebody in there this week. We cannot wait
10 another week, Bob.
11 COUNCILMEMBER ROCHE: Well, you created
12 the emergency, Mayor.
13 COUNCILMEMBER SPANGLER: I agree with
14 Mr. Roche. The lady we interviewed was my
15 choice over the gentleman that the majority of
16 the Council decided on.
17 I think, first of all, I feel like that
18 the Council should have had an opportunity to
19 interview these people. It's not that I
20 distrust you, Mayor, or --
21 MAYOR JENKINS: Well, I --
22 COUNCILMEMBER SPANGLER: -- the
23 committee.
24 MAYOR JENKINS: -- think that's what it
25 is.

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COUNCILMEMBER SPANGLER: No. It's just the fact that --

MAYOR JENKINS: I think that the Council should have a little confidence in the Mayor that he can make a right decision occasionally. I have not pushed this since I've been here, but I'm pushing it this time.

And if I can get a motion on the table -- which I'd like to ask for a motion that we hire Mr. Darlow A. Maxwell. And you can call him accountant, finance director. We'll make a motion on that, too. But I'd like to have a motion.

COUNCILMEMBER ROCHE: I'd like to make a motion that we schedule interviews with Mr. Maxwell and whoever else submitted a resume, and also bring in that other person that we also --

MAYOR JENKINS: I asked for a motion.

COUNCILMEMBER ROCHE: Well, I gave you a motion, Mayor. I mean --

MAYOR JENKINS: Not the motion I asked for.

MAYOR JENKINS: Okay. Do I get a second on that?

COUNCILMEMBER SPANGLER: I second it.

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MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER SPANGLER: I just feel like, Mayor, that the whole Council should be involved. This is an important position.

MAYOR JENKINS: I brought the Council involved all the way up until it's got to a situation that I have got to have somebody in that room back there.

We got a motion and a second. Anymore discussion?

COUNCILMEMBER FLEMING: Mr. Mayor, will he be considered a director?

MAYOR JENKINS: I'm going to ask the Council if they want him to be a finance director or an accountant, whichever the Council wants.

COUNCILMEMBER FLEMING: And what salary are you offering?

MAYOR JENKINS: Sixty-five thousand. The other interview was seventy, and I had to wait two or three weeks on that one. So this man's ready to go to work immediately. Same benefits everybody else has got.

Okay. On the motion to re-interview, call the roll.

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CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: No.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: No.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: No.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: No.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

I think we owe it to ourselves to make sure we get the best possible person for this position. I understand we're stressed for time, but this is our fault for being pushed for time because of the things and the ways that we went about creating the vacancy.

COUNCILMEMBER BATES: Mr. Mayor, I'll make the motion to extend the offer to Mr. Darlow A. Maxwell for the city accountant position.

MAYOR JENKINS: City accountant. Is

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that the way you want it?

COUNCILMEMBER BATES: Yes, sir.

MAYOR JENKINS: Okay.

COUNCILMEMBER PITTMAN: 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: No.

MAYOR JENKINS: Anybody that wants to meet Mr. Darlow Maxwell, come up Wednesday

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1 morning. He'll be doing his paperwork, and I
2 think you'll meet a fine gentleman.
3 COUNCILMEMBER ROCHE: I would like to
4 find out, though --
5 MAYOR JENKINS: Thank you.
6 COUNCILMEMBER ROCHE: I would like to
7 know, Mayor, how we justify bypassing the
8 Charter on this. The Charter specifically says
9 that the Council has hiring and firing
10 authority.
11 MAYOR JENKINS: Murray?
12 COUNCILMEMBER ROCHE: Seems like we've
13 twisted this all out of --
14 MAYOR JENKINS: If you want to get into
15 it, okay. Murray can answer that. I can, but
16 I'm going to let Murray answer.
17 ATTORNEY WEED: Well, to make a long
18 story short, what the Charter provides for is
19 that the Mayor and Council have got general
20 supervisory, hiring and firing authority of our
21 overall personnel.
22 It also says in the same paragraph that
23 the Council, by virtue of an ordinance, can
24 adopt whatever ordinances it sees fit; it can
25 delegate that authority to management through

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1 such ordinances.
2 In this case, in my opinion, that's
3 exactly what has occurred. The Council adopted,
4 by virtue of an ordinance, a personnel manual
5 which is in existence now, and sections of that
6 manual clearly indicate that the Mayor does have
7 authority to interview and bring forth
8 candidates to the Council for the Council's
9 final approval.
10 That appears to have occurred in this
11 case. I interpose no legal objection to the
12 procedure which has been followed in this
13 particular instance.
14 COUNCILMEMBER SPANGLER: So what you're
15 saying is Council has no right to be able to
16 interview any of these potential candidates.
17 ATTORNEY WEED: No, sir. What I'm
18 saying is that the ordinances that this Council
19 adopted indicate plainly that the Council may
20 interview City Hall personnel. I assume that
21 Mr. Maxwell will be housed in City Hall but
22 don't know that as a fact. But clearly, the
23 ordinances say "may." "May" is never mandatory,
24 unlike the word "shall."
25 COUNCILMEMBER SPANGLER: And when was

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1 this ordinance passed?
2 ATTORNEY WEED: It was passed at the
3 same time that the personnel handbook was
4 adopted. Give me one second and I can give you
5 the date. Off the top of my head, I think it's
6 2-240, but give me a second to look it up.
7 I was correct. It's 2-240. It was
8 adopted by ordinance number 03-07, Section 2,
9 8-4-03.
10 COUNCILMEMBER SPANGLER: What date?
11 ATTORNEY WEED: Apparently ordinance
12 number 03-07, date August the 4th of 2003,
13 that's when the City adopted the current version
14 of the Doraville Employee Manual, or at least
15 that's what's in the bound Code.
16 MAYOR JENKINS: Okay.
17 COUNCILMEMBER SPANGLER: Thank you,
18 Mr. Weed.
19 ATTORNEY WEED: Yes, sir.
20 MAYOR JENKINS: Next item on the agenda
21 is Bob Roche.
22 Wait just a minute.
23 Do you want to change the date? Go
24 ahead.
25 COUNCILMEMBER PITTMAN: We had to

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1 cancel the Movies Under the Stars because of the
2 weather. We have rescheduled it for May 30th, 7
3 o'clock. We apologize. We had to make a call
4 around 1 o'clock, and at the time, it was
5 storming and the field was wet. But it will be
6 rescheduled May 30th, on Saturday.
7 MAYOR JENKINS: What time?
8 COUNCILMEMBER PITTMAN: Two weeks. 7
9 o'clock.
10 MAYOR JENKINS: 7 o'clock.
11 COUNCILMEMBER PITTMAN: Yes, sir.
12 MAYOR JENKINS: What if it rains?
13 COUNCILMEMBER PITTMAN: Well, don't say
14 that.
15 MAYOR JENKINS: Bring you a piece of
16 plastic and your blanket.
17 COUNCILMEMBER PITTMAN: Yes, sir.
18 MAYOR JENKINS: Bob?
19 COUNCILMEMBER ROCHE: Thank you, Mayor.
20 The next item is -- we passed an
21 ordinance earlier this year, 2009-03, which
22 provides for changes in the fees and fee
23 schedule. This is not posted on the Internet
24 yet, or, I'm sorry, on the Web site. I've
25 requested that twice. I finally got a copy from

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1 someone else which I chose to leave home today.
2 Anyway, I had a talk with one of the
3 landlords. He owns property out here on
4 Clearview. And he talked about they had a group
5 that wanted to continue -- that was some kind of
6 Hispanic Narcotics Anonymous or AA or something
7 like that meeting that was going on over there -
8 - and when the tenant moved out, the group
9 wanted to continue to use that room, and he was
10 willing to rent it to them. But they discovered
11 that they would have had to request a condi-
12 tional use, and they found out that was about
13 $850, potentially more than that if there was a
14 variance involved.
15 I just feel like that the appeals -- if
16 you come here and you go to the City Planner, if
17 he says no, basically you have a pretty steep
18 wall here, because if you want to appeal
19 anything and get past, you know, either the --
20 well, I guess in this case, the City Planner,
21 you're looking at a minimum of $750 and you pay
22 that $750. Now, the Council may -- if you win,
23 they may or may not give it back to you.
24 I just feel like the appeal process
25 needs to be a whole lot cheaper than that. I

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1 think $750 or $850, or making a modification of
2 something you've already submitted, of $750,
3 just seems awful steep. And I think what's
4 going to happen is people are going to say, "You
5 know what? It's not worth it. I'll just go
6 someplace else."
7 So what I want to do is to bring to the
8 Council that we -- I want to suggest that we
9 modify these particular fees in 2009-03, and I
10 mean I'm certainly open for suggestions. I was
11 thinking maybe 50 bucks or a hundred bucks to
12 start with. Now, if it's a subsequent appeal,
13 you know, maybe we can get into that. But I
14 just think that's a very steep wall to have to
15 climb.
16 MAYOR JENKINS: Scott, can you give us
17 an update on how much it costs actually?
18 MR. HAEBERLIN: Sure.
19 MAYOR JENKINS: If it is steep, we'll
20 look at it, but just give us an update on it.
21 MR. HAEBERLIN: As you recall, before
22 we adopted this 2009-03, which was on February
23 17, 2009, which addressed a number of fees,
24 appeals were absolutely free. So the gentleman
25 that did apply on Clearview Avenue and

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1 previously came before the City Council, which
2 is the only appeal that we've processed in eight
3 months now, paid absolutely nothing for his
4 appeal because he predated this ordinance.
5 I've previously provided you a synopsis
6 of basically what it costs just for the City
7 Clerk, the Attorney, myself and the court
8 reporter, which is about $1150 an hour. So this
9 is certainly not revenue-neutral. We are still
10 losing money on this. We're losing
11 approximately $400 every time we process an
12 appeal, and that is if the Council does not
13 return the fees to the applicant. So again,
14 these are fixed costs; they're not variable.
15 These folks have to be paid whether they're here
16 or not.
17 I have heard lots of discussions in
18 previous budget meetings about the deficit
19 situation that the City is in. I certainly want
20 to go on record as being opposed to this,
21 particularly if it's used as a performance
22 measure for myself as the City Planner, and
23 believe that, if anything, that the appeal fee
24 should be raised to reflect actual costs.
25 Again, I think that is the purpose of our fee

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1 schedule is to cover our actual costs.
2 We do not want to encourage frivolous
3 appeals. In the discussions of the particular
4 applicant that followed, they came in and
5 applied for a business license. They did not
6 have one. They were operating without one. And
7 it was reviewed and was denied in accordance
8 with the Code.
9 What you're really telling me,
10 Councilman Roche, or I feel, is that you don't
11 trust your staff to do their job. And that does
12 really concern me, because it is crystal clear
13 in the situation of the person who applied that
14 they were required to have conditional use. So
15 if that is indeed the case, then you need to
16 modify your Code of Ordinances, because staff
17 was merely implementing the Code, and that's
18 what I'm supposed to do.
19 So like I said, I have to go on record
20 as being opposed to this. This is another
21 situation where the City of Doraville can come
22 into a revenue deficit as a result of actions.
23 And this will also require the City to modify
24 this ordinance and then expend again more
25 attorney fees. So like I said, I'm opposed to

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this. I cannot fathom why we would consider doing this.
MAYOR JENKINS: Thank you, Scott.
COUNCILMEMBER SPANGLER: One more question, Scott, I want to ask. You said these are fixed fees, okay. Now, if a person didn't come before us and make an appeal, there would be no -- I mean it's still a fixed fee for everybody except the attorney --
MR. HAEBERLIN: Correct, but we --
COUNCILMEMBER SPANGLER: -- if the attorney is involved.
MR. HAEBERLIN: -- will not be expending an hour of our time on their appeal, which then adds to the length of time of the meeting. So obviously, when you say it's a fixed cost, remember, with our meetings only typically going for shorter periods now, we are not accomplishing the agenda. So this is an additional hour that we'd be paying for, because Mr. Weed is an hourly basis and the court reporter's an hourly basis, and the City Clerk and myself are actually time-and-a-half. So like I said, I can't understand why you would not consider this a fixed-cost loss.

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COUNCILMEMBER SPANGLER: You say you're time-and-a-half --
MR. HAEBERLIN: Yes, sir.
COUNCILMEMBER SPANGLER: -- and the City Clerk's time-and-a-half.
MR. HAEBERLIN: Yes, sir.
COUNCILMEMBER SPANGLER: I thought salaried positions were no overtime.
CLERK BLACKMON: We haven't had that meeting.
MR. HAEBERLIN: You guys have not resolved that.
ATTORNEY WEED: Council's not resolved that.
If you're looking to me for a legal opinion, you can always pay a person overtime whether they're salaried or not. And until you determine if a position's exempt or non-exempt, then my advice would be to assume that they get time-and-a-half overtime or comp time, to play it safe.
But I do think you should make the decisions about exempt or non-exempt soon.
MR. HAEBERLIN: Like I say, I think you're going to encourage frivolous appeals.

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Most of these folks, there is a crystal clear answer in that Code. That's the reason that Code is written that way. And trust me, people get the benefit of the doubt. But when it's a crystal clear answer, the answer is provided in a timely manner. The person waited less than one business day to receive the answer, and I think that is -- to me, that's excellent customer service. They applied; they got an answer in one business day or less.
Any other questions?
COUNCILMEMBER SPANGLER: No.
MR. HAEBERLIN: Okay.
COUNCILMEMBER ROCHE: I do have a comment. I just wanted to say, first of all, this is not about trusting or distrusting staff. I'm not sure why you injected that into here.
This is about saying these are our rules today, these are our conditional uses that are available. And they come to the City Clerk or the City Planner or whoever, and they say, "No. It's against the rules."
And they say, "Okay, fine. But can you change the rule in my case?" That's the whole point of an appeal. It's not a matter of

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interpreting the law. It's a --
MR. HAEBERLIN: No, sir. You're misunderstanding Section 1401 of the Code completely. You're granting a variance to the Zoning Code administratively? Even the Council is held to the requirements to advertise variances, so I think you are misunderstanding that, sir.
COUNCILMEMBER ROCHE: Well, I still think it's way too expensive. If I remember correctly, the last fiscal year that I saw, I think the building department took in something like $300,000 and the expenses for that department were only about a hundred thousand dollars.
I understand what you're saying about costs, you know, costing, and I understand that, believe me.
MR. HAEBERLIN: Well, we are quite frankly very lucky, because we still of course do not have a number of full-time employees. They do not have vehicles; or they're driving their own vehicles, they're under contract. We still do not have a facility for us to locate in. So I would hasten to say to you that that

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1 department may be supporting other departments
2 in some respects but it's certainly not wasting
3 money at this time.
4 COUNCILMEMBER ROCHE: No one is saying
5 you're wasting money.
6 MR. HAEBERLIN: Like I said, I think
7 that you're totally -- you're totally misunder-
8 standing Section 1401 of the Zoning Code. I
9 mean where something is crystal clear, it is not
10 for the applicant to come to the City Council
11 and say, "Hey, I'd like to have an industrial
12 plant on an R-1 zoned piece of property."
13 COUNCILMEMBER ROCHE: No one's saying
14 that.
15 MR. HAEBERLIN: So I mean it's --
16 COUNCILMEMBER ROCHE: What we're
17 talking about --
18 MR. HAEBERLIN: -- in the same respect.
19 COUNCILMEMBER ROCHE: -- is conditional
20 uses. What we're talking about is a conditional
21 use or situation where someone says, you know,
22 this is zoned this way, which means that -- I
23 think in that case it was -- wasn't it a
24 narcotics --
25 MR. HAEBERLIN: It was O-I, conditional

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1 use, yes, sir.
2 COUNCILMEMBER ROCHE: Right.
3 And they just said, fine, it's not
4 going to damage anything, it's not going to hurt
5 anything. It's just like a variance.
6 MR. HAEBERLIN: That is --
7 COUNCILMEMBER ROCHE: But the --
8 MR. HAEBERLIN: -- a subjective inter-
9 pretation --
10 COUNCILMEMBER ROCHE: Exactly, and
11 that's why --
12 MR. HAEBERLIN: -- and that is not for
13 staff.
14 COUNCILMEMBER ROCHE: -- (overspeaking)
15 I'm not going to argue with you.
16 MR. HAEBERLIN: I understand, sir. I'm
17 going to respectfully disagree with you.
18 COUNCILMEMBER ROCHE: That's fine.
19 So if the Council wants to make it very
20 expensive to appeal any decisions, that's fine,
21 I mean if that's what the Council wants to do.
22 I just think it's worthwhile to take another
23 look at these fees and bring them down into
24 reach for people that may want to do something
25 that we may want to do here in Doraville,

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1 because if they don't, if it's going to be that
2 expensive, they're simply going to go someplace
3 else.
4 You know, we keep talking about how the
5 economy's bad and we want to encourage more
6 people to come into town. Well, you know, I'm
7 not going to -- personally, I wouldn't risk $850
8 to open some kind of business that may not meet
9 the letter of the law, so --
10 COUNCILMEMBER FLEMING: Mr. Weed, when
11 you wrote the ordinance, or Scott, whose
12 guidelines of fees did you go by?
13 ATTORNEY WEED: I'm the drafter of the
14 ordinance with regard to the content.
15 Mr. Haeberlin made recommendations to the
16 Council, and I put it in the proper legal form.
17 COUNCILMEMBER FLEMING: Thank you.
18 MR. HAEBERLIN: I was really looking at
19 really, like I said, basic fixed costs hourly
20 zoomed down and calculated, I've never seen us
21 go through a public hearing in less than an
22 hour, so use an hour as the basis. I certainly
23 did not include the costs of the other facets of
24 security and the Council salaries and heating
25 and air conditioning and all the other things

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1 that go into holding a hearing. It was a very
2 base, a very conservative cost.
3 COUNCILMEMBER FLEMING: I was just
4 wondering whether you had compared it to other
5 municipalities that you had previously worked
6 for.
7 MR. HAEBERLIN: I did look at other
8 municipalities, and some of them have these
9 opportunities for appeals, some of them
10 certainly have much higher numbers than us and
11 some have lower. But we're not a county
12 generally where there are new residential
13 building permits, that are supporting all those
14 other planning departments, allowing somebody to
15 apply for something and spend $50.00. I mean
16 $50.00 doesn't even cover the copying cost for
17 us. So those other counties are certainly
18 blessed by new building permits, and they
19 achieve a lot of revenue which allows them to do
20 things at little or no cost to the public.
21 Unfortunately, we're not in that case.
22 COUNCILMEMBER FLEMING: Thank you.
23 MAYOR JENKINS: Bob?
24 COUNCILMEMBER ROCHE: Well, I don't
25 know. Like I said, I'm bringing it to the

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1 Council to see if anyone has any suggestions or
2 recommendations. If we want to go ahead and
3 keep pushing people out of town, we can continue
4 to do that.
5 MAYOR JENKINS: I don't have any
6 comment on that. Does the Council?
7 I don't see where we're pushing anybody
8 out of town. I haven't heard anybody complain
9 about the charge that we charge them.
10 COUNCILMEMBER ROCHE: Well, I brought
11 it up and I put it on the record.
12 MAYOR JENKINS: Excuse me?
13 COUNCILMEMBER ROCHE: I said I brought
14 it up and I got it on the record.
15 MAYOR JENKINS: Okay. Do you want to
16 get a motion or anything, Bob?
17 COUNCILMEMBER ROCHE: Well, there are
18 six of us up here, Mayor, or seven of us. And
19 you know, if you're going to make a motion,
20 usually there's some kind of a problem-solving
21 thing, you know, where we all work together. I
22 mean I know that's kind of gone by the wayside,
23 so --
24 MAYOR JENKINS: I sure wish that would
25 work more.

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1 COUNCILMEMBER FLEMING: Can I ask
2 Mr. Haeberlin one more question, Mayor?
3 MAYOR JENKINS: Excuse me. Go ahead.
4 COUNCILMEMBER FLEMING: Can I ask
5 Mr. Haeberlin?
6 MAYOR JENKINS: Yes.
7 COUNCILMEMBER FLEMING: Mr. Haeberlin,
8 have there been any applicants that have come to
9 you that have been turned away that did not come
10 back to you for appeal purposes?
11 MR. HAEBERLIN: Oh, absolutely. Every
12 day we have people apply for things that -- and
13 that's the nature of zoning: you tell people
14 more "no" than you do "yes." And certainly, you
15 know, we get a lot of crazy or very unusual
16 requests for the department, and there are a lot
17 of properties in the city that should perhaps
18 consider rezoning. I always encourage people to
19 go back and tell their landlord, you know, maybe
20 you should consider rezoning this property. A
21 lot of these inquiries result from historical
22 zoning which is inappropriate for the
23 properties.
24 So when you say "turned away," they're
25 getting an answer. They may not be filing an

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1 appeal per se. They're told the appropriate
2 zoning category that they should be in for this
3 example and they're also counseled to review the
4 city map, and of course there's a number of
5 properties available.
6 Usually we're dealing with somebody
7 with a business license -- occupational tax
8 license as Mr. Weed likes to refer to it -- that
9 has already signed a lease and has already moved
10 into a facility and is actually operating in
11 violation of the City Code. So that's very
12 common. That's probably 50 percent of the
13 applicants I get.
14 COUNCILMEMBER FLEMING: Would it be
15 wise for us to consider keeping a log of
16 applicants, of their specific business that they
17 wanted to go into a specific area and but yet
18 they're not zoned for that area, they're only
19 zoned for this specific area over here, for
20 maybe that's when the Council needs to address
21 maybe adding that type of business?
22 MR. HAEBERLIN: The form that we use,
23 which is called Determination of Zoning
24 Appropriateness, we do keep a copy of those with
25 every application. Of course we keep these as

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1 public records. And certainly we can forward
2 those to the Council if we need to.
3 I am experiencing a lot of inquiries
4 regarding English-only lessons. That's one of
5 the things that I'd never anticipated we would
6 have a lot of, and that's something perhaps to
7 look at, which zone it goes into.
8 But certainly, yes, I'm keeping track
9 of things that seem out of the ordinary. And
10 also, too, I think that our Zoning Ordinance is
11 so comprehensive now, that's going to be much
12 less common, but there are a few instances. So
13 I mean that is something the staff is keeping
14 track of.
15 And of course I always encourage people
16 to approach the Council. I mean they're more
17 than capable of talking with the Council about
18 Code amendments or requesting that it be in more
19 than one zone. It may not be that it's in one
20 zone. Maybe it needs to be in one or two zones.
21 So that's something to look at.
22 Like I said, in this situation, I think
23 we're, again, providing a very timely answer to
24 people. It certainly is generally the case that
25 these are existing Code violations. The

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1 discussions we've had on Clearview Avenue, both
2 applicants were Code violations.
3 COUNCILMEMBER FLEMING: Thank you.
4 COUNCILMEMBER ROCHE: So can you make
5 sure that we get that information so we find out
6 which ones we've said no to? Because again,
7 that's good; that's interesting information.
8 MR. HAEBERLIN: Maybe.
9 COUNCILMEMBER ROCHE: Because there are
10 no appeals, we don't know that there may be
11 issues that we need to deal with.
12 MR. HAEBERLIN: What I would approach
13 it from is perhaps that we do a monthly list to
14 you of business licenses applied for, very
15 generic, like pawn shop, you know, address,
16 approve or deny. I think that would be kind of
17 the short list of how to go about doing that.
18 COUNCILMEMBER ROCHE: Or English-only
19 lessons or --
20 MR. HAEBERLIN: Or English-only lessons
21 or Alcoholics Anonymous or whatever. Those have
22 been some of the unusual ones of late.
23 And just do a monthly list. I
24 certainly don't think that's inappropriate. And
25 then you can see, wow, you know, we've had five

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1 pawn shops applied for, and they were all denied
2 because they're in the wrong zoning category.
3 And really, that's the only thing that I can
4 recommend denial on: it's either in the wrong
5 zoning category or needs a conditional use.
6 There's no subjectivity otherwise.
7 COUNCILMEMBER ROCHE: And believe me, I
8 don't like pawn shops either. But if someone
9 wants to teach English to immigrants and it
10 doesn't happen to be specifically in that
11 particular zone, I don't think it should cost
12 someone $850 to come to the Council and ask us.
13 MR. HAEBERLIN: If you recall, we took
14 out the provision that says any other use as may
15 be determined appropriate by the City Council.
16 In the past --
17 COUNCILMEMBER ROCHE: Right; exactly.
18 MR. HAEBERLIN: -- that has been highly
19 detrimental to your real land-use operations for
20 the City.
21 And now, any use that's not a listed
22 use or a permitted use -- or a conditional use,
23 excuse me, is a prohibited use.
24 And I do want to say on record that I
25 just used pawn shop as an example but it could

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1 be any business.
2 So now it's very strict; whereas, it
3 was much more fluid before. And that's why we
4 have a lot of these uses particularly in the C-2
5 district that people may not feel is appro-
6 priate.
7 COUNCILMEMBER ROCHE: But again, you
8 said and any other use as determined by the
9 Council.
10 MR. HAEBERLIN: Correct, and that --
11 COUNCILMEMBER ROCHE: The catch is you
12 got to bet 850 bucks to find out if --
13 MR. HAEBERLIN: No, no. That statement
14 has --
15 COUNCILMEMBER FLEMING: Yeah. That --
16 MR. HAEBERLIN: -- been removed.
17 COUNCILMEMBER FLEMING: -- statement
18 has been eliminated.
19 COUNCILMEMBER ROCHE: Taken out. Okay.
20 MR. HAEBERLIN: Yeah. So it gives an
21 opportunity for people to apply for a
22 conditional use so that you, the Council, can
23 determine if they are appropriate. Because
24 remember, with a conditional use, it's not going
25 to the Planning Commission. It's going directly

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1 to the City Council. So if it gets in early
2 enough in the month, it's going to go on the
3 fourth Monday of the month and get an answer.
4 So it could easily have an answer within, say,
5 28/30 days.
6 COUNCILMEMBER ROCHE: And how much does
7 that cost?
8 MR. HAEBERLIN: That is seven fifty.
9 COUNCILMEMBER ROCHE: $750.
10 MR. HAEBERLIN: Again, that is a
11 revenue loss for the City. No matter whether we
12 approve it or not, we still lose the money. We
13 expend the money is a better term.
14 COUNCILMEMBER ROCHE: Well, we have
15 other revenue losses. I mean I understand that.
16 MR. HAEBERLIN: Certainly.
17 COUNCILMEMBER ROCHE: I mean we don't
18 charge people every time they come out and mow
19 the lawn around the City Hall, either.
20 MR. HAEBERLIN: Well, we do pay
21 employees for that.
22 COUNCILMEMBER ROCHE: Well, what I'm
23 saying is we don't specifically charge people
24 fees for that kind of stuff, either.
25 MR. HAEBERLIN: No, sir, we don't, but

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that's --
COUNCILMEMBER ROCHE: Right.
MR. HAEBERLIN: -- not a service we're providing to them.
ATTORNEY WEED: To be helpful, one thing I want to clarify for the Council that I don't know that everybody understands, and maybe they do, I think Scott's comments -- and Scott can speak for himself -- deal with appeals.
Please bear in mind that if at any point, if you are denied a zoning of a business you want in a particular zone, you can always try to get it rezoned. You always have that right, and there's nothing Mr. Haeberlin can do to stop it.
MR. HAEBERLIN: Correct.
ATTORNEY WEED: And that always goes straight to the Council, so please bear that in mind. That doesn't deal with appeals, but if you want a certain use in a certain zone, and he initially says no, I can always go straight to you, and there's nothing he can do about it.
COUNCILMEMBER ROCHE: But a conditional use request is I think $850 plus $150 for any variances.

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MR. HAEBERLIN: Correct.
COUNCILMEMBER ROCHE: And all I'm saying is that's a good process. The problem is that it's very expensive, and that's my whole point is that we want to be -- there are things that I wish we would close down tomorrow, frankly, and I think that all of the Council would join me with that.
I just want to make it easier. There are a lot of creative people out there. I mean the economy that we're in today will change, and it is changing, and there are a lot of creative ideas from people that may be coming up with different types of businesses or whatever, and we'll never find out about them and they'll certainly never come to Doraville, because they'll say, wow, 850 bucks, and that's flipping a coin, that's just too much to gamble.
MR. HAEBERLIN: You know, I respectfully disagree. I have an example. The other day, I had a jewelry design person in, and I had to really think this through. Is this a commercial artist? Well, yes, it is. This is a person that has a very unique, creative design aspect of what they do for a job. They're not

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welding things; they're creating jewelry designs and moulds for jewelry. And so I had to think, does this fit in a category; and it certainly did, and it was approved.
Again, I believe that people have the benefit of the doubt. I have to go on my experience doing this for many, many years. I think we have gone to a very exhaustive realm of trying to identify every possible business that could come in the city. I'm not going to say that we don't have all those in the future. If we have some that we may have missed, we'll add them to the ordinance.
And certainly I don't have a problem with doing a monthly list of what comes through. I think you would find it very interesting.
COUNCILMEMBER FLEMING: I think it would be a helpful tool for us in case we need to add that particular business or category of businesses into a specific zone rather than the business owner having to come to us to request a rezone just for his specific business.
MR. HAEBERLIN: I think you're going to find a lot of situations that just -- there's a lot of property that you would think is zoned

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one way, that's actually zoned another. That's a lot of the situation. But in much rarer circumstances, I think, the situation where there are businesses that possibly are not classified in the category that you wish them to be.
I'm always very hesitant and careful with O-I because it being a transition zone. If it's an appropriate O-I location is what exactly we put there. The other categories are much looser -- O-W, commercial, industrial, et cetera.
But like I said, I have no problem with doing a monthly list. I think it would be very illuminating for the Council to see how many businesses apply for and get permits and then close. I mean we have a high degree of turnover, regardless, and we generally don't know about that until they don't renew.
MAYOR JENKINS: Bob?
COUNCILMEMBER ROCHE: Well, I'll try this. Let's see if we get anywhere.
There's three in particular. One is the appeals to Mayor and Counsel as set forth in Section 1401. That's $750.

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Conditional Use is 2-261(c). A conditional use request that we've been talking about costs $850 plus $150 for a concurrent variance. That's a lot of money. I would like to make a motion that we reduce that to $250 plus $150 per concurrent request. I'm sorry. Concurrent variance. That will reduce it by $600, but I think it may bring it within reach of people that may have, you know, an interesting idea or something that we may want to consider.

MR. HAEBERLIN: I'm sorry, I didn't get -- what was the appeal amount that you wanted to reduce?

COUNCILMEMBER ROCHE: Oh, I'm sorry. C, for conditional use request, from $850 to -- what did I say? $250?

MR. HAEBERLIN: Uh-huh. And then appeal would be which? What are you proposing for B?

COUNCILMEMBER ROCHE: Well, let's just start with C for now.

MR. HAEBERLIN: Okay. Now bear in mind this only addresses items that are listed as conditional uses in the ordinance.

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COUNCILMEMBER ROCHE: No, I understand.

MR. HAEBERLIN: Okay.

COUNCILMEMBER ROCHE: But we'll see how this goes. If it goes anywhere, we'll try for B too. But that's the motion.

MAYOR JENKINS: Did you make a motion?

COUNCILMEMBER ROCHE: Uh-huh.

MAYOR JENKINS: Okay. What was the motion?

COUNCILMEMBER ROCHE: I make a motion that we modify 2-261-B -- sorry -- C, conditional use request fee, and change it from $850 plus $150 per concurrent variance to $250 plus $150 per concurrent variance.

COUNCILMEMBER ALEXANDER: Changing the fees doesn't have to follow the rules and procedures of the Zoning Procedures Act?

ATTORNEY WEED: With regard to these particular fees, I assume they're in the Zoning Code, is that correct, or they are in a separate fee chart?

MR. HAEBERLIN: They are in a separate fee chart.

ATTORNEY WEED: No, ma'am. They would not have to follow the Zoning Procedures Act

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with regard to the separate fee chart.

COUNCILMEMBER ROCHE: That's the whole point of bringing them out of the Zoning Ordinance was that we could make tweaks to this as we needed to.

COUNCILMEMBER FLEMING: Not to continue this long-winded discussion here, but so we have an ordinance, we have listed permitted uses and we have listed conditional uses.

MR. HAEBERLIN: Yes, ma'am.

COUNCILMEMBER FLEMING: And if a person comes to you that has a business that's listed in those conditional uses, they have to come to us and pay $850 for us to hear and say yes?

MR. HAEBERLIN: Well, to process the application and have a public hearing on the fourth Monday of the month, they do have to fill out an application and provide me some materials, and they do pay $850. That's conditional uses. That's not an appeal.

COUNCILMEMBER FLEMING: Okay. So why wouldn't -- please forgive my ignorance here. Why wouldn't you automatically, because you being staff and that's conditional uses listed in that ordinance, automatically approve them,

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then?

MR. HAEBERLIN: I have no authority under the Code. It's vested with you, the Council.

ATTORNEY WEED: That kind of gets into my territory, so I'm going to try to answer the question.

Please bear in mind that a conditional use is an aberration. It is an abnormality. Ordinarily the zoning map is black or white or whatever category you want to color it. Either the use meets the standard on the map or the use does not meet the standard on the map.

Conditional uses were simply created as sort of a more friendly, user-friendly method of doing that, but they are an aberration. They are not the norm nor should they become the norm. That's why the authority rests in the Council rather than the staff level. If they were simply going to be stamped, you know, yes, it's in there automatically, then they would already be in the main zoning text for the particular use in a particular zone. Because they are a special, different circumstance, that's why it comes to you.

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If it were up to me as your lawyer, you wouldn't have conditional uses. It would be A or it would be B. But everybody has conditional uses, and that's the reason why. But that's the reason why it comes back to you and not the staff.

COUNCILMEMBER BATES: Mr. Haeberlin, how many conditional use applications have you received that have been withdrawn because of the fees?

MR. HAEBERLIN: None yet. Actually, we've only had -- we have a conditional use going forward on May 26. That's the first conditional use we've had since this time. But that's in conjunction with a rezoning, so it's a concurrent type item.

COUNCILMEMBER BATES: So since you've been on staff, we've not had any conditional use applications that have been presented and then withdrawn because of the conditional use fee.

MR. HAEBERLIN: That is correct. But now remember, your ordinance has been revolving or evolving since October of last year, so some of these only recently became conditional uses, and your old code provided for conditional uses

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but didn't have any fee for it. So I don't know how some of the things were processed in the past.

COUNCILMEMBER ROCHE: Well, I think the better question is how many conditional use requests were never submitted in the first place because this evolved? 850 bucks. I'm just not even going to submit it at all.

MR. HAEBERLIN: You'll get that with everything, sir.

COUNCILMEMBER ROCHE: Of course. That's what I'm saying. That would be the more operative question, but I don't know how you'd answer that.

COUNCILMEMBER ALEXANDER: I guess I would like more information on how our fees correspond to neighboring municipalities, some type of comparison.

MR. HAEBERLIN: I'll tell you, if you look at your adjacent municipalities, I don't know how they're operating, but Dekalb County must have a significant amount of new construction to be able to pay for their planning and zoning department, which has numerous inspectors, planners, staff assistants, et cetera,

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because their fees are low.

COUNCILMEMBER SPANGLER: How low are their fees?

MR. HAEBERLIN: Low.

COUNCILMEMBER SPANGLER: How low?

MR. HAEBERLIN: Six fifty I think is a conditional use, but they were getting ready to raise it.

But some of their other items are just flat freebies, like zoning certifications are like $25.00. I mean you couldn't even cover an hour of staff with that.

Like I said, they have a different revenue strata than us, I mean, and certainly they're in a crunch now because they're not getting new building permit fees in the volumes that they used to. Generally, they're reaching their life cycle.

We're a post-development city, so everything we're going to get is redevelopment or additions, et cetera. They're in a situation where they still have raw land and they're building new houses, you know, 200-lot subdivisions, and we certainly have nothing to compare with that. So their revenue basis is

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entirely different than hours.

COUNCILMEMBER BATES: Following up on Ms. Alexander's question, how difficult would it be for you to compile a list of conditional use fees and appeals for Chamblee, Norcross, Dunwoody, Duluth?

COUNCILMEMBER ROCHE: Tucker.

COUNCILMEMBER SPANGLER: Decatur.

COUNCILMEMBER ROCHE: And also with that, find out the list of the number of conditional uses that are in their ordinances. Maybe they don't have that. Maybe they have twice as many as we do.

MR. HAEBERLIN: I will certainly tell you that most zoning ordinances on the books in Georgia don't even envision the number of businesses that we have. They leave it entirely up to the interpretation of their planning director. Because I'll use an example, a clinic. A clinic could be an abortion clinic, it could be a methadone clinic, it could be a veterinary clinic. So if their code just says "clinic," the planning director has no other option but to approve it.

Our code is so specific. I'm going to

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1 tell you, I will certainly look at these fees
2 for you, but their codes are structured not as
3 modernly as the City's are to accommodate all
4 these items.
5 COUNCILMEMBER ROCHE: Well, we'd like
6 to be a little smarter and maybe a little more
7 accessible. I mean I think government needs to
8 be a little more accessible to the businesses
9 and the citizens instead of constantly charging
10 for this and charging for that.
11 MR. HAEBERLIN: If you feel these
12 conditional uses in the Code are something you
13 want to make more accessible and you lower the
14 fee, I'm certain that you will have a number of
15 people flood you with applications for this.
16 COUNCILMEMBER ROCHE: Well, but we
17 don't know that, because the fees are too high.
18 We're going in circles.
19 I will be happy to withdraw my motion
20 if we can put this on the agenda for next
21 meeting and perhaps get some more information,
22 if you can give us some more comparisons, the
23 list of cities that Councilman Bates mentioned.
24 MR. HAEBERLIN: I have Chamblee,
25 Norcross, Dunwoody, Decatur, Duluth. Any

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1 others?
2 CLERK BLACKMON: Tucker.
3 MR. HAEBERLIN: Tucker.
4 COUNCILMEMBER ALEXANDER: Tucker is not
5 a city.
6 COUNCILMEMBER BATES: Norcross.
7 CLERK BLACKMON: I was just repeating
8 what was said.
9 MR. HAEBERLIN: Chamblee, Norcross,
10 Dunwoody, Decatur.
11 COUNCILMEMBER ROCHE: And I'll withdraw
12 it until next --
13 COUNCILMEMBER ALEXANDER: Duluth.
14 COUNCILMEMBER ROCHE: I'll withdraw
15 that motion and --
16 MAYOR JENKINS: We never did get a
17 second on it so it's not --
18 ATTORNEY WEED: The Councilman can
19 withdraw the motion.
20 COUNCILMEMBER ROCHE: I'm going to
21 withdraw it and make a motion or whatever. We
22 can table this until the next --
23 CLERK BLACKMON: I've got it listed on
24 the next agenda.
25 COUNCILMEMBER ROCHE: Next agenda,

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1 fine. Thank you.
2 MAYOR JENKINS: Do I get a second?
3 COUNCILMEMBER ROCHE: We don't need
4 one. I withdrew it.
5 MAYOR JENKINS: But you're going to
6 make a motion to table it.
7 COUNCILMEMBER FLEMING: No. Postpone
8 it --
9 COUNCILMEMBER ROCHE: No. We've
10 already done that.
11 COUNCILMEMBER FLEMING: -- to a date
12 certain.
13 COUNCILMEMBER ROCHE: We're just
14 postponing it till next --
15 ATTORNEY WEED: He just withdrew it,
16 Mayor.
17 COUNCILMEMBER ROCHE: We requested
18 additional information for the next meeting.
19 MAYOR JENKINS: Move right along.
20 COUNCILMEMBER ROCHE: Thank you,
21 Mr. Haeberlin.
22 MAYOR JENKINS: Murray?
23 ATTORNEY WEED: Mr. Mayor, I'll take
24 the next item. Our Recreation Director isn't
25 here. She was otherwise engaged. But I'm

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1 authorized to discuss it with her today, as a
2 matter of fact, and I'm authorized to discuss it
3 with the Council, knowing that she wouldn't be
4 able to make it tonight.
5 Very simply put, the City of Doraville
6 has got a recreation facility known as the Paul
7 Murphy Boxing Club. And with regard to the
8 operation in the past, the Boxing Club and its
9 operation was frankly not professionally run,
10 and the Recreation Department would certainly
11 agree with that assessment.
12 In an effort to more thoroughly operate
13 and more efficiently operate the facility, with
14 the Mayor's approval and the Recreation
15 Department's knowledge, a draft and then it was
16 finalized into a final-form bid was placed in
17 different areas for review. Bids came back, and
18 Mr. Bert Wells, who has long been involved with
19 the Boxing Club, had the highest bid. In fact,
20 I believe he had the only bid.
21 Therefore, at this point, in order to
22 continue the operation of the Boxing Club, I
23 have drafted a license agreement which
24 contemplates current State law, and on behalf of
25 the Recreation Department, I would encourage the

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1 Council to approve the license agreement which
2 has been previously sent to Council.
3 COUNCILMEMBER ROCHE: The person
4 running it now, how long has that person been
5 running it?
6 ATTORNEY WEED: My understanding is
7 quite a while, at least three years, and I think
8 even longer than that, but I feel comfortable
9 answering at least three years.
10 COUNCILMEMBER ROCHE: The reason I ask
11 the question is that the security deposit's only
12 a hundred bucks, but I mean if someone's been
13 there for a while, that's --
14 ATTORNEY WEED: And that certainly --
15 that's a "Murray-Weedism." We could have made
16 it whatever and certainly can still.
17 COUNCILMEMBER ROCHE: No biggie.
18 Thanks.
19 COUNCILMEMBER ALEXANDER: Now, we had
20 received your document and then a document
21 entitled proposed lease agreement.
22 ATTORNEY WEED: That is correct. The
23 original, when I initially worked on the
24 project, I had contemplated trying to do a
25 traditional lease. However, there's a Code

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1 section, O.C.G.A. Section 36-67-6, subsection
2 (j) which leads me to believe that when the land
3 or the facility is a recreation-oriented
4 facility, that it's appropriate not to lease
5 that. You can lease it, but you have to get
6 some further authority arguably from the General
7 Assembly.
8 I don't think this situation can wait,
9 and therefore my opinion would be a better way
10 of doing it would be to have a license.
11 COUNCILMEMBER ALEXANDER: And Mr. Wells
12 has agreed to all of this?
13 ATTORNEY WEED: That is correct; he
14 has. He's waiting upon your approval and he's
15 agreed to take it over retroactively back to May
16 1st.
17 COUNCILMEMBER ALEXANDER: Okay. Thank
18 you.
19 COUNCILMEMBER BATES: I'll make a
20 motion to approve the license agreement.
21 MAYOR JENKINS: Second?
22 COUNCILMEMBER PITTMAN: Second.
23 MAYOR JENKINS: All right. Anymore
24 discussion?
25 - - -

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1 (No response)
2 - - -
3 MAYOR JENKINS: Call the roll.
4 CLERK BLACKMON: Councilmember
5 Alexander?
6 COUNCILMEMBER ALEXANDER: Yes.
7 CLERK BLACKMON: Councilmember Bates?
8 COUNCILMEMBER BATES: Yes.
9 CLERK BLACKMON: Councilmember Fleming?
10 COUNCILMEMBER FLEMING: Yes.
11 CLERK BLACKMON: Councilmember Pittman?
12 COUNCILMEMBER PITTMAN: Yes.
13 CLERK BLACKMON: Councilmember Roche?
14 COUNCILMEMBER ROCHE: Yes.
15 CLERK BLACKMON: Councilmember
16 Spangler?
17 COUNCILMEMBER SPANGLER: Yes.
18 MAYOR JENKINS: All right. Memorandum
19 of Understanding.
20 ATTORNEY WEED: Mr. Mayor, I've got the
21 next item as well. It's the Memorandum of
22 Understanding Implementation Ordinance.
23 The Council, the City hired a mediator
24 to deal with an employment situation and to make
25 recommendations to contribute to that employment

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1 situation in March, I believe, March 19th.
2 The Mayor and Council agreed to the
3 recommendations set out in a memorandum of
4 understanding regarding operations management,
5 and part of that memorandum of understanding
6 indicated plainly that a new system in writing
7 would need to be put forward and reflected in
8 the actual ordinances to cover two primary
9 things. One would be to deal with Council
10 concerns with regard to personnel, that they
11 would be clearly articulated in writing to the
12 Mayor, and, in turn, the Mayor would respond to
13 those concerns in a clearly articulated and
14 written format.
15 The other thing that came out of that
16 operations management memorandum of under-
17 standing was that the Mayor would be assigned
18 certain staff, or at least one employee particu-
19 larly as what would be called his immediate
20 staff, and that language was also in the memo-
21 randum of understanding.
22 It contemplated adoption by virtue of
23 an ordinance which I have drafted for your
24 review. You will please note that the language
25 of the ordinance very closely tracks the

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1 memorandum of understanding which was approved
2 unanimously on March 19th.
3 COUNCILMEMBER FLEMING: I'd like to
4 make a motion to adopt the Memorandum of
5 Understanding implementing this ordinance.
6 MAYOR JENKINS: Second?
7 COUNCILMEMBER BATES: Second.
8 COUNCILMEMBER ROCHE: I think part of
9 that agreement also was the performance plan.
10 Was that ever executed or signed?
11 ATTORNEY WEED: I don't know. It was
12 certainly executed in the sense of the Mayor and
13 Council, you know, approved it here at the dais.
14 Whether it's signed or not, legally
15 it's irrelevant. It's reflected in the minutes
16 and it's got the authority until the Mayor and
17 Council change it. I don't know if it's been
18 signed or not.
19 MAYOR JENKINS: Adopting this
20 Memorandum of Understanding will take care of
21 that; is that correct?
22 ATTORNEY WEED: No, sir. They're two
23 completely different things. This ordinance has
24 nothing to do with the performance plan.
25 MAYOR JENKINS: Okay. Anymore

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1 discussion on the motion?
2 - - -
3 (No response)
4 - - -
5 MAYOR JENKINS: Call the roll.
6 CLERK BLACKMON: Councilmember
7 Alexander?
8 COUNCILMEMBER ALEXANDER: Yes.
9 CLERK BLACKMON: Councilmember Bates?
10 COUNCILMEMBER BATES: Yes.
11 CLERK BLACKMON: Councilmember Fleming?
12 COUNCILMEMBER FLEMING: Yes.
13 CLERK BLACKMON: Councilmember Pittman?
14 COUNCILMEMBER PITTMAN: Yes.
15 CLERK BLACKMON: Councilmember Roche?
16 COUNCILMEMBER ROCHE: Yes.
17 CLERK BLACKMON: Councilmember
18 Spangler?
19 COUNCILMEMBER SPANGLER: Yes.
20 MAYOR JENKINS: Thank you.
21 ATTORNEY WEED: Mr. Mayor, I also have
22 the --
23 MAYOR JENKINS: You've got the next
24 one.
25 ATTORNEY WEED: I've got that one, too,

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1 sir. It's the CH2MHill contract. I'm acting on
2 behalf of Ronald Buice in this matter, Your
3 Honor.
4 MAYOR JENKINS: Yes.
5 ATTORNEY WEED: To put it very simply,
6 I'm going to give you a little historical
7 background.
8 Back in 2005, the City began to deal
9 with, directly, stormwater fees. As part of
10 that process, it was determined that an
11 independent consultant would be appropriate to
12 deal with issues of stormwater management, to
13 grid the system, to identify different storm-
14 water devices that were out there, to help
15 maintain those devices.
16 As part of that, the City adopted a
17 contract in 2005. It was essentially put into
18 the format of a master agreement with CH2MHill.
19 What occurred underneath that agreement from
20 2005 up until about 2008, there were three task
21 orders that were issued underneath the agree-
22 ment. They were essentially approved.
23 However, my concern as your legal
24 counsel was I was given task order four to
25 review. When I looked at task order four, I

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1 went back of course to the 2005 master agreement
2 and felt that it didn't adequately cover the
3 terms required by the multi-year contracts
4 clause. Therefore, I advised CH2MHill of that
5 fact and have done a contract with their
6 approval, talking to their contracts maintenance
7 department, to reflect what in my opinion would
8 be a legal, binding contract on both parties.
9 We do have representatives from
10 CH2MHill here tonight if you've got any
11 particular questions with regard to what was
12 task order four which is now reflected in this
13 contract.
14 The other thing to bear in mind,
15 though, would be as they do future work for us,
16 there will be no reference back to the 2005
17 agreement; rather, they will come back and we
18 will do a new agreement each time, which is more
19 appropriate in my opinion.
20 COUNCILMEMBER BATES: I have several
21 questions. First, was this bid out?
22 ATTORNEY WEED: No, it was not.
23 In 2005, it was bid out, but the
24 records seem to indicate back then it was.
25 However, with regard to task order four, which

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would be converted into this agreement, there was not. The Council does have authority to make the determination that they are a sole-source vendor under 2-290 of the ordinances or you could elect to bid it out.

However, I will say -- and certainly this is no commercial for CH2MHill; there are lots of competent engineers out there -- I believe I can speak for Ronald Buice when I say that he has a long-term working relationship with that group and they have the greatest intimacy and familiarity with the project.

However, you can bid it out. That's fine with me as your lawyer.

COUNCILMEMBER BATES: I understand that. That goes back to my second question which is there are dollar amounts set under Attachment A for per diem or hourly rates for specific engineers, geologists, et cetera, and then there's a total proposed amount as set forth in Exhibit A under Compensation, which puts the contract for 2009 at $35,878.

I don't have any comparative information on what these rates were last year or the year before or the original 2005 document. Are

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these increased?

I'm guessing that based upon what you just said, that tasks one through three were in the previous agreements. Were those deliverables delivered on time? I'm trying to get a general sense of where --

You guys are a very reputable firm. Please don't mistake this as --

UNIDENTIFIED SPEAKER: Good question.

COUNCILMEMBER BATES: -- questioning your competency.

I just want to make sure we're getting the appropriate level of deliverables based upon contractual agreements. And we have an obligation up here to make sure that we're getting the best bang for the dollar that are is there. I just want to make sure that I'm comfortable with the general sense of the scope of the work, and I'll just throw those out there.

ATTORNEY WEED: As I said, prior to this agreement, draft agreement, there were three other task orders. I have researched all of them, and I will attempt to tell you tonight --

COUNCILMEMBER BATES: Were those tasks

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the same?

ATTORNEY WEED: No. No, sir. My main point was that each time, the tasks did vary.

COUNCILMEMBER BATES: Okay.

ATTORNEY WEED: So that would not be a fair comparator to this contract. They were different projects at different times.

COUNCILMEMBER BATES: Okay. So that leads me now to a subsequent question. Who identified the tasks?

ATTORNEY WEED: Well, ultimately the Mayor and Council did because Mayor and Council approved the agreements. However, I would assume that Ronald Buice or whoever his predecessor was, if he had one, identified them.

COUNCILMEMBER BATES: This proposed contract that we're looking at has now I'm hearing new tasks one through four as part of the contract; is that correct?

ATTORNEY WEED: No, sir. Well, not the way I've written it. It has -- it may be referred to as --

These are not the same tasks one through three that were previously approved, if you're asking that question.

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Are there tasks listed in the exhibits in the contract, arguably one through four? Then yes, that would be accurate. But are they the same three tasks that were approved from 2005 until 2008? They are not.

COUNCILMEMBER BATES: Okay. So these are --

And Mayor, if we could have a representative from CH2MHill?

MAYOR JENKINS: Yes. Come on up to the microphone, please.

COUNCILMEMBER BATES: So we have four tasks identified in this contract.

MR. BAUGHMAN: That's correct.

COUNCILMEMBER FLEMING: Could you state your name, please?

MR. BAUGHMAN: Thank you. My name is Doug Baughman. I'm the senior project manager for CH2MHill, and Veronica Jarrin is project engineer. We've been working with the City since the beginning, so.

COUNCILMEMBER BATES: Thank you. I appreciate it.

MR. BAUGHMAN: Now to your question.

COUNCILMEMBER BATES: So we've got task

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one of GIS support and mapping; task two, storm-water infrastructure inventory; task three, stormwater utility update for 2009 billing; and then task four, on-call stormwater support.

My general question is who identified and created these as the four tasks that should be included in this proposed contract?

MR. BAUGHMAN: That's a very good question. Let me first state that the work that we've been doing for the City has all been engineering-support related to two things. One is either compliance with your stormwater permit, your stormwater discharge permit from the Georgia EPD, or in support of developing your working relationship with Dekalb County as it relates to implementation of your stormwater utility fees, how you're going to use those.

So what we have in the contract this year are things that Ronald identified based on revisions to either your permit or your relationship with Dekalb County, okay, so these are new tasks that he identified that were beyond the scope of his skills to complete. Okay. And so we worked very close with him, and we met with the Mayor as part of that process.

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Does that help?

COUNCILMEMBER BATES: That answers my question. Thank you.

MR. BAUGHMAN: Very good.

MAYOR JENKINS: Anymore questions for Mr. Baughman?

I know that Ronald has mentioned many times how these two people have worked with him to keep this in good order. And this was new when Ronald came in here, and these people have really and truly helped him, and I would like to see them get the new contract.

COUNCILMEMBER BATES: I do have one additional question, please, sir. The storm-water utility update, have you guys performed that task in the past?

MR. BAUGHMAN: Yes.

COUNCILMEMBER BATES: So you're familiar with getting with Dekalb County and getting their tax digest and providing that information back to them on the stormwater?

MR. BAUGHMAN: That is correct. We did the original billing system for Dekalb County back when they first set it up, and so that's one of the reasons that the City came to us is

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that we had the data and it was more efficient for us to update it. For example, we've done the same thing for Chamblee and we try to do it at the same time that we update City of Doraville's because it's just more efficient. And as part of that process, we basically just sit down with Ronald, look at the most updated tax parcel information and update the billing database, and that's real important because it affects your revenues from the stormwater utility on an annual basis.

COUNCILMEMBER BATES: You won't take offense if for next year I recommend that we put this out for bid, just --

MR. BAUGHMAN: Absolutely not. That's your prerogative.

COUNCILMEMBER BATES: Thank you.

MR. BAUGHMAN: Thank you.

COUNCILMEMBER BATES: Mr. Mayor, based upon the time lines that are set forth in the contract specifically to the stormwater utility update and the 2009 billing cycle, I would recommend that we adopt the contract.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

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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.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: Thank you.

Thank you, sir. I appreciate it.

MR. BAUGHMAN: Thank you very much.

MAYOR JENKINS: I want to commend how you work with Ronald. And Ronald's a very good employee. You'll agree with that.

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1 MR. BAUGHMAN: Yes. He's done a
2 wonderful job. He really has.
3 COUNCILMEMBER ROCHE: Mayor, I have to
4 leave for about 10 minutes.
5 MAYOR JENKINS: Ten-minute break?
6 COUNCILMEMBER SPANGLER: Yeah.
7 MAYOR JENKINS: Let's take a ten-minute
8 break.
9 - - -
10 (Brief recess)
11 - - -
12 MAYOR JENKINS: Maria, go ahead.
13 COUNCILMEMBER ALEXANDER: The next item
14 on the agenda is the community gardens.
15 We started this several months ago.
16 Some citizens had expressed interest in doing
17 community gardens in various neighborhoods, and
18 I think Council's intent was to see about giving
19 the citizens permission to utilize City land for
20 these gardens. And then I guess it sort of
21 morphed, if you will, and there's been some
22 discussion about putting it under the Parks &
23 Rec. Department and making budget adjustments
24 for the Parks & Rec. Department to be the -- I
25 don't know if you want to say the conservator or

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1 the administrator of the program. But I guess
2 that's not really what I had envisioned, and I
3 guess I wanted some further information from the
4 City Attorney and some of the citizens involved
5 and the garden groups themselves.
6 And then some concerns have been raised
7 regarding the Windsor Oak property. The only
8 access to that property is, unfortunately, the
9 property -- the right-of-way of Plantation
10 Pipeline. The City does not own that entrance
11 to the park. We have had Plantation Pipeline
12 out there, and they have marked their right-of-
13 way, and Mr. Haeberlin has gone out there and
14 has taken photographs in case the flags and the
15 stakes that they installed disappear. We want a
16 record of the markings of that.
17 And it's my understanding from the
18 gentleman at Plantation Pipeline that no
19 activity can take place upon their right-of-way.
20 If there's any type of digging, it cannot be
21 done without their supervision.
22 So I guess I have concerns about
23 Windsor Oak being considered a park when I don't
24 know that it could be ADA accessible through
25 that entrance with the pipeline markers there,

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1 the permanent pipeline markers there. I don't
2 know if there's room to navigate a wheelchair or
3 some sort of other device through those -- I
4 don't know what you call those -- pipes sticking
5 up out of the ground.
6 So I have concerns about that property
7 being considered a park. I know it's been
8 considered a park, I believe, since -- I don't
9 know how long it's been considered a park.
10 1960, I guess.
11 MAYOR JENKINS: Well, the right-of-way
12 has always been there, and the only thing you
13 have to do is stay off the right-of-way. You
14 could walk in.
15 COUNCILMEMBER ALEXANDER: But I don't
16 know about the spacing between those pipes, if
17 you could make any of that handicapped-
18 accessible so it would be accessible to
19 everyone.
20 And I guess safety is a concern that's
21 been brought forth by several people also in
22 that area, and I'm just trying to get feedback.
23 So I'd like to sort of, you know, rein
24 everybody in and sort of, you know, make this
25 program happen. I think this is a very good

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1 thing for the city and its citizens, and we seem
2 to be going in several different directions, and
3 I'd sort of like everybody to sort of get
4 together on a common playing field.
5 COUNCILMEMBER SPANGLER: You know,
6 there's four vacant lots on Green Oak that, if
7 the City were to buy, you could have access into
8 that park. And you know, we've been mowing the
9 grass on the right-of-way part of those
10 properties for years.
11 MAYOR JENKINS: On both sides of the
12 street.
13 COUNCILMEMBER SPANGLER: And I would
14 think that, you know, we should be able to work
15 out some kind of deal with the property owner,
16 who's someone in Conyers, I believe.
17 COUNCILMEMBER ALEXANDER: And I think
18 Mr. Haeberlin said there's a piece of property
19 for sale on Windsor Oak.
20 COUNCILMEMBER SPANGLER: That's got a
21 contract on it.
22 COUNCILMEMBER ALEXANDER: Oh, it does?
23 COUNCILMEMBER SPANGLER: Yeah.
24 MAYOR JENKINS: You say there's four
25 lots on --

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1 COUNCILMEMBER SPANGLER: There's four
2 lots right there on --
3 MAYOR JENKINS: Open lots that go to
4 the park.
5 MS. FRAYSSE: Right there.
6 COUNCILMEMBER SPANGLER: They back up
7 to the park.
8 MS. FRAYSSE: That street's steep.
9 COUNCILMEMBER SPANGLER: They're steep,
10 but you could fix a roadway or some kind of a --
11 MAYOR JENKINS: Would you have to buy
12 all four lots?
13 COUNCILMEMBER SPANGLER: Mayor, how
14 much would this person owe us for all the years
15 that we've mowed that right-of-way?
16 MAYOR JENKINS: Oh, well, now you're
17 talking about the right-of-way.
18 COUNCILMEMBER SPANGLER: No. I'm
19 talking about the lots, the right-of-way on the
20 lots or that portion of the lots that we have
21 mowed that's not on the right-of-way. If we
22 hadn't mowed it, he would have had to.
23 So have we charged him anything for all
24 these years that we've mowed?
25 MAYOR JENKINS: I'll have to look and

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1 see. I don't know.
2 COUNCILMEMBER SPANGLER: I mean that's
3 a solution to the problem of entering into the
4 park without using --
5 MAYOR JENKINS: Four empty lots.
6 COUNCILMEMBER SPANGLER: Okay. I can
7 show you that.
8 MAYOR JENKINS: All right. Tomorrow.
9 COUNCILMEMBER SPANGLER: Tomorrow?
10 I'll show you tonight.
11 MAYOR JENKINS: No, not tonight.
12 Boogers out there tonight.
13 COUNCILMEMBER SPANGLER: Do you know
14 where I'm talking about, Ms. Fraysse?
15 MS. FRAYSSE: Yes, I absolutely do.
16 COUNCILMEMBER SPANGLER: Could you show
17 the Mayor tomorrow those --
18 MS. FRAYSSE: Sure.
19 COUNCILMEMBER SPANGLER: -- four
20 parcels?
21 MAYOR JENKINS: Okay. All right.
22 We'll check on it and see if they owe us any
23 back.
24 COUNCILMEMBER SPANGLER: Well, we
25 probably haven't filed anything on it, but, you

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1 know, I don't see why we couldn't go back for
2 the years that we have, again, mowed that
3 property.
4 COUNCILMEMBER ALEXANDER: And those
5 properties back up to Windsor Oak Park?
6 COUNCILMEMBER SPANGLER: Yes.
7 COUNCILMEMBER ALEXANDER: I know one of
8 them does not. It backs up to a residence on
9 Moss Oak.
10 MS. FRAYSSE: Yeah, that may be, but
11 there are four on Green Oak --
12 COUNCILMEMBER SPANGLER: Green Oak,
13 yes.
14 MS. FRAYSSE: -- the north side, that
15 are undeveloped. And I looked them up because I
16 thought it was so odd, and what were they trying
17 to do there? Because they thought they were
18 going to make a bunch of money at some point
19 selling that land.
20 COUNCILMEMBER ALEXANDER: Well, the
21 gentleman I spoke to that owns the piece of
22 property behind the residence on Moss Oak said
23 that that lot -- he referred to it as
24 topographically challenged --
25 MS. FRAYSSE: Yeah. It's very steep.

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1 COUNCILMEMBER ALEXANDER: -- and that's
2 why he never -- he and his father built most of
3 the subdivision, and that's why they never
4 developed that one piece.
5 MAYOR JENKINS: Maybe they'll donate it
6 to us. We'll put a road in if they donate it.
7 COUNCILMEMBER ALEXANDER: Well, we
8 don't want that one because it backs up to Moss
9 Oak. It doesn't back up to Windsor Oak Park.
10 COUNCILMEMBER SPANGLER: Well, you
11 could take all -- if you could get all four
12 lots, then it doesn't matter.
13 MS. FRAYSSE: Handicapped parking, and
14 you're going to need to deal with grading and
15 leveling.
16 COUNCILMEMBER SPANGLER: But if we
17 can't use that park, Ms. Alexander, what other
18 properties do we have in Oakcliff that we could
19 make available for the garden club?
20 UNIDENTIFIED SPEAKER: What about that
21 lot where there was a fire?
22 MAYOR JENKINS: Excuse me.
23 UNIDENTIFIED SPEAKER: Do we own that?
24 Is that our property?
25 MAYOR JENKINS: Give her your name,

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please.
UNIDENTIFIED SPEAKER: Oh, I have to get up there?
ATTORNEY WEED: Yes, ma'am.
MS. PETERSON: Michelle Peterson.
Who owns that lot or what is that lot?
COUNCILMEMBER ALEXANDER: That's 3951 English Oak, and I believe the gentleman is looking at to rebuild a home there.
MS. PETERSON: Oh, they are?
COUNCILMEMBER ALEXANDER: Uh-huh.
MAYOR JENKINS: Yes, ma'am.
MS. FRAYSSE: Can I just throw out an idea?
MAYOR JENKINS: Come on up.
MS. FRAYSSE: Susan Fraysse.
I'm very excited about how things look at the English Oak Park, the development that's coming along there. And I've been going and visiting a lot of little community gardens and looking at what people are doing, and it doesn't take all that much. I wonder if we couldn't have a little designated area for some gardening in the park. I hadn't thought about this or expressed this to anybody on the gardening

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committee or anything. I have no idea what the complications would be.
But I've seen things that -- where Avis G. Williams Library branch is, that Life Enrichment Center, they have a community garden behind their area. And they just took, you know, like three feet by six feet squares, and this is a plot, and then paving between it, and then another plot. I mean they just have seven or eight or ten of those.
My church, North Decatur Presbyterian, has raised beds, you know, and it wouldn't take much space. But maybe the better thing would be to work on English Oak Park or propose that to people in the neighborhood as a possibility.
MAYOR JENKINS: Maria?
COUNCILMEMBER ALEXANDER: I'm waiting for feedback from the citizens of the gardening group, and the City Attorney and --
MR. SUEVER: Mayor and Council, Attorney Weed, Rhonda. I'm here to talk to you about the Northwoods site.
Dick Suever, (spelling) S-U-E-V-E-R.
Fortunately, we have an ideal site there at Wheeler and Chestnut.

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This all started two months ago. It'll be two months already a couple days from now -- the 20th of March, actually -- when the idea was presented by someone. And I picked it up with the thought of unifying the citizens to get people out of their houses, working side by side. And so I put it on the Northwoods -- the NNA, and I got responses, quite a few responses, "Oh, yes." And a lot of mothers brought their little kiddies with their buckets and their shovels, ready to start digging. "Show us where." I said, "Well, wait a minute. This doesn't happen quite that easy."
But gradually, we built a board. We've got a six-member board. We've had several meetings. We've talked, we've argued. We've accomplished some things, too.
We selected this site at Chestnut and Wheeler. It's ideal. It has creeks running through it so we'd have a ready supply of water. And it's highly visible, which we really like, because of cars going by and they could see people out there working. And so we see this as a real opportunity.
The problem we have is that this group

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I put together has been on a roller coaster. We've been presented with a lease agreement that just overwhelmed everyone because it actually would be like you would present to an outside vendor who was going to lease your -- license your property to perform services for the City, and if you did that, then you would have to indemnify the City against losses. So we were saying, "Well, look. This is like we would be outsiders coming in and asked to license the property."
We're insiders. We've lived here all of our lives. We're just a group of volunteers who would like to get out there and, you know, do something to beautify the city and bring the city together. So that just was impractical for us to think about risking ourselves financially to do something that we wanted to do as citizens of Doraville.
So what I have to propose this evening to you -- because you are the group that can decide. It's in your hands to decide whether we can go ahead with this. And I will just say to you that this coalition of people that I have, having been on a roller coaster, there are some

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that are ready to get off the roller coaster, and I don't want that to happen and I don't think you want that to happen.

Everyone I talk to is in favor of community gardens. Are you guys -- are you all in favor of community gardens? Let's see a show of hands. Are you in favor of community gardens? I'm not being disrespectful. Let's see a show of hands.

Yes, yes, yes.

Attorney Weed, you're in favor of community gardens; right?

ATTORNEY WEED: Yes.

MR. SUEVER: Okay. Rhonda, you are.

CLERK BLACKMON: Yes.

MR. SUEVER: Okay.

ATTORNEY WEED: I've never been harmed by a community garden.

MR. SUEVER: We want to do it. We see the benefit of doing it. So let's see if we can work together to make it happen. I want to take a good message back to these people and say we're about ready to go.

What we're proposing is, first of all, that this piece of property be designated as a

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park. I understand it presently is not designated as a park. We want to get it designated as a park. And the reason for that is if it's designated as a park, it can come under the Parks & Recreation under Carol, Carol Stephens. I've talked to her, and she is really, really enthused about this. She wants to see this happen. You all know -- I mean you've known her a lot longer than I have. She's enthusiastic about it.

Now, sure she's short-staffed, but she has our assurance that we have the people that are going to do the work. We have the Extension Service, who is willing to give us a master gardener to help us get this project going along. She's not going to be expected to do the work. Okay.

Now, common sense tells you that someone two years from retirement would not take any kind of risks. This is a smart lady. Okay. She would not take any risks.

Why would a 79-year-old guy like me who's been a citizen of Doraville for 49 years want to bring something for this community that was that was going to crash? I love this commu-

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nity. I want to see this community -- I want to see this community come together unified.

Carol is willing to take this, our community garden, and I'm just speaking about Northwoods because that's the one that's ready to go.

We've brought in Bobby Wilson from the Extension Service. He is their expert. He is the president of the urban gardening association. He told us at the very beginning, "Don't try and start big. Don't try to start a wild garden. Start small. And if you don't start small and you don't start getting something going pretty quick, you're going to suffer burnout. You're going to want to say, 'Well, this is just not worth it to have to jump through all the hoops.'"

So help me get this started.

Two requests: one, that the Council agrees that this should be designated as a park; number two, give us the authorization to come under Parks & Recreation so we can get this thing going.

So I ask that you do that, and if you can do it, if you want to discuss it, ask me any

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questions. I don't know where to go from here. I'm not a politician. But you guys'll have to guide on that. You guys and ladies. Sorry about that.

COUNCILMEMBER BATES: Mr. Suever, I have a real quick question for you. If I heard you correctly, the largest or the biggest obstacle or concern was the indemnification. The participants were okay with signing the waiver of liability but it was the indemnification clause that was the biggest concern.

MR. SUEVER: The biggest concern is two-fold. One is we would be treated like outsiders. That was probably the biggest one of all. And the second one is that we would be required to sign an indemnification. We don't want to lease or license the property from the City. Does that answer?

COUNCILMEMBER BATES: Yes, sir.

MR. SUEVER: Thank you.

MAYOR JENKINS: Ben, do you want to speak now or --

MR. CRAWFORD: Whenever Mr. Suever is done.

MR. SUEVER: So this is narrowed down

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1 to --
2 MR. CRAWFORD: I said whenever this
3 gentleman's done speaking, I'd like to speak.
4 MAYOR JENKINS: Okay.
5 MR. SUEVER: So we only want to --
6 we're only addressing -- because we're ready to
7 cultivate and plant. I mean the property is
8 ready, and Bobby and his group have already
9 started clearing the kudzu around the creek, so
10 we're well on our way to -- we're ready to go.
11 COUNCILMEMBER FLEMING: Mr. Suever, so
12 that I can understand a little bit more about --
13 MR. SUEVER: Sure.
14 COUNCILMEMBER FLEMING: -- your group
15 and what their responsibilities are and what
16 your expectations are of the City, I appreciate
17 your passion for Chestnut and Wheeler, but if we
18 designate it as a park to come under the Parks &
19 Recreation Department, each individual community
20 garden, then, that may pop up would then also be
21 under the Parks & Recreation Department. So I
22 do have a little bit of reservation on that for
23 you, just so that you know that.
24 MR. SUEVER: Sure.
25 COUNCILMEMBER FLEMING: So tell me, if

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1 you will, since I haven't been present at your
2 meetings -- tell me what your expectations are
3 of the City, of what you want us to do for the
4 Chestnut and Wheeler property. I'm talking
5 about maintenance, buying materials. I want to
6 know what you want us to do to get you guys
7 started.
8 MR. SUEVER: Frankly, not much more
9 than you're doing right now. You're keeping
10 things mowed down and keeping the place, you
11 know, looking nice. And so basically what we
12 would probably ask for is just help to cultivate
13 it.
14 As far as that, as far as the costs are
15 concerned, if that's a concern, first of all, we
16 have two people already applying for grants.
17 Two members of our committee are very -- you
18 know, very qualified and very astute, applying
19 for grants. We've got people on our committee
20 who are committed to find sponsors to help pay
21 whatever the expenses are. So there's not going
22 to be any additional expense on the part of the
23 -- you know, on the part of the City.
24 Now, Carol is in the process of
25 preparing a budget like all, you know, and so

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1 she has asked for a number. So I've been in
2 contact with Dan McGee from Decatur because they
3 have, you know, a community garden, and he
4 showed me their annual budget request for this
5 year is $600. That's the maximum. Last year
6 they had an extra $500 because they needed to
7 build a cistern. So it's not much money, you
8 know.
9 And as far as they're talking about --
10 Lee Flier is our guru. She is very experienced.
11 She does all the planning, designing and all
12 that. She said we need to put a fence on the
13 side -- on the Chestnut side because diesel
14 fuels do damage to plants. But we're talking
15 about trees, a live fence. And I understand
16 that your Tree Bank -- that we may be able to
17 pull resources from that.
18 So we're not talking about a lot of
19 money on the part of the City. If we get the
20 sponsors which we anticipate and the grants, you
21 know, there won't be any expense.
22 COUNCILMEMBER FLEMING: Okay. But
23 let's talk about the grants for a second.
24 They're being applied for?
25 MR. SUEVER: They're being applied.

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1 What my position in this is to get it organized
2 and get the right leadership in place, and then
3 I'll go onto the next thing for the benefit of
4 the city.
5 So one of the reasons for getting the
6 grant is so we can afford to pay the supervisor,
7 an experienced person who knows how to manage
8 people and who knows about gardening. So that's
9 one of our goals.
10 COUNCILMEMBER FLEMING: But don't the
11 grants have to be applied by a nonprofit
12 organization?
13 MR. SUEVER: I am not --
14 COUNCILMEMBER FLEMING: You're not
15 sure. Okay.
16 MR. SUEVER: I'm not. I mean I think
17 that we can get some help on that, but I --
18 COUNCILMEMBER FLEMING: Okay.
19 MR. SUEVER: I'm sure we can overcome
20 whatever obstacles might be there.
21 COUNCILMEMBER FLEMING: But you need --
22 you comment about the fence. That shouldn't be
23 an enclosed fence of the property?
24 MR. SUEVER: No. Again, relying on
25 Decatur, the only fence that they have around

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1 theirs is a chicken-wire fence to keep the
2 rabbits out.
3 COUNCILMEMBER FLEMING: Okay.
4 MR. SUEVER: If you have it enclosed,
5 there's security risks. You can't tell what
6 might be going on inside that fence, so you
7 don't want -- we want visibility. We want --
8 COUNCILMEMBER FLEMING: I didn't mean
9 invisible. I meant --
10 MR. SUEVER: Cost?
11 COUNCILMEMBER FLEMING: -- as far as a
12 locked, an enclosed --
13 MR. SUEVER: No. We --
14 COUNCILMEMBER FLEMING: Not enclosed --
15 MR. SUEVER: -- don't anticipate --
16 COUNCILMEMBER FLEMING: -- but a --
17 MR. SUEVER: No. We don't anticipate
18 any sort of an enclosed or secured facility.
19 Very good questions. Thank you.
20 Anything else?
21 COUNCILMEMBER FLEMING: Tooling.
22 MR. SUEVER: Tooling? We're going to
23 have a shed. They bring their own tools. We're
24 going to have spare tools, a few spare tools
25 there for people who bring in visitors or

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1 whatever.
2 COUNCILMEMBER FLEMING: Okay.
3 MR. SUEVER: We're relying on the
4 people from the Extension Service. We're going
5 to visit several like Susan has done. We're
6 going to visit several facilities. We've
7 already been invited. We're going to go to a
8 luncheon that Dan McGee has invited us to, and
9 his supervisor/assistant's going to -- I mean
10 we're going to do it right. I mean trust me on
11 that. I am not putting my name on something
12 that's doomed to fail.
13 Thank you.
14 COUNCILMEMBER FLEMING: I appreciate
15 it. Thank you.
16 MR. SUEVER: Is there any way you can
17 try to give me an idea when you could be --
18 I need to take something back to these
19 people. I mean they've been on a roller coaster
20 for two months, and I need to take something
21 back if I can.
22 MAYOR JENKINS: Do we need to have a
23 motion?
24 COUNCILMEMBER ALEXANDER: I've got some
25 additional questions.

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1 MAYOR JENKINS: Okay.
2 COUNCILMEMBER ALEXANDER: One of the
3 things I have concerns about planting a tree
4 fence is we had some residents from Northwoods
5 express concern as far as visibility.
6 MR. SUEVER: I'm sorry. I don't hear
7 real well.
8 COUNCILMEMBER ALEXANDER: We had some
9 residents from Northwoods express concerns as
10 far as visibility at that triangle.
11 MR. SUEVER: Oh, yes.
12 COUNCILMEMBER ALEXANDER: So we need to
13 be mindful -- and I believe Mr. Weed even made a
14 comment to that. We need to be mindful of how
15 far out into the triangle we go.
16 MR. SUEVER: Absolutely. Absolutely.
17 I was raised on a farm, and I always got upset
18 that people planted corn all the way to the
19 corner, because you need visibility there. We
20 will absolutely not go all the way out to the
21 very point. We'll round it off so that, you
22 know, there's visibility there. That's a good
23 point.
24 COUNCILMEMBER ALEXANDER: I guess I
25 will go back to my question that I asked this

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1 afternoon, because Mr. Weed sent us some
2 additional comments.
3 Any reason why you guys wouldn't get
4 together and form a nonprofit? Because I think
5 you suggested Doraville Unity Gardens, DUG. I
6 mean is there just so much objection to forming
7 a nonprofit or --
8 MR. SUEVER: Well, it seems like -- I
9 mean I guess I just look at it, keep it simple.
10 I mean it seems very simple to take some
11 citizens and let them work under the Parks &
12 Rec. and not have to form any kind of -- I mean
13 why would we go through that? I don't under-
14 stand all that.
15 I understand terms. I mean I'm a
16 retired banker. I know the nitty-gritty and all
17 that. I mean I know crossing the t's and
18 dotting the i's, believe me. But also there's a
19 group of volunteers that really want to do some-
20 thing for the city, and I think we need to make
21 it as simple as we can because they start
22 frowning when I start explaining what's
23 required.
24 COUNCILMEMBER ALEXANDER: I guess I've
25 seen how well the nonprofit works for the

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1 Friends of the Doraville Library. It also opens
2 up additional avenues for you to take charitable
3 donations.
4 And regarding some of Mr. Weed's points
5 regarding liability and indemnity, it looked
6 like that forming a nonprofit would alleviate
7 some of those worries that you guys have.
8 MR. SUEVER: You know, that makes
9 sense.
10 Attorney Weed, he explained that what-
11 ever's produced on city property really belongs
12 to the city property, and the City needs to
13 decide what they want to do with the produce
14 that's on that property.
15 Now, Decatur, what they do over there,
16 whoever -- whatever -- whoever owns the plot or
17 whoever -- they don't pay for the plots. They
18 have a list of people who have a plot and then
19 they decide what they want to do. Now, they
20 encourage the plot owners to contribute a
21 certain amount of what they produce to the
22 needy. Matter of fact, there's some needy
23 people who live right around there that receive
24 some of the produce.
25 So could that be accomplished -- is

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1 that what you're talking about -- through the
2 nonprofit?
3 COUNCILMEMBER ALEXANDER: I believe so.
4 MR. SUEVER: I mean I have no problem
5 with that if that's the intent.
6 COUNCILMEMBER ALEXANDER: Forming the
7 nonprofit, would it also alleviate the gray area
8 as far as the produce?
9 ATTORNEY WEED: Yes.
10 There are a lot of different pathways
11 you could go down, and depending on what the
12 gardeners want to do, that'll dictate what piece
13 of paper is applied to it to make it work.
14 It's really one of those things where
15 form follows function. After some decisions are
16 made with regard to what the gardeners want to
17 do, what they want to grow, then you can apply
18 whatever paperwork you need to to make it legal,
19 make it happen.
20 I just would be careful of putting the
21 cart before the horse. Some basic decisions
22 have to be made first in my opinion.
23 COUNCILMEMBER SPANGLER: What about a
24 simple lease to lease them that parcel of
25 property for $1 for a year?

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1 ATTORNEY WEED: Well, here's the
2 problem. And bear in mind oftentimes folks say,
3 "Let's keep it simple." I am of that mindset,
4 too. Unfortunately, all of us in the government
5 are shackled by -- fortunately or unfortu-
6 nately, we're shackled by the Constitution and
7 shackled by State law.
8 I'm just the lawyer. I don't get into
9 what's right, I don't get into what's wrong.
10 I'm just going to tell you what the law is, and
11 then Council will make a decision. And I will
12 defend anything you decide to do. That's my
13 job. Anything at all.
14 So the answer to your question,
15 Councilman, is it all depends.
16 The statute I read before that dealt
17 with the Boxing Club would be applicable if the
18 decision's made to route this program through
19 the Recreation Department. Then we wouldn't be
20 able to do a standard lease. It would have to
21 be a license or we'd have to come up with some
22 other way of doing it.
23 I think what -- and I don't want to
24 speak for Mr. Suever. He's certainly articulate
25 enough to do that himself. But I think what

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1 he's contemplating would just be a non-exclusive
2 arrangement where people who wanted to volunteer
3 would simply come onto the City property at
4 will, without powers, without any, you know,
5 checking in/checking out, no fence, and they
6 would garden at will and leave at will, and they
7 would be willing to sign an individual waiver of
8 liability.
9 And would that work legally? The
10 answer is yes.
11 The problem of course would be -- also
12 my understanding from Mr. Suever is that people
13 want to -- they want to grow produce, not just
14 flower gardens, that type of thing. And once
15 again, if it's produce, in order to not violate
16 the anti-gratuities clause, we would have a
17 contract with somebody -- the Salvation Army, a
18 church, some group. It doesn't really matter
19 who, but we'd have to have a contract with some
20 group to get rid of the produce.
21 If people took the produce home with
22 them, technically that violates the law because
23 you're now taking what belongs to all the people
24 and giving it to some few of the people.
25 So that's as simple as I can put it.

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But all these things are variable depending upon what you want to do, what the gardeners want to do.

I can try to make it legal, and I probably can, but someone's got to decide what you want there first and then we worry about the paper.

MR. SUEVER: Can I respond?

ATTORNEY WEED: You don't have to respond to me. Talk to them.

MR. SUEVER: It's not as slipshod as you kind of portrayed.

ATTORNEY WEED: Well, now, Mr. Suever, let me --

MR. SUEVER: Just let me -- I want to respond to one part of it. Okay.

ATTORNEY WEED: It doesn't matter what I think. I'm not the decisionmaker --

MR. SUEVER: Yes.

ATTORNEY WEED: -- so we don't have to -- we don't have to hurl insults.

MR. SUEVER: No, no. What I'm saying, if you plant the seeds in people's minds, they envision a bunch of people running in and playing around.

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When a plot is awarded, they become a member of the club. They have to attend three meetings a year. They have to abide by the rules that this club has put together for them, and if they violate those rules, they lose their plot. They lose their plot. And there is a line of people always waiting because there's no charge for these plots.

Now, they can grow flowers, they can grow vegetables, but they have to be -- they can't grow weeds. I mean there's going to be strict rules that these people have to follow to be a plot owner, and we're going to see that that happens.

ATTORNEY WEED: And Mr. Suever, you've illustrated --

MR. SUEVER: Suever (pronouncing).

ATTORNEY WEED: Okay. Pardon me.

You've illustrated my point perfectly.

MR. SUEVER: Okay.

ATTORNEY WEED: The community group wants to set those rules. You want to set them but use the City's land, and so that's where the disconnect is. So the question is, how do you accommodate both?

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You can accommodate both by if your group forms a nonprofit corporation, the City could very easily contract with you. Then you could have your rules, you can have your organization, you can do what you want to. And the contract would be a license. That's perfectly legal.

Or we could do it with every individual who wants to go on the property and use the land. Either one's fine. And it doesn't matter to me which way we go, how we structure it. My job is to try to help you do it, which I'll do.

COUNCILMEMBER FLEMING: So at that point, we would, like Mr. Spangler said -- And I mean you almost took it literally out of my mouth about leasing the property to the Doraville community garden club for a dollar.

ATTORNEY WEED: It couldn't be a lease, it would be a license. But the answer to your question would be yes. Can you do it that way? Yes. The question is it's got to be a real entity. It can be a club, but it's got to have some legal status, meaning they've got to form a corporation at a minimum or a corporation and seek nonprofit status. I mean it's got to be

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something real. It can't just be a group of people, like-minded individuals, which is great, but it would have to be a real group.

COUNCILMEMBER ROCHE: We're from the government. We're here to help.

MR. SUEVER: You're not requiring --

ATTORNEY WEED: Or you can do whatever you want to and I'll defend it.

MR. SUEVER: I'm just saying that as long as there's no indemnification that we are required to make -- I mean the group as a club.

ATTORNEY WEED: It's up to them, not me. I mean --

MR. SUEVER: I don't know what else to say, I mean. All I need to say is I need to take back to this group an indication of whether it's -- we're at a crossroads, and so I'm not saying a threat or anything. I'm just telling the truth. I've held this group together for two months, and if the City wants community gardens, I need your help.

COUNCILMEMBER ROCHE: Would the next step, then, be for your group to go back and pursue -- I mean incorporate and then pursue nonprofit status? I don't know how long that

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1 takes or --
2 MR. SUEVER: Well, I think whatever it
3 costs, the City needs --
4 We're doing this for the city. We're
5 not doing this for ourselves. And if it costs
6 something and if we're not required to
7 indemnify, then I'm willing to go back to the
8 group. But if we're being treated like an
9 outsider rather than citizens of this group, I
10 mean I won't buy it and I'm not going to
11 recommend they buy it.
12 COUNCILMEMBER FLEMING: But if you hurt
13 yourself with your own tool on our property --
14 MR. SUEVER: Yes.
15 COUNCILMEMBER FLEMING: -- you feel
16 that you have the right to sue us?
17 MR. SUEVER: No. I'm saying to you,
18 which I've already explained, we will give
19 waivers. Every person who is a member of our
20 group will give a waiver. Every person who
21 rents -- who has a plot will give a waiver.
22 The only exposure is for people who
23 haven't given the City waivers, that would come
24 on there and somehow something would happen or
25 whatever. That's the only exposure.

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1 Absolutely we would give waivers; sure.
2 MAYOR JENKINS: I think we need a
3 special meeting on this.
4 MR. CRAWFORD: I'd like to get to
5 speak.
6 COUNCILMEMBER ALEXANDER: I would
7 recommend that --
8 MAYOR JENKINS: The five-minute rule,
9 the reason he is up there so long, this is
10 Maria's item.
11 COUNCILMEMBER ALEXANDER: But I want to
12 hear what Mr. Crawford has to say.
13 MR. CRAWFORD: Well, maybe --
14 MAYOR JENKINS: I do, too.
15 COUNCILMEMBER ALEXANDER: But I feel
16 like that the best path for us to take is for
17 you guys to form a nonprofit, like I said, like
18 the Friends of the Library has done. That way,
19 you can accept donations and also --
20 MAYOR JENKINS: Ben.
21 MR. CRAWFORD: That's all right.
22 MAYOR JENKINS: Please.
23 MR. CRAWFORD: It's not my time to
24 speak.
25 COUNCILMEMBER ALEXANDER: No. I want

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1 to hear what you have --
2 MAYOR JENKINS: You're not going to
3 leave, are you?
4 COUNCILMEMBER ALEXANDER: -- to say,
5 Mr. Crawford.
6 That way, the indemnification is
7 handled, the produce produced is handled, and I
8 think that's the best pathway to go, and that's
9 my recommendation.
10 MR. SUEVER: Well, the precedent has
11 already been set with the Library. I mean I
12 don't see any problem.
13 MAYOR JENKINS: We're already over our
14 time, Maria.
15 MR. SUEVER: Well, I'm sorry.
16 MAYOR JENKINS: Can you come to some
17 conclusion?
18 COUNCILMEMBER ALEXANDER: I just made
19 my suggestion, sir.
20 MR. SUEVER: Can I ask, what should I
21 take back to the people?
22 MAYOR JENKINS: Her suggestions.
23 MR. SUEVER: Hm?
24 MAYOR JENKINS: What was your
25 suggestions?

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1 COUNCILMEMBER ALEXANDER: I'd recommend
2 that you guys research becoming a nonprofit
3 organization.
4 COUNCILMEMBER BATES: Mr. Weed, from
5 your standpoint, the time frame and costs
6 associated with incorporating and becoming a
7 nonprofit organization?
8 ATTORNEY WEED: Based on my experience,
9 having done it for different entities, I believe
10 that the filing fee is $500 to the Secretary of
11 State and I believe that -- and then you have to
12 apply to the IRS to get the nonprofit status.
13 It's very easy to form a nonprofit corporation.
14 That's very simple to do and that's where the
15 $500 goes.
16 The more time consuming process, and it
17 usually takes about 90 days, would be to
18 actually get your IRS status out of the IRS.
19 That's the hardest part. But then after you've
20 done it, you've done it for life.
21 COUNCILMEMBER ALEXANDER: So then, the
22 other way is --
23 ATTORNEY WEED: And then having
24 donations tax deductible, et cetera, et cetera.
25 COUNCILMEMBER ALEXANDER: If they did a

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1 license agreement, then we have to figure out
2 what to do with the produce. They can't take it
3 home.
4 ATTORNEY WEED: Correct.
5 The bare minimum, the simplest thing to
6 do, the absolute simplest thing to do if you
7 wanted to take the risk would be that you don't
8 have a fence, you don't assign plots. You
9 simply let people garden on the lot. Anybody
10 who actually turns the soil would sign an
11 assumption of risk/waiver -- not an indemnifi-
12 cation but an assumption of risk/waiver -- and
13 those people garden to their hearts' content.
14 Then the only remaining problem would be if they
15 still insist upon growing produce and now
16 flowers, then you're going to have -- and the
17 produce will belong to the City and you're going
18 to have to either keep it, sell it at auction or
19 have an agreement with somebody to get rid of
20 it.
21 COUNCILMEMBER BATES: Okay. I'll make
22 a motion --
23 ATTORNEY WEED: That's the simplest
24 thing you can do legally.
25 The other thing you can do is just let

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1 it happen.
2 COUNCILMEMBER BATES: I'll make the
3 motion for the City to cover costs for
4 incorporating and filing for the nonprofit
5 status.
6 ATTORNEY WEED: I can't advise you to
7 do that. I mean you may choose to do that, but
8 I think that would violate the anti-gratuities
9 law there --
10 COUNCILMEMBER BATES: All right. I'll
11 withdraw it.
12 ATTORNEY WEED: -- in my opinion.
13 COUNCILMEMBER ALEXANDER: Well, Mr.
14 Suever --
15 COUNCILMEMBER SPANGLER: Mr. Suever
16 just left.
17 COUNCILMEMBER ALEXANDER: I know. I
18 didn't want him to leave.
19 COUNCILMEMBER SPANGLER: I mean I can
20 understand his frustrations, but at the same
21 time, we have to look at the information that
22 you've given us.
23 Okay. It would be much easier for
24 these people to go lease a piece of property in
25 the city or outside the city and have their

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1 little garden club. And I guess it would be
2 illegal for the City to donate money toward them
3 leasing a little piece of property also.
4 MAYOR JENKINS: I think it's kind of
5 bad that the City can't let them use the
6 property. It's sad that we can't let them use
7 the property that we have that's not being used
8 for anything. We have to cut the grass, and
9 they would keep it up. But we have to go along
10 with what the Attorney says.
11 ATTORNEY WEED: I would like to clarify
12 that I am certainly -- I'm all for the community
13 garden program. I just want to -- I'm trying to
14 give you advice to make it legal.
15 The simplest thing you could do would
16 be allow them to do it, get waivers from each
17 one of them; and if they chose not -- if they
18 just grew flowers, you no longer have anti-
19 gratuities clause problems at all. It ceases to
20 exist. You could do that just like that if you
21 chose to. That's the easiest way of doing it.
22 And you could still do it very easily,
23 but the produce is still an issue, but that's
24 not an insurmountable issue.
25 MAYOR JENKINS: Can I give the produce

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1 that I'm growing in my back yard away?
2 ATTORNEY WEED: Sure. Yes, sir,
3 because that's not the people's produce. That's
4 not everyone in the room's produce. That's your
5 produce, Mr. Mayor.
6 MAYOR JENKINS: Yeah, I understand, but
7 this --
8 COUNCILMEMBER FLEMING: What do they --
9 MAYOR JENKINS: -- will be the city's
10 produce.
11 COUNCILMEMBER FLEMING: -- do with
12 Dekalb's, Maria?
13 COUNCILMEMBER ALEXANDER: That's the
14 City of Decatur.
15 COUNCILMEMBER FLEMING: Oh. What does
16 the City of Decatur do?
17 ATTORNEY WEED: They let the people
18 take it home, the individual members.
19 COUNCILMEMBER FLEMING: So why isn't
20 that an option for us?
21 ATTORNEY WEED: In my opinion, it is
22 illegal and Decatur is violating the law. I
23 don't work for Decatur. That's just my opinion.
24 I could be wrong. I don't think that I
25 am. And you pay me not to be wrong most of the

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1 time. They haven't asked me my opinion.
2 COUNCILMEMBER SPANGLER: Did you say
3 you got a 90 percent track rate?
4 ATTORNEY WEED: A little bit higher
5 than that.
6 COUNCILMEMBER SPANGLER: I thought you
7 said 90. So now you're changing it on us.
8 ATTORNEY WEED: Once again, I don't
9 want to -- You know, please. I do not want to
10 be an impediment. I just want to make sure it
11 happens legally. And once again, you don't have
12 to take my advice. You are not obligated to do
13 so.
14 MAYOR JENKINS: Come on up to the
15 microphone, Susan.
16 MS. FRAYSSE: Susan Fraysse.
17 I did have one more resource that might
18 not come all the way up to Mr. Weed's standards
19 but it might be something that would be more
20 workable that we could work with.
21 At the Life Enrichment Center, they
22 have a community garden. And I gave Carol
23 Stephens the information to get in touch with
24 the director. It is through Dekalb County.
25 It's through their parks and recreation. It

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1 might be a simpler, more straightforward, more
2 basic approach for us to consider that would
3 help us out of this.
4 COUNCILMEMBER ROCHE: So we can de-
5 annex that piece of land?
6 MS. FRAYSSE: No. I'm not at all
7 associating myself with that proposal.
8 COUNCILMEMBER FLEMING: Life
9 Enrichment, you said?
10 MS. FRAYSSE: Yeah --
11 MAYOR JENKINS: This is kind of --
12 MS. FRAYSSE: -- on McConnell Drive.
13 MAYOR JENKINS: -- like my accountant.
14 We've got to do something right away. And I
15 will be glad to meet with anybody and work out
16 anything, and of course get advice from Murray
17 if this group wants to have a meeting, another
18 meeting. And I think some of the Councilmen
19 would work with me on that, too, but we've got
20 to do something right away. We can't -- in
21 other words, the planting season is here. If
22 they're going to plant anything, they're going
23 to have to do it right away, within the next --
24 ATTORNEY WEED: Mr. Mayor and members
25 of Council, I will offer this: Ordinarily, I

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1 would be willing to volunteer pro se the effort,
2 the time. I would ordinarily write -- I'd
3 create the corporation for them and I would
4 write their bylaws for them.
5 The only reason why I can't is because
6 I represent you, and ultimately they're going to
7 contract with you, and I can't do that, because
8 once again -- And even if you agreed to
9 volunteer my services for that, it would be a
10 violation of the anti-gratuities laws.
11 However, what I can do, I will make
12 every effort to find them a pro se lawyer who
13 would do this for them at low cost. I mean I'm
14 willing to do that. That's the most I can
15 offer. I'd love to help them if I could,
16 directly.
17 MAYOR JENKINS: Come on up, Stuart.
18 MR. ANDERSON: Stuart Anderson. I'll
19 make it brief. I wish Dick had stayed.
20 I mentioned a 501(c)(3) to Dick at the
21 last meeting, and he didn't seem to understand
22 it, but it was considerable conversation, and so
23 he knew about it before he came here tonight,
24 that that was -- as Maria said, that's the easy
25 way to solve this, and I think that's what

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1 Murray -- and Murray and Dick talked about it at
2 length after the last meeting, and Dick didn't
3 seem to want to understand.
4 If you want to put it under the
5 auspices of a group of -- a department, put it
6 under the auspices, or the umbrella, in Dick's
7 terms, of the Maintenance Department -- Public
8 Works. Those are the people that are going to
9 do the digging and stuff, and Carol doesn't have
10 time to do a bunch of --
11 Get Carol's opinion about how much
12 involvement she wants to have. She hasn't got
13 the time for this. But the Maintenance
14 Department, who would be doing the digging,
15 might have the time and people, et cetera. So
16 that would be -- if you're going to put it under
17 an umbrella of the City, that would be the group
18 that would be at least somebody that would have
19 time for this sort of thing.
20 Thank you.
21 COUNCILMEMBER FLEMING: Mr. Mayor, I
22 have one other question for Mr. Weed in regards
23 to this subject.
24 503(3)(c), Mr. Suever's talking about
25 Chestnut and Wheeler and their little community

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1 garden group. Now, does that mean that there
2 would have to be another 501(c)(3) for the
3 Oakcliff group and would there have to be
4 another one for if we decided to have something
5 at the end of Chicopee?
6 COUNCILMEMBER ALEXANDER: That's one of
7 the things that I was trying to reel those two
8 gentlemen in. I would like for it to be
9 citywide --
10 COUNCILMEMBER FLEMING: Correct.
11 COUNCILMEMBER ALEXANDER: -- and they
12 have one group and it involve all the neighbor-
13 hoods.
14 COUNCILMEMBER FLEMING: Correct.
15 ATTORNEY WEED: I would prefer that
16 plan.
17 COUNCILMEMBER ALEXANDER: And that's
18 what I think was part of the citizens' original
19 intent was to -- I think he called it the
20 Doraville Unity Garden group, which I think that
21 would be a great name, DUG. And I would like to
22 see the citizens work together like that and do
23 it. And then, like I said, they could, you
24 know, take donations from maybe the business
25 leaders and things like that.

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1 COUNCILMEMBER FLEMING: Okay. But in
2 that respect, of course it would be better to
3 have one. But if we're just getting this, we're
4 not going to have unity. It's going to be the
5 separate neighborhood type things.
6 ATTORNEY WEED: The legal answer is no,
7 you wouldn't have to do that.
8 By having the one group form a non-
9 profit organization, that wouldn't necessarily a
10 precedent that would mandate that the Council
11 would have to do that with everybody. You could
12 take each individual park or area as it came
13 before you. And you know, even this group
14 doesn't -- even Mr. Suever's group doesn't have
15 to form a nonprofit. You could simply do it on
16 an individual basis. But once again at the end
17 of the day, you still have to figure out, if
18 they want to do produce, what's going to happen
19 with the produce? If they just wanted to do a
20 flower garden and have access to the property,
21 you could do that with one document, a one-page
22 document, which would be a waiver of liability.
23 COUNCILMEMBER BATES: But even if they
24 did form the 501(c)(3), it wouldn't necessarily
25 be restrictive for Northwoods. They could

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1 expand that to cover the entire city and
2 incorporate other groups.
3 ATTORNEY WEED: Sure.
4 COUNCILMEMBER BATES: So there wouldn't
5 be a restriction of it just being a Northwoods
6 entity. They could expand and include and
7 cover, encompass all of the -- you know, we
8 could have 17 in the city.
9 COUNCILMEMBER SPANGLER: And I think on
10 the committee, Mr. Suever did say, if I
11 remember, that there was people from Oakcliff
12 and possibly people from Winters Chapel/Tilly
13 Mill on this committee. So it would be like
14 there's already a unity in the committee so it
15 wouldn't be a problem.
16 COUNCILMEMBER BATES: Could neighbor-
17 hood associations help offset the cost of the
18 filing fees?
19 ATTORNEY WEED: Yes. I mean anybody
20 can donate anything that they want to to get the
21 group going. It won't be tax deductible until
22 such time as the nonprofit's formed, and then
23 persons could give money and it would be tax
24 deductible. It would still be a charitable
25 contribution so it might be deductible, but in

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1 case of an audit, it would be better for them to
2 be a nonprofit.
3 COUNCILMEMBER BATES: Let me ask you
4 this question from a process and a liability
5 issue for the City. At what point in time along
6 the process is the City then protected? Once
7 they incorporate? Once they get their 501(c)(3)
8 status? Where do these problems go away under
9 that scenario?
10 ATTORNEY WEED: In my opinion, after
11 they form a nonprofit corporation -- which is
12 very easy to do. As soon as you get the papers
13 and file them and file the fee, that's a matter
14 of days, and you could do that by virtue of the
15 Internet. As soon as they do that, then we
16 could enter -- the City could enter into an
17 agreement with that legal entity.
18 And then the other thing I couldn't
19 quite explain to Mr. Suever was that the legal
20 entity -- you form a corporation so their
21 individual assets aren't subject to being gone
22 after. That's why you form a corporation to
23 begin with. So concerns about the indemni-
24 fication of the City, I don't think that's a
25 real problem, because that's why you'd have a

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1 corporation to start with.
2 COUNCILMEMBER BATES: Is there a
3 requirement to be a 501(c)(3) or can merely a
4 non-for-profit incorporation suffice?
5 ATTORNEY WEED: It could be a not for
6 profit corporation without necessarily getting a
7 501(c) status; however, I would recommend you do
8 both.
9 But you could go -- and is very common.
10 Then you actually form your corporation, you say
11 you're going to be a not for profit. The actual
12 code, when you look at the State law, indicates
13 that it's -- you usually say in your bylaws that
14 you intend to get your not-for-profit IRS
15 status. There's that expectation. But there's
16 also a reasonable -- the IRS is reasonable in
17 that they expect you to go on with the process.
18 So we could enter a contract with them as soon
19 as they form the corporation, and they could
20 work towards their status. That would be legal.
21 COUNCILMEMBER BATES: Okay. I'm going
22 to make two motions. The first is to extend the
23 meeting by 15 minutes.
24 COUNCILMEMBER SPANGLER: Well, if you
25 extend it by 15 minutes -- it's already 9:30.

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1 You're going to have to give the citizens time
2 to comment, so it's going to take more than 15
3 minutes.
4 MAYOR JENKINS: Extend it 15 minutes on
5 this subject?
6 COUNCILMEMBER BATES: No, because the
7 second motion hopefully will go very quickly.
8 MAYOR JENKINS: That's fine with me.
9 COUNCILMEMBER SPANGLER: I second.
10 MAYOR JENKINS: Call the roll.
11 CLERK BLACKMON: Councilmember
12 Alexander?
13 COUNCILMEMBER ALEXANDER: Yes.
14 CLERK BLACKMON: Councilmember Bates?
15 COUNCILMEMBER BATES: Yes.
16 CLERK BLACKMON: Councilmember Fleming?
17 COUNCILMEMBER FLEMING: Yes.
18 CLERK BLACKMON: Councilmember Pittman?
19 COUNCILMEMBER PITTMAN: Yes.
20 CLERK BLACKMON: Councilmember Roche?
21 COUNCILMEMBER ROCHE: Yes.
22 CLERK BLACKMON: Councilmember
23 Spangler?
24 COUNCILMEMBER SPANGLER: Yes.
25 COUNCILMEMBER BATES: The second is to

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1 take Mr. Weed's offer of finding an attorney to
2 help with the incorporate papers per se, to --
3 ATTORNEY WEED: You don't need a motion
4 for that. In fact, I don't want you to make a
5 motion for that.
6 COUNCILMEMBER BATES: Okay.
7 ATTORNEY WEED: I'll just do it.
8 COUNCILMEMBER BATES: Thank you.
9 -- that we advise the Doraville Unity
10 group of the City's attempt to assist --
11 Can we say that?
12 ATTORNEY WEED: I wouldn't put that in
13 the form of a motion, Councilman. I would just
14 say that somebody give them a call and say,
15 "Hey, we want to work with you. We are
16 supporting the project. Mr. Weed volunteered to
17 try to help find you somebody who can get this
18 going for you a little bit from the legal
19 aspect, you know, on his own time. It has
20 nothing to do with the City," and leave it at
21 that.
22 COUNCILMEMBER BATES: Okay. Then, I
23 don't have a motion.
24 MAYOR JENKINS: Okay. Would you want
25 to do that in a special meeting, with a certain

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1 number of people, or how do you want to do that?
2 COUNCILMEMBER BATES: I don't think
3 there's any meeting --
4 COUNCILMEMBER SPANGLER: There's no
5 requirement.
6 COUNCILMEMBER BATES: I don't think
7 there's any need for a meeting to happen. I
8 think we need to -- I think we need to convey to
9 them our willingness of helping them make this
10 happen in a form that is most conducive to it
11 being successful and protecting both them and
12 the City, based upon the law.
13 I'm frustrated that we haven't been
14 able to move this forward and congeal it into a
15 process, and I empathize with Mr. Crawford and
16 Mr. Suever's frustrations.
17 I will approach Northwoods Neighborhood
18 Association and ask them if they would be
19 willing to contribute to making this happen, and
20 I think I will be willing to contribute, myself,
21 into the fund to making it happen. I think this
22 is an important step for our city, and I want
23 the Council to find a way to make this happen.
24 So no motion, but that's my position.
25 MAYOR JENKINS: Okay. Thank you. Will

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you put that in writing for me?
COUNCILMEMBER BATES: Yes, sir.
MAYOR JENKINS: All right. Thank you.
Do you have anything, Chuck, right quick like?
CAPTAIN ATKINSON: I just need to present the Clerk. We had a gambling operation and a seizure. $9,799 was forfeited to the general fund. I just need to provide this check to the Clerk.
MAYOR JENKINS: Very good.
CAPTAIN ATKINSON: And all that will need to be done is pay a $60 filing fee with the District Attorney's Office.
- - -
(Applause)
- - -
MAYOR JENKINS: The next item, citizens comments, and I will start it off.
I went to the Eagles Club presentation where they give moneys to our officers for being -- we choose an officer each year. Anyway, after they finished with the officers and all, they called the Mayor up and they gave the Mayor $1,000, and I'm going to donate it to the

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Mr. Seigler, who is our medic in the Police Department. He needs a lot of equipment, and he has run up in some situations lately that he didn't have all the equipment he needs. So I'm going to designate the $1,000. Rhonda is putting it into a special fund for that, to update his oxygen tanks and everything like that.
He stabilizes people until the medics get there, and he stabilized one person last week and also one the week before until the medics got there. So it'll be well worth that. So I just want to tell the Council that I personally gave that money to -- it'll be put in a fund, not go directly to Mr. Seigler but to buy materials to bring his vehicle up to date.
- - -
(Applause)
- - -
MAYOR JENKINS: Who's first? Citizens comment.
MS. ROLLINS: I have one question.
MAYOR JENKINS: Microphone, please.
MS. ROLLINS: Linda Rollins, Oakcliff Estates.

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On the hiring of the accountant/ financial director, you have said -- but I do have a question. No matter how fast or slow you go with the process, is this person going to have a background check? And I really would like this person to have a credit report check. Is that a possibility? But most of all, the background check.
MAYOR JENKINS: That's already required. Nobody comes here without a full background check.
MS. ROLLINS: Full background check.
MAYOR JENKINS: That's right.
MS. ROLLINS: At the State, we even have to have a credit report to hold a State purchasing card. So that wouldn't really be too much for me, but definitely the background check.
COUNCILMEMBER SPANGLER: I'd like to ask you, Ms. Rollins, how long does it take for the State to do their background check?
MS. ROLLINS: I am not sure how long it takes. It is a process that they're going through now. If you currently have a purchasing card, you have to have a background check, you

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don't have to have the credit check. But if you're asked to start having a State purchasing card, they require you to have both. But I don't know how long the process takes.
COUNCILMEMBER SPANGLER: Could you please find out what length of time it would take to have a background check?
MS. ROLLINS: Okay. Because anybody working with finances, if they're having personal finance problems or, you know, in place, I think that could lead to --
COUNCILMEMBER SPANGLER: I think you're a hundred percent --
MS. ROLLINS: -- some questionable things. Not that every person would, but I still believe that it's important. But definitely I want the background check to be done.
COUNCILMEMBER SPANGLER: I agree with you.
MS. ROLLINS: Thank you.
ATTORNEY WEED: The person will have to be bonded. It's a bondable position.
MAYOR JENKINS: Who's next?
MS. FRAYSSE: I just want to make an

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1 open invitation. Tomorrow at 2 o'clock, the
2 ordinance-enforcement Quality of Life cases are
3 heard over in the building that looks like a gym
4 but it's really a courthouse. There's three
5 courtrooms, and when you walk in, you look for
6 where Officers Martin and Morrow are trying
7 their cases. And if you want to hear how
8 effectively we're pursuing ordinance enforcement
9 -- and I've been very impressed with it so far.
10 It's very interesting. Sometimes you learn more
11 about your neighbors than you want to know.
12 MAYOR JENKINS: Tom?
13 MR. HART: Tonight you talked about the
14 Boxing Club. It took about 10 minutes to offer
15 a contract to someone. Didn't ask any questions
16 as to how much, who, where, what and why. It
17 took us six months and we still haven't done
18 anything about a hot dog stand.
19 MAYOR JENKINS: Tom, wait --
20 MR. HART: We complain --
21 MAYOR JENKINS: Wait just a minute.
22 MR. HART: What?
23 MAYOR JENKINS: The hot dog stand is
24 settled. We're waiting on the gentleman to move
25 in.

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1 MR. HART: Well, six --
2 MAYOR JENKINS: We've got a contract --
3 MR. HART: Six months, but --
4 MAYOR JENKINS: -- ready for him.
5 MR. HART: -- the Boxing Club took 10
6 minutes. Nobody asked any questions who the guy
7 was and what his finances were, how he was going
8 to do what, where or why. Boom, done; 10
9 minutes.
10 There's a double standard that goes on
11 in this city. It's the private government and
12 the public government.
13 The I.T. contract, we've complained
14 about that for months. But we have an I.T. --
15 somebody servicing the I.T. contract. Don't
16 know who it is. Didn't go out for bid.
17 The jail building. We're subsidizing
18 Johns Creek that was written up as the richest
19 city in the state of Georgia. And the City of
20 Doraville is subsidizing, and we don't know how
21 much it costs us to do anything about the jail.
22 They're building onto the jail. We
23 have a design. Was that out for competitive
24 bid? How much does it cost? Who's doing it,
25 when, where and why?

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1 We don't know, because that's the
2 private government. That has nothing to do with
3 the public.
4 They sign off -- this GDOT thing across
5 the street. Every other contractor is required
6 to get signed off within 500 feet of a public
7 road, but the City of Doraville doesn't have to
8 have site plans, doesn't have to be signed off,
9 doesn't have to do any of it.
10 The City of Chamblee, because you can't
11 make a left-hand turn coming out of the Wal-Mart
12 is because they didn't get signed off by GDOT
13 and they wouldn't allow that because of the
14 traffic queue to make left-hand turns coming out
15 of the Wal-Mart. That's the reason why.
16 The PIP agreement between the Mayor and
17 his assistant was never signed. Again, that's
18 the private government versus the public govern-
19 ment.
20 It's like why are we still using Chuck
21 Entsminger's stamp to approve plans in the city
22 of Doraville? He hasn't worked here in six
23 months.
24 COUNCILMEMBER SPANGLER: Is that legal?
25 MR. HART: It's not legal, but the City

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1 of Doraville doesn't have any problem with it.
2 So when's this government actually
3 going to be run as a public entity instead of
4 this little private old boys' club and girls'
5 club you got going on?
6 Thank you.
7 COUNCILMEMBER FLEMING: Are we building
8 a building?
9 MAYOR JENKINS: Excuse me?
10 COUNCILMEMBER SPANGLER: Are we
11 building more onto the jail?
12 MAYOR JENKINS: There is a building
13 being built. It's been building for quite some
14 time, and it was brought to this Council that it
15 was going to happen.
16 UNIDENTIFIED SPEAKER: Where's the bid?
17 COUNCILMEMBER SPANGLER: What building
18 is that, Mayor? Do you remember, do you recall?
19 MAYOR JENKINS: Should be the new
20 evidence building.
21 Anymore comments?
22 Yes, sir.
23 MR. NOONAN: John Noonan. In regard to
24 the Central Avenue sidewalk, I'm all for using
25 grant money or other government money, stimulus

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money, whatever, but I'm dead set against spending $150,000 of City money on a County right-of-way. Thank you.

MAYOR JENKINS: Thank you. Anybody else?

COUNCILMEMBER FLEMING: I want to comment on something.

MAYOR JENKINS: Go ahead.

COUNCILMEMBER FLEMING: Mayor, I would like you to thank the Public Works Department for putting up the memorial crosses. My father is one of them. And I thank you very much for doing that for this weekend.

MAYOR JENKINS: My brother will be one of them this year, too.

So Maintenance does a wonderful job on that, and anybody that lives in Doraville that don't have a cross up there, let us know. We've still got three or four days to do it.

So I want to thank the Council for working together tonight. And some of the comments that come in from certain people up here are certainly unwarranted, and I'm getting a little sick of it, and I certainly do hope that this Council is getting tired of it.

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We are elected here. Certain people in this audience is not elected. The people elected us to make decisions up here, and we do the best we can, and I think this Council does a wonderful job. And some of the comments are just completely out of order, and I don't have to mention any names.

Motion we adjourn?

COUNCILMEMBER PITTMAN: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER BATES: 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?

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COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: Meeting adjourned.

- - -

(Whereupon, the meeting was adjourned at approximately 9:45 p.m. the same day.)

-o0o-

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C E R T I F I C A T E

E OF GEORGIA]

TY OF DEKALB]

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 28th day of May, 2009.

_____

Theresa Bretch, CCR

Permit No. B-755

[SEAL]

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