In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

October 5, 2009

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the proceedings held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 7:00 p.m. on Monday, October 5, 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
Ms. Rhonda Blackmon, City Clerk
Murray J. Weed, City Attorney

P R O C E E D I N G S

MAYOR JENKINS: 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: Okay. Appreciate everybody coming out tonight.
I need to get some minutes approved.
I'd like to get the minutes for 8/24/09. Do I have a motion?
COUNCILMEMBER PITTMAN: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: 8/31/09. Motion?
COUNCILMEMBER ALEXANDER: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER FLEMING: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER SPANGLER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.

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CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: 9/8/09, please. Motion?
COUNCILMEMBER PITTMAN: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER ROCHE: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: 9/8/09, special-called meeting. Motion?
COUNCILMEMBER FLEMING: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER ROCHE: Second.
MAYOR JENKINS: Call the roll, please.

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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: First item I have is I have a proclamation on National Breast Cancer Awareness Month of October.
National Breast Cancer Awareness Month, NBCAM, educates women about the importance of early detection of breast cancer. Since NBCAM's inception, mammogram use has doubled and breast cancer death rates have declined. Still, many women do not utilize mammograms at regular interval.
In recognition of the fact that mammograms are the best available method of detecting breast cancer that may be cancer long before physicians, symptoms can be seen or felt, and that breast cancer

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deaths could decline further if all women age 40 and older receive mammograms at a regular interval, I, Ray Jenkins, Mayor of the City of Doraville, do hereby proclaim October as Breast Cancer Awareness Month. I urge all women and their families in Doraville to get the facts about mammograms.
Do we have to have a motion on that?
MR. WEED: Yes, sir.
MAYOR JENKINS: Okay. Do I have a motion that we proclaim National Breast Cancer Awareness Month October in the city of Doraville?
COUNCILMEMBER SPANGLER: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.

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CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: Thank you. I appreciate that.
Cleaning service. We will be -- we have put out RFPs for a cleaning service. Just thought that I would make everybody aware of that. We're going to put it out for RFPs, and so we'll have people come in three times a week rather than have somebody here all the time. We only have four buildings left, and that's one of the reasons we did that.
COUNCILMEMBER FLEMING: Is the RFP on the web site, sir?
MAYOR JENKINS: Yes.
COUNCILMEMBER FLEMING: Thank you.
MAYOR JENKINS: They were supposed to put it on there this afternoon.
CLERK BLACKMON: I'll double-check. Since he's not here, I'll ask him in the morning.
MAYOR JENKINS: Murray, will you take this one, the property use?
MR. WEED: Yes, Mr. Mayor. Are we on item 4?
MAYOR JENKINS: Property use hold --
MR. WEED: I didn't hear.

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1 MAYOR JENKINS: -- harmless and indemnity
2 agreement.
3 MR. WEED: Oh, thank you. I'm sorry.
4 That's not on the copy of the agenda I've got.
5 The Pan Asian Community Services group, they
6 have gotten permission from Georgia DOT to utilize
7 part of the roadway for the 2009 Tea Walk event. Part
8 of the permission with Georgia DOT was that the City
9 of Doraville would indemnify Georgia DOT for anything
10 that might occur during the walk.
11 As all of you know, it's my professional
12 opinion that technically the City can't actually do
13 that. I think there's a case in point that clearly
14 says we are not allowed to indemnify anybody. And
15 also, in addition to that, it's my position that
16 clearly the burden of the indemnification really ought
17 to rest on the Pan Asian Community Services group
18 rather than on the City since they're the group that's
19 sponsoring and going to be performing the walk.
20 In addition to that, the Pan Asian group has
21 asked the City to use part of our property to marshall
22 for their walk and gather people and to provide cones.
23 I think we certainly could do this, and I've
24 essentially drafted a very short agreement that sets
25 these things out formally to cover that with

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1 paperwork.
2 MAYOR JENKINS: Do you need a motion on that
3 or do we just need to get them to sign it?
4 MR. WEED: Well, I need the Council to
5 approve it if you want to do that, and then we get
6 them to sign it.
7 MAYOR JENKINS: We've always done it, and
8 it's never been any real problem.
9 MR. WEED: Yes, sir. And I'm sure it won't
10 be this year, but I wanted to make sure that the path-
11 way was clear legally.
12 MAYOR JENKINS: Okay.
13 COUNCILMEMBER FLEMING: Has the date been
14 set for the Tea Walk for this year?
15 MAYOR JENKINS: It's Wednesday, isn't it?
16 UNIDENTIFIED SPEAKER: It's Saturday.
17 UNIDENTIFIED SPEAKER: Saturday.
18 MAYOR JENKINS: Saturday. Yeah. Okay.
19 Do I have a motion?
20 COUNCILMEMBER BATES: So moved.
21 MAYOR JENKINS: Do I get a second?
22 COUNCILMEMBER PITTMAN: Second.
23 MAYOR JENKINS: Anymore discussion on it?
24 COUNCILMEMBER ROCHE: Just so I got this
25 clear, you're saying that your advice is that we can't

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1 really do this but we're going to do it anyway.
2 MR. WEED: No, sir. No.
3 My advice is that Georgia Department of
4 Transportation, in their permit to the Pan Asian
5 Community Center, wanted -- before the Pan Asian folks
6 were allowed to utilize the streets, they wanted the
7 City to indemnify the State. My opinion is we can't
8 do that, but we could certainly have Pan Asian
9 indemnify us and the State, which is what this
10 document does.
11 COUNCILMEMBER ROCHE: I see. Thank you.
12 MAYOR JENKINS: It'll just hold us harmless
13 of any liability --
14 MR. WEED: That's correct.
15 MAYOR JENKINS: -- and the DOT.
16 MR. WEED: That's right; correct.
17 MAYOR JENKINS: Okay. Anymore discussion?
18 - - -
19 (No response)
20 - - -
21 MAYOR JENKINS: Call the roll, please.
22 CLERK BLACKMON: Councilmember Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK BLACKMON: Councilmember Bates?
25 COUNCILMEMBER BATES: Yes.

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1 CLERK BLACKMON: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BLACKMON: Councilmember Pittman?
4 COUNCILMEMBER PITTMAN: Yes.
5 CLERK BLACKMON: Councilmember Roche?
6 COUNCILMEMBER ROCHE: Yes.
7 CLERK BLACKMON: Councilmember Spangler?
8 COUNCILMEMBER SPANGLER: Yes.
9 MAYOR JENKINS: Thank you. That'll be
10 signed by me and of course them; is that correct?
11 MR. WEED: Yes, sir.
12 MAYOR JENKINS: All right. Next item on the
13 agenda. I put zoning change on here with a big
14 question mark. I don't believe we've had enough time
15 to think about the meeting that we had recently, which
16 was on October the 1st, to really go into whether we
17 want to do a zoning change or hold off until we get a
18 buyer or whatever.
19 I just brought this up for the Council to
20 give some guidance on what we should do on that.
21 I personally believe that we haven't had
22 enough time to think about it and we haven't got all
23 our sheets in from the people that didn't get a chance
24 to speak. I have one here that came in today.
25 Did you get any more today on it?

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CLERK BLACKMON: I have not.
MAYOR JENKINS: Okay. So --
COUNCILMEMBER ROCHE: I --
MAYOR JENKINS: -- that is --
Go ahead.
COUNCILMEMBER ROCHE: Yeah. I think the whole point was consider doing the process of advertising for a public hearing to look at a potential zoning change for this property so that we could zone it kind of like a holding zoning classification so that --
We may not necessarily know what we want. I think we do, actually. But even if we don't necessarily know what we want, I think the message was loud and clear last Thursday what we don't want.
And one possible strategy here for us to do would be to change the zoning or even create a new classification or whatever to zone that property in such a way that at least we maintain some sort of control over it. Because as Attorney -- well, as was mentioned before, there's a lot of things that are allowed under I think it's zone M-2, that we probably wouldn't want to have, such as adult entertainment, garbage dumps, that sort of thing. I'm not saying that's exactly what would happen, but can't be too

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careful, particularly with what's going on out there.
MAYOR JENKINS: Okay. Just do more research?
COUNCILMEMBER ROCHE: Just starting the conversation.
COUNCILMEMBER FLEMING: I think we should move forward with advertisement of a zoning change for that particular property, because the way that our zoning law is right now is that we do have to have it advertised 15 days -- no greater than 15 days before the actual meeting; correct?
MR. WEED: No more than 15 -- Pardon me. No more than 45, no less than 15.
COUNCILMEMBER FLEMING: Okay. So that's going to put us into November, anyway.
It'll be the last of November, correct, Mr. Haeberlin, or is that agenda already full?
MR. HAEBERLIN: I'll take a look at it.
Obviously, it's going to the Planning Commission first. Those rules of advertisement apply to the Mayor and Council, but of course we'll have to be taking this to the Planning Commission first. And whatever agenda is available, it will probably be the November agenda.
COUNCILMEMBER ROCHE: Well, we can always

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schedule it before then if we wanted to. We could have just this one thing and schedule a specific meeting just for this zoning.
MR. WEED: Correct.
MR. HAEBERLIN: That's correct.
MR. WEED: As long as we --
COUNCILMEMBER ROCHE: I think that --
MR. WEED: As long as we run the ad, you're absolutely right.
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER BATES: When you run the ad, do you have to stipulate what the zoning is changing to?
MR. WEED: Well, the -- the answer to the question would be yes, in my opinion.
However, you have every right -- when you actually have the hearing and you hear evidence, you could make whatever decision you wanted to make at that point.
So you could have a placeholder concept of what you wanted the zoning to be, but when you actually got to the meeting, you could do something completely different.
COUNCILMEMBER BATES: Thank you.
MR. WEED: The purpose of the ad of course

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is to, you know, provide the public and the world some due notice of the meeting, so if they have something to say, they can come and participate.
COUNCILMEMBER BATES: Thank you.
COUNCILMEMBER ROCHE: So what's the earliest schedule we could do this to advertise both for the Planning Commission and then for our regular Council meeting?
MR. HAEBERLIN: I'm saying we do it in the month of November. Of course the Council will need to entertain a special-called meeting outside of the fourth Monday. Excuse me. In November, it's the fifth Monday due to the holiday. So it'll have to be some other week outside of the general schedule.
COUNCILMEMBER ROCHE: Well, right now is the 5th, so if we advertise 15 days out, that would take us to I guess the 23rd or 27th.
When is your normal Planning Commission meeting?
MR. HAEBERLIN: Well, they're meeting this week. So in other words, they already have their agenda set. They already have --
COUNCILMEMBER ROCHE: Well, I understand that.
MR. HAEBERLIN: -- their reports.

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MAYOR JENKINS: The next one is when?
COUNCILMEMBER ROCHE: Would be probably the first part of November.
MR. HAEBERLIN: The Thursday after your first regular Monday meeting in November.
COUNCILMEMBER ROCHE: So that would be the 5th of November.
And then how much time has to go after that? Anything? I mean --
COUNCILMEMBER FLEMING: The following Monday; correct?
MR. WEED: Yeah. With regard to the Planning Commission, the Planning Commission doesn't have to run an ad --
MR. HAEBERLIN: Correct.
MR. WEED: -- because they don't -- they're not the final decision-maker. So if they wanted to, they could call a special-called meeting tomorrow and hear it --
COUNCILMEMBER ROCHE: Uh-huh.
MR. WEED: -- because they don't have any final authority.
So the advertisement requirement only applies to the Mayor and Council. So whenever Scott could get the ad in -- and I don't know what the days

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are, what the paper's cut-off period is, but 15 days after that, you could have the hearing.
COUNCILMEMBER ROCHE: Okay. Because I'd like to hear what the Planning Commission -- I mean I know they do a lot of research on all this stuff, and hearing their recommendation on what to do next would be, I think, valuable.
But what I'm saying is instead of waiting till the end of November, I think if we could fast-track this or at least schedule --
I'm fine with coming in for a special-called meeting on this. I think it's that important. I don't know what the rest of the Council . . .
I'm just saying as soon as we can schedule the thing legally and get the show on the road, basically.
MR. HAEBERLIN: Let me get with The Champion.
What designation would you folks like for me to advertise? M-2 to what? We don't have PUD in our ordinance so we cannot advertise that.
MR. WEED: Mr. Haeberlin and I have discussed this between ourselves as staff members on a number of occasions, and right now, I think he's convinced me that perhaps a C-1 type zone might be

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appropriate.
Please bear in mind that what we're talking about would really literally be a placehold. I think ultimately -- the people who attended the workshop and the Georgia Tech visioning session, the ultimate concept would be some form of mixed-use development, ultimately.
We might want to have an opportunity to have a developer participate in that process to make suggestions along and along. But I think at a minimum it would probably be C-1, and then if you wanted to go further, we could implement some sort of mixed-use zone and perhaps one that doesn't exist yet.
I've been through this before, as you know, with the City of Hapeville and the Ford plant property, and what they did there was they zoned it what they call village. They created a new type of zoning that essentially was a mixed-use zone.
But for the immediate time, perhaps a C-1 zone might be appropriate, and that would be based upon the recommendation of the Planner which I concur with. I also as your counsel would be satisfied doing some sort of mixed-use zone, but I think Scott's presented some good reasons to me that C-1 might be appropriate.

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COUNCILMEMBER ROCHE: Seems reasonable for the moment, C-1. Large football stadiums are not an allowed use in C-1 at the moment.
MR. WEED: At the moment.
COUNCILMEMBER ROCHE: So what would our date be, then?
MR. HAEBERLIN: Let me get with The Champion and I'll notify the Council by e-mail. I need to get with the head of the Planning Commission as well.
COUNCILMEMBER ROCHE: I'm doing all the talking here.
MR. HAEBERLIN: And then I do want people to be aware, since this is a City-initiated rezoning, there will not be a sign placed on the property, in case we start getting those questions coming forward.
COUNCILMEMBER PITTMAN: There will not be a what?
MR. HAEBERLIN: There will not be a sign placed on the property.
COUNCILMEMBER SPANGLER: Mr. Roche, I think everybody's in agreement with you; we need to act quickly on this subject.
COUNCILMEMBER ROCHE: Well, I'll make a motion that we have the City Planner advertise as early possible City-initiated rezoning of the GM

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1 property from M-2 to C-1 and then schedule the meeting
2 as soon as practical.
3 COUNCILMEMBER ALEXANDER: Which will
4 probably be multiple parcels; correct?
5 MAYOR JENKINS: Do I get a second on it?
6 MR. HAEBERLIN: I'll have to --
7 COUNCILMEMBER SPANGLER: Second.
8 MR. HAEBERLIN: -- look at the tax --
9 MAYOR JENKINS: Discussion?
10 I got one sign-up on this also. Stuart?
11 MR. ANDERSON: Thank you. Stuart Anderson,
12 Doraville.
13 I approve of a place-holding zoning change
14 happening as soon as possible. What I stood up and
15 said last Thursday night at the visioning meeting was
16 concerning the creation of a PUD, Planned Unit
17 Development, for the City to put back into the zoning
18 a sophisticated set of PUD plans as well as archi-
19 tectural standards.
20 I urge you to parallel this C-1 change with
21 initiation of starting to discuss and possibly use the
22 PUD zoning materials that we got from Pond that we
23 paid $100,000 for. We have a chapter. We should give
24 that to the Planning Commission or we should start
25 discussing that in parallel, getting that going and

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1 into the book so that the C-1 is just a placeholder
2 for the limited period of time and we can then get
3 into a proper qualified PUD zoning, which is what that
4 area needs. It should have been there before H Mart
5 was there. We would have gotten more of what we want,
6 et cetera.
7 Thank you.
8 MAYOR JENKINS: Thank you.
9 COUNCILMEMBER FLEMING: Thank you.
10 MAYOR JENKINS: Anymore discussion at the
11 table?
12 - - -
13 (No response)
14 - - -
15 MAYOR JENKINS: Call the roll, please.
16 CLERK BLACKMON: Councilmember Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK BLACKMON: Councilmember Bates?
19 COUNCILMEMBER BATES: Yes.
20 CLERK BLACKMON: Councilmember Fleming?
21 COUNCILMEMBER FLEMING: Yes.
22 CLERK BLACKMON: Councilmember Pittman?
23 COUNCILMEMBER PITTMAN: Yes.
24 CLERK BLACKMON: Councilmember Roche?
25 COUNCILMEMBER ROCHE: Yes.

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1 CLERK BLACKMON: Councilmember Spangler?
2 COUNCILMEMBER SPANGLER: Yes.
3 MAYOR JENKINS: Murray, item number 4.
4 MR. WEED: Yes, Mr. Mayor and members of the
5 Council. Your packets are not missing anything.
6 Although I have about a 90 percent completed draft of
7 the Alcohol Beverage Ordinance that you've asked me to
8 kind of revise, as you know, we've had a number of
9 other more pressing issues before us of late.
10 I will finish that draft this week, and
11 you'll have it to consider for a first reading at your
12 next meeting.
13 MAYOR JENKINS: Thank you.
14 COUNCILMEMBER ROCHE: Don't we have to still
15 schedule those hearings for the people that were . . .
16 MR. WEED: We do. I'm very mindful of that,
17 too.
18 MAYOR JENKINS: Item number 5, Pam.
19 COUNCILMEMBER FLEMING: So number 4 is going
20 to be postponed until the next meeting or --
21 MR. WEED: It --
22 COUNCILMEMBER FLEMING: -- a date certain?
23 MR. WEED: Yeah. It was not actually on the
24 agenda for passage or compliance. I just wanted to
25 give a report on it.

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1 COUNCILMEMBER FLEMING: Yes, sir. Item
2 number 5 is mine, and it's City-initiated rezonings
3 and my concern for City-initiated rezonings. I feel
4 that the City -- or the ordinance is lacking a policy
5 or a procedure for City-initiated rezonings and also
6 for map amendments.
7 Our map has been changed throughout a number
8 of years, and at some point in time, some of the
9 properties that are presently in the city may be zoned
10 correctly but our map's wrong. But yet we're looking
11 at the map and then we're going back to the property,
12 saying, well, you now should be this because that's
13 what our map says.
14 Now, whether our map's wrong or whether
15 their property is incorrect, it's hard to tell,
16 actually. You can go to the tax base, Dekalb County
17 tax base, and that would be a first indicator.
18 The illustration that I want to bring to
19 light this evening as an example is 3897 Flowers Road,
20 Mr. Webb, Donald Webb. He bought his property in 1965
21 as a residence. I tried to go back to find a map back
22 in 1965. I was unsuccessful. However, I found some
23 minutes from May of 1965, and it indicated that the
24 City had initiated a contract with Tomberlin (ph)
25 Associates dated April 22nd, 1965, for them to update

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1 the zoning map, and the cost was not to exceed $1500.
2 I cannot find in my research here a zoning map for
3 1965 for me to be able to prove or not prove my point
4 at this time.
5 Mr. Webb's property, he purchased it as R-1
6 in 1965. It came to light that he was C-1 now, based
7 on the map, when he put up a permitted sign for a yard
8 sale and our Qualify of Life officers told him that he
9 was not allowed to have a yard sale in C-1 property.
10 In speaking to Mr. Webb, he indicated that
11 his taxes went up three years ago, so that's sort of
12 an indicator for me. And I tried to get with Dekalb
13 County in regards to their tax digest as to when it
14 might have changed from R-1 to C-1 based on what their
15 records are, and they weren't able to help me on that.
16 But he indicated that his taxes went up
17 drastically three years ago, so it appears to me --
18 and like I said, appears to me -- that he had been
19 paying R-1 property taxes up until three years ago
20 when possibly when we were doing a lot of the zoning
21 book changes, map changes and so forth, that it might
22 have been changed at that time. I don't know.
23 But my point is in City-initiated rezonings
24 -- and Mr. Weed can clarify this if I'm speaking
25 incorrectly -- that City-initiated rezonings do not

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1 require -- the only thing that it does require is an
2 advertisement in the newspaper. Doesn't require a
3 sign; it doesn't require us to even contact the owner
4 of the property that we are rezoning.
5 And just recently we did that for two
6 parcels and we did not contact the owner of a specific
7 property, that was an actual resident. Should have
8 been R-1, but on our map it said O&I. Also the
9 Pebblewood or Pebble Creek Apartments; the way it was
10 zoned was incorrect. There are other areas in our
11 city that are zoned incorrect either based by on the
12 map or based on what the Dekalb County tax base is.
13 I don't want to see us getting to a point
14 where we are initiating rezonings and not notifying
15 the owner of the property. And I really feel that we
16 need to have a policy in place to have a certified
17 return-receipt-requested letter sent to the owner of
18 the property if we want to do a City-initiated
19 rezoning. Then we have something on file showing that
20 they've received the letter that we're attempting to
21 rezone their property, so that they can come to the
22 public hearing. So that's what I'm trying to do at
23 this point.
24 I don't want to get us to the point where we
25 may be considered taking someone's property without

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1 them knowing.
2 Did I state that correctly, that that's the
3 only thing that we have to do is put it in the news-
4 paper?
5 MR. WEED: Correct. The statute 36-66-4
6 clearly holds that if it's a city-initiated rezoning,
7 you are required to run the advertisement in the news-
8 paper.
9 COUNCILMEMBER BATES: What is the downside
10 aside from your mousetrap analogy of notifying a
11 property owner that the City is, via certified mail,
12 planning a City-initiated rezoning of their property?
13 MR. WEED: Well, we as a group have talked
14 about this on numerous occasions. It has been and
15 will remain my opinion that I think this is a mistake.
16 The Councilman has articulated a number of
17 important points, and I certainly think her thought
18 process and her heart are in the right place, but the
19 legislature wrote 36-66-4 to provide the basic
20 requirements for what they felt legislatively would be
21 appropriate and accurate due process -- the notice.
22 If you add more to it than that, you are adding more
23 opportunity for failure. You are adding more oppor-
24 tunity for mistakes. You are adding more opportunity
25 for a failure of due process under your own Code, and

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1 you will be sued over it eventually and I'll have to
2 defend you over it.
3 Whenever you have a more elaborate process,
4 particularly when it's one that you're not required to
5 do, you have more opportunity and likelihood of
6 failure of that process.
7 COUNCILMEMBER BATES: Well, let's take the
8 certified letter off the table. Why can't we treat a
9 City-initiated rezoning like we treat any other
10 rezoning with the signage in front of the property? I
11 understand our minimum requirement is a legal notifi-
12 cation, a legal advertisement in The Champion, but why
13 can't we in good faith take that extra step like any
14 other property owner who is seeking a rezoning and put
15 up a public notification?
16 MR. WEED: Well, there's always two
17 questions. One is what can you do, and what should
18 you do.
19 You can create whatever extra due process
20 you want to. I mean you can make it as elaborate or
21 as simple as you wanted to, you know, up to the
22 minimum point. So if you want to create a situation
23 where it is required that the City put up a sign for
24 City-initiated rezonings, can you do it legally? Yes,
25 you can.

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It still remains my opinion that it's a mistake. Once again, it's creating something that you're not required to do and creating an opportunity for staff -- Staff are human beings; mistakes can be made. And if you do more than what is required by the law, you're opening up yourself to more opportunities for human beings behaving as human beings to make mistakes.

COUNCILMEMBER BATES: But we potentially could be correcting an error that doesn't need to be corrected.

MR. WEED: Well, let's go back to that for a moment, and I understand the Councilman's use of the word "error."

It is the official position of the City of Doraville unless you change it tonight, that that map is accurate; it was duly passed, it was passed underneath the laws of the state of Georgia, and that's the end of that story.

Now, you can make a determination tonight that you want to change the map again to some other zones so each lot reflects some other category. You've got every legal right to do that. But until you make a decision that the map is in error, the map is correct. So there's the basis of that.

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COUNCILMEMBER BATES: Okay. Well, let's go into that premise.

MR. WEED: It's not a premise. That's a statement of fact.

COUNCILMEMBER BATES: Let's go into that statement of fact.

MR. WEED: And no lawyer who represented a city is ever going to say publicly or otherwise that the map that you adopted was adopted incorrectly; and I know firsthand in this case it was not.

COUNCILMEMBER BATES: Is it possible for the company who prepares the map to incorrectly mark a parcel of land one zone when it should be or it was previously noted as another without going through a legal zoning process?

MR. WEED: That's entirely possible; however, it's completely irrelevant. And the reason why it's irrelevant is we literally have a physical map that's located in the City Clerk's office right now. We can go get that map. We can bring it in this room. In fact, that very same map was in this very same room. All of you had an opportunity to look at it, and you voted on that exact map. The City seal is on it, the Mayor's signature's on it, my signature's on it and so is the Clerk's. That is the map. And

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what is on the map, whatever is on the map, is accurate --

COUNCILMEMBER BATES: I -- I --

MR. WEED: -- and legal.

COUNCILMEMBER BATES: I hear you and I --

MR. WEED: I understand you hear me, but you don't seem convinced.

COUNCILMEMBER BATES: My issue is this. On October 1, we have a map that has been voted on and approved by the City. On October 2, we get a new map that has been presented by Keck & Wood or by some entity who has redesigned the map. Are you saying, then, that we have a responsibility of going through parcel by parcel and comparing each map one to one and verifying that each change that is done from map A to map B was done through a legal rezoning?

MR. WEED: No, but you have staff to do that and you have competent staff who did that type of work. You've got competent people to make sure that the maps are accurate.

And the most important thing is legally the map could have been drawn by a one-legged monkey who'd had a fifth of gin, but if the Council adopted it and you followed the right procedure, that is the map.

And please also bear in mind that you

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haven't taken away anybody's legal rights at all. If you rezone their property, whatever they were doing the day before you rezoned it they could continue to do ad infinitum. They've got a legal nonconforming use. So you've taken nothing from them.

COUNCILMEMBER BATES: Except to have a garage sale.

COUNCILMEMBER FLEMING: Well, no, no, no. I need to insert a few comments here. He could no longer live there. He's had to vacate his property and now he's living in an apartment.

MR. WEED: Well, now, that is -- if that occurred, that's not accurate. If a person is living in his property, he had every right to continue to live there if it was zoned before. When he was living in the property as it was zoned R-1, that person can continue to live in that property.

COUNCILMEMBER FLEMING: But I --

MR. WEED: That person can even sell their property to somebody else.

COUNCILMEMBER FLEMING: But I can't prove -- I've gone back as far as I can, and I can't prove, to help this person or anybody else. That's why I think it was a City-initiated rezoning. Or maybe not; maybe just a correction of a map here and there -- is that I

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1 can't prove that it was R-1. But typically, those
2 houses on Flowers Road were built in the late
3 '50s/early '60s, so it was R-1. We may not even have
4 had a C-1 at that point, you know. So that's my
5 comment.
6 Also to discuss the map, I called Keck &
7 Wood, and to be honest, I didn't write down the other
8 -- other map that we've utilized. They don't do
9 parcel by parcel. They do aerial, as to aerial
10 configurations as to what the city is right now today,
11 and they plug in what the zone is. Okay. So they're
12 looking down here like this (gesturing). It's not as
13 if they're, you know, going parcel to parcel to
14 indicate that, well, that really is a home or that's
15 really a business. So I have a little bit of question
16 about that, too. I mean I'm sure that's probably the
17 way that they -- that all map companies do it.
18 However, I'm just really concerned about
19 City-initiated rezonings when we're talking about,
20 well, not just residential; all of them, actually.
21 And I don't see -- because it's singular and we're
22 talking about the one parcel, I don't think that it's
23 necessary that we put up a sign like you were
24 mentioning, but I think we're obligated morally to let
25 the owner know that we're getting ready to do

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1 something with their property.
2 MR. WEED: I certainly respect that.
3 There is a statute that clearly says that
4 ignorance of the law is no excuse. All these meetings
5 are duly advertised. They are required to be
6 advertised. The Zoning Procedure Act requires it to
7 be advertised. So the world has been put on notice
8 that a certain property, you know, is going to be
9 considered for a zoning change. And that's been done
10 at least in every case for the last two years. Before
11 that, I can't -- I don't know what happened.
12 So we've complied with the law, and as long
13 as Mr. Haeberlin and I are here, we're going to keep
14 complying with it.
15 COUNCILMEMBER BATES: But we require an
16 applicant -- we do over-and-above for an applicant.
17 For an applicant rezoning, we post a sign on the
18 property; is that correct? Is that required by our --
19 MR. WEED: That's required by law.
20 COUNCILMEMBER BATES: Right.
21 MR. WEED: If an applicant -- An applicant
22 would have to -- We'd have to run the ad for the
23 applicant, and they would have to place a sign. We
24 would place a sign on the property for them. That is
25 required by law.

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1 COUNCILMEMBER BATES: Why can't we treat
2 ourselves like the applicant?
3 MR. WEED: I think that's a very dangerous
4 road to begin going down, and the reason why that is
5 is that there's -- there is no end user. The end user
6 is the entirety of the public.
7 It's the same philosophy as to why local
8 governments are not required to follow their own
9 building codes, they're not required to -- you know,
10 they're not required to comply with everything that
11 citizens are required to comply with.
12 And the basic idea behind that is that
13 there's no one to pass the cost of that on to except
14 the citizens, by increased taxes. If you are a
15 private developer building a building, then you get to
16 pass on those costs to the ultimate purchaser, to the
17 end user. Here, the ultimate purchasers and end users
18 are essentially the taxpayers.
19 So once again, more process, more due
20 process means more expense. So by analogy, none of
21 the state laws and the Georgia constitution don't
22 require that the government legislate that burden onto
23 itself. Can you imagine if we had to follow our own
24 code, for example? Mr. Haeberlin or myself would fill
25 out a form, I'd hand it to myself or Mr. Haeberlin,

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1 I'd go to the Mayor and get a check request to get the
2 fees to pay Mr. Haeberlin or the Mayor -- the City,
3 essentially. It would go on and on, and it would be
4 illogical to do that. It would be a waste of the
5 people's time and money. So that's why we don't put
6 those burdens on ourselves.
7 COUNCILMEMBER ROCHE: Well, by your logic, I
8 mean, you said that just because we don't have to do
9 something -- How did you say that again? We don't
10 have to do it so --
11 MR. WEED: There's always "can" and there's
12 "should."
13 COUNCILMEMBER ROCHE: Right.
14 MR. WEED: In my opinion, you know, can you
15 do it? Absolutely. You've got every right to do it.
16 But should you do it? You know, it's my opinion that
17 it's -- it's a procedural mistake and that trouble
18 will come from it. That's my professional opinion
19 based upon my 20 years of experience doing this.
20 COUNCILMEMBER ROCHE: I'd just say that as
21 far as the logic, I mean according to the Charter, I
22 only have to show up once every five Council meetings
23 and I can stay on the City Council. So legally,
24 that's all I got to do. Legally, that's the minimum I
25 have to do is show up at one every -- every fifth

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meeting, show up, and here I am present, and I can stay on the Council. You know, that doesn't mean that that's the right thing to do, though.

Whether there's a sign in the yard or a certified letter, I think that notifying someone if you're going to change someone's --

I mean how many people here read The Champion every month, every week, you know?

COUNCILMEMBER PITTMAN: So --

COUNCILMEMBER ROCHE: All of the little -- Okay.

COUNCILMEMBER PITTMAN: How many of these do we do? How many of these do we do, Mr. Haeberlin?

MR. HAEBERLIN: I would definitely like to address this.

I mean the discussion about the property on Flowers Road, that's a gross misrepresentation. That gentleman has had a business license for running a business in that home and has benefited from having the property zoned commercial, has pulled building permits from the City as commercial. Okay? So that -- in that particular situation, what the resident is telling you and what is fact is far from the situation.

We've not done many City-initiated

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rezonings. In fact, I don't think that there's more than five to seven inconsistencies left on the map, and that's the word I'm going to use for lack of a better term. So there's still a few things that I think the City will need to do City-initiated rezonings.

Thus far, we've only done, to my knowledge, seven. And that's because I was asked to look at the map and see what is on the ground and compare it to the map, and if there was a gross inconsistency, there was something there that should have never been there -- and that is the case in all these situations -- then we corrected -- again, I hate to use that word -- corrected the map to reflect existing land use.

And so in reality, when I go back and look at the oldest maps that I can find, these items have not been changing that much. And when I say that, the 1983 map is not that inconsistent from the map you have today, so there is not a lot of issues or problems out there.

However, I will say this: we have people that are living on commercial property that would like the benefit of living on commercial property but don't want to pay the taxes on it. They want a sanitation discount, they want to receive a homestead exemption.

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And so that really reflects the remaining five to seven parcels that we have. And so it's not all over the place, certainly not.

COUNCILMEMBER PITTMAN: So seven within what time?

MR. HAEBERLIN: Well, I've been here a year.

COUNCILMEMBER PITTMAN: So seven within a year, you think?

MR. HAEBERLIN: Correct. And actually I think once we get through addressing the map, you know, I don't see that we'll be doing many of these.

COUNCILMEMBER PITTMAN: So Mr. Weed, you're saying your concern is if we do a letter or whatever, that possibly out of that seven we might have missed one and that would initiate a lawsuit?

MR. WEED: Yes. It only takes one lawsuit.

COUNCILMEMBER PITTMAN: It just doesn't seem to me seven's that many to at least, in my opinion, send a letter. I mean if it was something -- if it was gross thousands, I might be concerned, but it seems to me with seven, that doesn't seem like that's that many.

COUNCILMEMBER ROCHE: And besides, they would only sue us if they didn't like what we did. Maybe they'd like what we did. So there's a 50/50

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chance there, too, so --

MR. HAEBERLIN: Well, in a lot of the cases, these properties have gone from legal nonconforming statuses to actually conforming statuses. It has -- I hate to use the word "fixed" their situation, but if I own an apartment community that's on C-2 and it was destroyed, guess what? I'm not going to be putting an apartment community back. So those are the examples of gross divergences from land use and zoning that we've had in the past. It's not been subtle.

And certainly, unfortunately, Councilwoman Fleming did not receive full information on the Flowers Road situation. It's not as onerous as what has been led to believe. It certainly isn't the case.

COUNCILMEMBER FLEMING: Well, Mr. Haeberlin, I appreciate your comments on that, and I was aware that he purchased it as an R-1 home. He was residing in the home --

MR. HAEBERLIN: With a business license --

COUNCILMEMBER FLEMING: -- with a business license.

MR. HAEBERLIN: -- which was a --

COUNCILMEMBER FLEMING: But that doesn't mean that it ought to be zoned C-1 just because he's got a home occupation.

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1 MR. HAEBERLIN: Well, the home -- barber
2 shop was not a permitted home occupation, so in that
3 respect -- So again, there's --
4 COUNCILMEMBER FLEMING: For today. For
5 today.
6 MR. HAEBERLIN: Correct.
7 COUNCILMEMBER FLEMING: But it could have
8 been --
9 COUNCILMEMBER SPANGLER: For then.
10 COUNCILMEMBER FLEMING: -- 30 years ago.
11 MR. HAEBERLIN: I -- I have not found any
12 hard-copy proof of that.
13 COUNCILMEMBER FLEMING: You know, so I --
14 you know, that's -- Though it may appear that I'm
15 misrepresenting this issue, I don't believe I am,
16 because he bought it as his residence and then decided
17 to open a one-seater or two-seater barber shop. Okay.
18 So that's a home occupation.
19 And like I said, I said in the very
20 beginning, I can't prove it. The only thing I can
21 prove is the '65 minutes that says that we were going
22 to contact Tomberlin, and they're no longer in
23 business.
24 But anyway, I just feel we could find
25 ourselves more in a lawsuit if we don't notify an

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1 individual resident. I would not want the City of
2 Doraville rezoning my home to something else and not
3 notifying me, and that's the stance that I'm --
4 MR. WEED: And I respect that.
5 COUNCILMEMBER FLEMING: And that's the
6 stance I'm going to take.
7 MR. WEED: But as your lawyer -- as your
8 lawyer -- I understand why you want to do this and I
9 respect that.
10 Liability-wise, you are better off sticking
11 with the Georgia statute that was contemplated over
12 years, that's been amended over years by the State of
13 Georgia and the general assembly. That is the law,
14 has been the law for years and is the law today. And
15 they considered all of these factors. These same
16 arguments were presented to the general assembly, and
17 they made a decision that this was notice, and this
18 was notice that was good enough, that effectuated the
19 law.
20 And in my opinion, if you create more
21 notice, you will be creating more opportunity for
22 liability. If you comply with the notice that is here
23 in the statute, you have complied with the law, and
24 there is no liability. And we've already faced these
25 issues before, and there wasn't any liability because

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1 we went by the book and we did exactly what we were
2 supposed to do.
3 I respect what you're going to do. And if
4 you're going to do this anyway over my advice, then I
5 would suggest to you that what you do is at least
6 limit it to placing a sign on the property. If you go
7 into requiring certified mail receipts, you know, once
8 again, you're going to have physical problems with
9 determining who is the owner of the land at any given
10 moment. And if you want to place your faith -- not
11 you individually but as a council -- in the Dekalb
12 County tax records, I think that would be misplaced
13 faith.
14 So if you're going to do this, then I
15 recommend the only thing you do would be require a
16 sign, but my best advice to you is not to do this.
17 COUNCILMEMBER SPANGLER: My question -- and
18 I tried to ask it several comments ago -- what can we
19 do to let this resident or this business owner or
20 whatever you want to call him move back into this
21 property and continue to operate under --
22 MR. WEED: Change the zoning back to resi-
23 dential. You can do that within 15 days.
24 COUNCILMEMBER PITTMAN: I'm kind of curious
25 because you just said --

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1 MR. WEED: Change it back.
2 COUNCILMEMBER PITTMAN: You just said he
3 wouldn't have to move.
4 But why did he move? Did someone tell him
5 he had to move?
6 COUNCILMEMBER FLEMING: It states in our
7 ordinances today that you cannot reside in a C-1 home.
8 COUNCILMEMBER PITTMAN: But you just said
9 that even so, that he would not have to move. Did you
10 not just say that?
11 MR. WEED: If he had a legal nonconforming
12 use. If you have a legal nonconforming use and the
13 zoning has been changed by the government and that use
14 would have originally allowed him to live there, he
15 could continue to live there.
16 MAYOR JENKINS: He lived there 45 years.
17 MR. WEED: Yeah.
18 COUNCILMEMBER PITTMAN: So there was no
19 reason for him to have to move.
20 MR. WEED: That is correct.
21 COUNCILMEMBER PITTMAN: So why did he move?
22 Did someone tell him to move?
23 MAYOR JENKINS: I personally told -- He
24 talked to me. I personally told him I didn't see any
25 way that they could make him move out of that

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1 residence. But he chose --
2 MR. WEED: If someone had asked me --
3 MAYOR JENKINS: He chose to --
4 MR. WEED: -- that would have been my
5 opinion, too.
6 MAYOR JENKINS: He chose to move.
7 COUNCILMEMBER PITTMAN: So that my question
8 is who told him? Did he receive a letter or did he
9 just assume that he had to move?
10 MR. WEED: That's -- I have --
11 COUNCILMEMBER PITTMAN: I mean --
12 MR. WEED: -- no idea.
13 COUNCILMEMBER PITTMAN: -- I'm asking. You
14 said -- how do we know?
15 COUNCILMEMBER FLEMING: I --
16 COUNCILMEMBER PITTMAN: Is he here tonight?
17 COUNCILMEMBER FLEMING: He was here three --
18 MR. HOWARD: He was here the last few
19 meetings.
20 COUNCILMEMBER FLEMING: -- three meetings
21 ago or --
22 MR. HAEBERLIN: I'll be honest with you. I
23 would assume it's because of the zoning activity which
24 occurred adjacent to him. You know, we did -- we had
25 an applicant, a property owner next to him, file for

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1 rezoning because he had some issues. He was doing
2 some things in C-1 as well that he should not be doing
3 there. Or it was perceived. Excuse me. And I think
4 that might have been the impetus for that.
5 He did come to the Mayor's office, and I
6 spoke with him as well with the Mayor present, and I
7 tried to look at it from a very realistic perspective
8 with him. I did not counsel him to move.
9 I said, look, you got to think about this.
10 Does this property as zoned C-1 have a certain value
11 to you versus it being zoned R-1. Because it's
12 probably going to be worth more money from a perspec-
13 tive of land use, okay, as real estate agents will
14 tell you.
15 And I said, and you need to think about
16 that. And you can have as many businesses as meet the
17 C-1 standards in this facility if you would like or,
18 you know, if you would like for us to take an
19 application and rezone it back to R-1, we'll proceed
20 with that too.
21 But he has not done anything with it since
22 then.
23 COUNCILMEMBER SPANGLER: Was he told during
24 that meeting that he would have to move out if it
25 continued to stay C-1?

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1 MR. HAEBERLIN: Not by -- not by myself, no,
2 sir.
3 COUNCILMEMBER SPANGLER: Yeah. Well --
4 MR. HAEBERLIN: The Mayor was present as
5 well. Actually, we spent more than -- I'd say almost
6 two hours with this gentleman. And I asked him, did
7 you have any archival information you could provide
8 me, you know, back when you did permits, when you paid
9 taxes, et cetera?
10 And like I said, he was so focused on that
11 of a barber shop, I said, you know, that property as
12 C-1, there are so many other things that are allowed
13 within C-1. Here's a listing of what you could do
14 here. You could rent this to any of these people that
15 meet these requirements.
16 And we have not heard back from him.
17 But I think that his initial concern was
18 probably raised by that of he did come in for a yard
19 sale permit, and in C-1, you're not allowed to have a
20 yard sale so he was denied, and that's appropriate.
21 COUNCILMEMBER SPANGLER: So if he moves back
22 into this property, then he's --
23 MR. HAEBERLIN: Well, he's vacated it, sir.
24 I mean I don't know how long it's been, but he's
25 vacated it.

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1 MR. WEED: If it's been more than six
2 months, he's abandoned a legal nonconforming use.
3 COUNCILMEMBER ROCHE: I think if putting a
4 sign in someone's -- in a property would help to
5 prevent this kind of situation in the future, then I
6 would tend to support that.
7 COUNCILMEMBER FLEMING: This was just an
8 example I was bringing to light to show that what
9 happened long before we were on Council and long
10 before a lot of citizens here were citizens, things
11 happened before our time that we can't prove today,
12 and 44 years' worth of municipal government has
13 changed it from R-1 to C-1. And I just -- I want
14 something for us to --
15 I realize that the State says we only have
16 to do this. Well, I think it's time for the City of
17 Doraville to raise that bar, to the raise the standard
18 and do something more than.
19 MR. HAEBERLIN: Mr. Weed, could we, the
20 City, our workers --? This is my concern: could
21 somebody file a trespass warrant against a City
22 employee for placing a zoning sign on their property
23 if they had not initiated it?
24 That's one of my concerns. I'm just asking.
25 MR. WEED: Arguably, yes.

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1 You'll have to find those owners. You're
2 going to have to get their permission, get on their
3 property and place the sign. The City would be paying
4 for it, essentially.
5 And you know, can all those things be done?
6 Yes. But once again, there's all the procedures that
7 have to follow along with it. And tracking down these
8 owners I think you may find to be more difficult than
9 you think, but perhaps it won't.
10 But the answer to your question I think
11 would be yes.
12 MR. HAEBERLIN: And Mr. Weed --
13 MR. WEED: But that's something you have to
14 be concerned about.
15 MR. HAEBERLIN: -- are you of the opinion
16 that that sign must be physically placed on the pin --
17 inside the pins of the property and not on that in the
18 right-of-way? because we do have some discussion from
19 the audience.
20 MR. WEED: The state law itself doesn't --
21 What it says is that a sign containing
22 information required by local ordinance or resolution
23 shall be placed in a conspicuous location on the
24 property. So in my opinion, since it's "on the
25 property," then yes, it would have to be within the

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1 property lines.
2 MR. HAEBERLIN: You know, again I agree with
3 the attorney. I think we're creating a scenario for
4 failure.
5 And in this instance, we just talked about a
6 certain property in the city, and if it's City-
7 initiated, we'll have to be putting signs on this
8 property. Now, recall as well, I'll have to put a
9 sign on every visible public right-of-way. So in some
10 instances we won't just be putting one sign up; we'll
11 be putting multiple signs up. And we're going to be
12 absorbing again more lost cost.
13 COUNCILMEMBER BATES: Let's talk about the
14 signs for a minute. Why do we put these eight-foot
15 metal signs when Dekalb County does these little two-
16 foot blue placards?
17 MR. HAEBERLIN: I'll tell you this: they're
18 excellent; the best signs I've ever dealt with in 15
19 years of working in zoning. Number one, they're
20 installed by the Maintenance Department. Staff's not
21 out doing that. They are impenetrable. I have never
22 seen one knocked over. I've never seen one stolen.
23 They are excellent.
24 You get into the situation where people
25 steal the sign because they want to play games with

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1 the zoning process. You get in a situation where cars
2 knock them over.
3 These things that we put up, for what we
4 paid for them, are excellent. I mean for that 70 to
5 80 dollars, that was an excellent sign, and it
6 produces results because people notice that. It's
7 like the ones that the City of Roswell uses. And in
8 my opinion as a planner, they're excellent. That's
9 the best thing you're spending money on thus far.
10 COUNCILMEMBER BATES: Just wanted to ask.
11 Thanks.
12 MR. HAEBERLIN: I understand.
13 MAYOR JENKINS: We need to get back to it.
14 COUNCILMEMBER PITTMAN: So you're saying
15 that they legally cannot put a sign there?
16 MR. WEED: The City staff couldn't.
17 COUNCILMEMBER PITTMAN: Could not. So --
18 MR. WEED: Yeah. We'd have to seek
19 permission of the owner to enter their property for
20 that purpose.
21 COUNCILMEMBER FLEMING: So we're back to the
22 certified return receipt request.
23 MR. WEED: But once again, you're never
24 going to be able to perfect the notice that way.
25 You're going to make your best guess. And so someone

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1 is always going to turn up and say, "I never got a
2 notice," you know.
3 And then what will we do? We'll just say,
4 "Well, we'll write an ordinance that says we're going
5 to try to give you notice, and if it fails, well,
6 we're going to go ahead and do it anyway;" otherwise
7 -- or we're going to say that we're never going to do
8 another City-initiated rezoning if there's a failure
9 of the notice.
10 Now, can we do these things? Yes. Can I
11 write you that ordinance? Sure, I can, but we'll have
12 to create that procedures.
13 COUNCILMEMBER PITTMAN: So can you use the
14 terms "make every effort" --
15 MR. WEED: Sure. Of course we will.
16 COUNCILMEMBER PITTMAN: -- versus "will do?"
17 MR. WEED: Yeah. But at the end of the day,
18 it will either say we shall do that, and if it's a
19 "shall" and we don't get a return receipt, then there
20 will be no City-initiated rezoning because we won't be
21 able to comply with the law, so that'll end it. And
22 if we say we make the best reasonable effort we can,
23 then we're essentially relying on 36-66-4 with the
24 newspaper notice that we had to begin with, but we can
25 do that.

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COUNCILMEMBER FLEMING: Well -- and I didn't make this comment originally but I wanted to be proactive in sending to the property address itself as well as to the property owner on file with the City, because it may be rental property but we might have an owner's address in Dunwoody or something. So it would be going to the address itself and to the owner that we have on file with the City.

MR. HAEBERLIN: Well, that would be Dekalb County Tax Assessor.

MR. WEED: And we can --

COUNCILMEMBER ALEXANDER: It would be --

MR. WEED: We can write it however --

COUNCILMEMBER ALEXANDER: -- the property owner on the Dekalb --

MR. WEED: Yeah.

COUNCILMEMBER ALEXANDER: -- County tax base, not on file with us.

COUNCILMEMBER FLEMING: Correct. Okay.

MR. HAEBERLIN: Because at the physical address, there may very well not be a post box because many people don't have them anymore.

COUNCILMEMBER PITTMAN: So out of the seven, how difficult was it to find the owners?

MR. HAEBERLIN: Pardon me?

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COUNCILMEMBER PITTMAN: Out of the seven --

MR. WEED: We didn't.

MR. HAEBERLIN: We didn't.

COUNCILMEMBER PITTMAN: You did not find them.

MR. HAEBERLIN: We followed the existing City Code so we didn't do it yet.

COUNCILMEMBER FLEMING: Didn't look for them.

MR. WEED: In turn, we didn't look because we didn't have to. It's not required.

MR. HAEBERLIN: And only -- of that group, only one of those was a resident; a home -- a property developed with a single-family home. That's the correct -- what I want to say. So it was businesses. It's a little different situation than perhaps --

And I know the Council receives input from citizens and sometimes they focus on things that are really not pertinent to the discussion. And really in this situation, there was only one single-family home that was quote/quote corrected on the map, if that is the correct term, and it had always been a single-family home. It was built as a single-family home. They were renting it out as a single family home. And why it appeared as O-I on a map dating back to 1983,

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who knows? I don't know.

COUNCILMEMBER BATES: Let's go hypothetical because I like hypotheticals.

I get all of my neighbors to get together and we petition and get the city council to rezone our property R-SFA so that we can redevelop it. We don't do anything with it, but it's rezoned. It's on the map as R-SFA. Nothing happens, nothing happens.

Ten councils later and four planners later or two planners later or Scott, but he forgets, looks at that and says, "Wow. That's zoned R-SFA but it really should be R-1. Let's rezone it."

Well, we expended monies to file an application for rezoning, we've gone through that process, and now all of a sudden we sell our properties because we finally have -- took us 10 years to get the assemblage and we sell it. And we've got a developer coming in ready to do R-SFA, and he goes to pull the permit and says, "Sorry. That's zoned R-1."

MR. HAEBERLIN: Well, that's already in your Code. It addresses it: one year of no activity. I mean your Code already tells you you should be looking at these properties periodically and making decisions as to whether that zoning should stay on there.

You know, our biggest complainers in the

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situation again are people who are living on properties, living physically in property that they rezoned and they're just sitting there, and they're trying to claim all these benefits. That's the remainder of the portion of people that we need to address. And so they're like that situation. They should have been addressed one year from the time they were rezoned. We should have done that, but we weren't here obviously.

MR. WEED: And if you're a developer -- and, you know, Mr. Cushman and many others; I'm not singling him out -- but many developers, they all know this. They're all well counseled.

What they would do is they would file for a zoning -- a zoning rights letter to vest their rights in whatever the zoning is. So if I'm interested in property X, I'm going to have my lawyer or myself, I will file for a vested rights letter, get the vested rights letter that kind of locks in the zoning, and then I'm going to do my deal.

And that's part of their due diligence, and if they aren't smart enough to do that, that's -- that's their problem, not the government's problem. But that's how it's done, and those are the rights everybody's got.

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You know, people are expected to look after themselves. And in my opinion, America, generally, we've abandoned the concept of individual responsibility. You have to look out for yourself. It's the American way.

COUNCILMEMBER BATES: But if you don't know that it's happening --

MR. WEED: How could you? I mean you have to -- you have to work at these things. You do have to make a little effort.

It isn't difficult to pick up a newspaper, it's not difficult to check the web site. And in fact we have an unwritten policy that Councilman Fleming and the Council, you know, discussed and agreed to, to put these things on the web site. It's not in the Code, but as far as I know, those things are being done.

But the minimal due process has clearly been followed in every one of these cases at least for the last two years that I've been involved with Doraville. And that's an individual responsibility to keep up with those things. No one's denied the right to attend these meetings. No one's denied the right to get a newspaper. And if they simply call City Hall just to check once a week, what will Rhonda or Scott

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do? They'll tell them what's on the -- what's on the agenda. And the first time I hear that they don't, I can assure you we'll be having another conversation about that.

So that's -- you know, Mr. Cushman's here and he's made a point to be here. He doesn't have to be at these meetings. But people have to exercise individual responsibility as well in my opinion.

MR. HAEBERLIN: And like with the conditional use thing now that we're reviewing those once a year, I mean now that you have staff here, a year from now I should be telling you, "Look, Council. We did some rezoning, some applicant-initiated rezonings, and I see no activity whatsoever on these properties." I should be notifying you of that. And I think I've done some previous notifications on some of these issues we've addressed.

So, you know, these five or six/seven people that possibly might feel they're aggrieved in terms of City-initiated rezonings, once we get through with those six or seven parcels, we're going to be through. It's not the whole map.

COUNCILMEMBER ROCHE: Can we bring this back to signs in yards?

If we made this change, would it be part of

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the Zoning Ordinance or would it be part of the regular ordinance?

MR. WEED: Part of the Zoning Ordinance.

COUNCILMEMBER FLEMING: 1601 through 1605.

COUNCILMEMBER ROCHE: Right.

MR. HAEBERLIN: So it would go --

COUNCILMEMBER FLEMING: So it has to go --

MR. HAEBERLIN: -- to the Planning Commission.

COUNCILMEMBER FLEMING: -- through advertisement as well as a public hearing and everything else and a corrected ordinance if we move forward.

MR. WEED: That's correct.

COUNCILMEMBER FLEMING: Mr. Mayor, how many were on this item for discussion?

MAYOR JENKINS: I got a couple of them, yes. Are you ready to hear them now?

COUNCILMEMBER FLEMING: May I reserve the right to make a motion until after I hear the public?

MAYOR JENKINS: Yes.

COUNCILMEMBER FLEMING: Okay.

MAYOR JENKINS: Stuart?

MR. ANDERSON: Stuart Anderson. Couple of things.

I understand Murray's position on this as

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far as not letting citizenry know in municipal rezonings. However, those rules were written for what I call big cities. We've had seven of these.

And the statement has been made that if we don't let somebody know or if they don't -- if we don't have a certified letter signed by them so that we know legally that they know about this zoning change, then the zoning doesn't go forward, and at that point, we pursue finding them or decide on doing something else. So it's not an absolutely -- we've got to find these people.

We've only got seven or 10 of these things going on. This is a small city; we can find these people. If we can't find them, then we figure something else out.

Murray is correct. But the City Council -- or a lot of this commentary I feel is more of a moral imperative kind of thing. We're a small city. There's not that much going on. We can let our few citizens know that this stuff is going on.

Another issue. I have a map here. It's a 2007 map, Keck & Woods. I sat in this -- stood in this very chamber and copied changes on this map from the 1966 map in this chamber. I don't know where that map is. Councilwoman Fleming apparently couldn't find

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it. But I sat here at a table. Dorothy, I think, accompanied me. They wouldn't let the map be unattended, as it were. But nonetheless, I have copies on this 2007 map from that 1966 map. It was drawn by the company Stevens is what I wrote here.

The little O&I/C-1 discussion where Mr. Webb's property has a circle around it and a question mark all over this map in half a dozen, ten places, I have "new," "new," "new." So there is a map or there was a map for this.

But I think -- back to the moral imperative thing, I think that we should. All the books I've written -- "written;" right -- all the books I've read about zoning have to do with -- they mention that you're supposed to let people know.

The sign is correct. If nothing else, the sign. But a certified letter in these few cases is not inappropriate.

Thanks.

MAYOR JENKINS: Tom Hart?

MR. HART: Once again, we addressed inaccurate rezoning maps. I think this is probably a hundred times this has been brought up in the last couple years.

When you voted on the current map, just

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before you voted on the current map you changed the way in which the Clerk's office would archive the maps and map history. And some of the problems that the Council's dealing with right now and Ms. Fleming is talking about, that she couldn't find a history, is because that history is supposed to be kept in the vault and kept by the Clerk of the City so that map history and changes and voting between maps can be archived back to the original, and that hasn't been done. And also when you changed the law just before you voted on the current map, it made it so that the Clerk is no longer responsible for that.

And when you voted on this map, there were things on the map, like for instance over here where the Marathon Oil is where it's classified as C-2, which it's clearly M-2 on the map, you not only voted on a map that was inaccurate -- Mr. Webb's property, the Maintenance Department was built after those R-1 houses were built, and it possibly could have been changed when the Maintenance Department was built by the City of Doraville.

So the zoning maps, and not knowing when the changes are coming when you vote on zoning ordinances, which is basically changing the map.

The property owners, particularly the

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business property owners, need to be notified when they've got millions of dollars invested in the property or hundreds of thousands of dollars involved in a residential piece of property. The common courtesy would be that they would be notified so they could have their views known to the Council.

The state law provides the minimum which should be done, and that carries on to all the zoning laws and building laws, but cities can do more than what the minimum that is presented by the State of Georgia.

And Pam is absolutely correct. We're a small town. You can pick up the phone and call somebody if it needs to be but you should at minimum notify them that their property is being changed.

Thank you.

MAYOR JENKINS: I think everybody in the audience is aware of the sign-up sheet other than the -- I do not know the gentleman here.

Did you know we had a sign-up sheet? Did you want to speak on any of these subjects?

UNIDENTIFIED SPEAKER: No. I know you have a sign-up sheet. I just elected not to.

MAYOR JENKINS: Okay. I just want to make sure.

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Clint, do you want me to add you to the sign-up? You're aware of the sign-up sheet.

MR. HOWARD: Yes, I was aware of it. I wasn't aware of what she would be talking about particularly.

MAYOR JENKINS: Okay. Well, I'm going to add you to it and that's all. I'm going to put your name on it.

MR. HOWARD: The property you're talking about is Mr. Webb's, his barber shop. Ever since I've been here, since 1997, he's been operating that barber shop. And from what I understand, he's been operating it a lot longer than that, back in the '70s.

He's been living there. He's been operating that shop. He didn't know of a change that came other than his taxes went up. And I don't know as far as what he did to come in there and talk to y'all about it. I don't know.

But I know that he's vacated the property for a few months to have some building done to it. And I don't know as far as when he got permits for that building or whatever but I know he's not been gone a whole long time.

And when he went to get the yard sign for a yard sale, the City gave him that, and he paid his

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1 money. He had his yard sale. Then Quality of Life
2 came in and said, "Wait a minute. You cannot have a
3 yard sale." But the City had already given him, and
4 he'd already paid his money, so you know, it's like a
5 catch 22 for him. He paid, he got his permission to
6 do his yard sale and then they told him he couldn't do
7 his yard sale.
8 I agree with you as far as the residents
9 should be notified. You can put in your zoning that
10 you can take Dekalb County, who they say is living
11 there, plus a letter to the address itself, and then
12 you're covered, because if it's in the Zoning
13 Ordinance that this is what you're going to do and
14 then you did what is in the ordinance.
15 So I don't see a problem with doing that. I
16 mean I may be wrong, but that's -- I think that's a
17 courtesy that anybody -- And even to me, living at my
18 address, I don't look in The Champion or I don't look
19 in any newspapers to see if all of a sudden my zoning
20 is going to be changed. I mean I would have no reason
21 to even think that my zoning would be changed, living
22 there all those years. But if it was changed, of
23 course once I found out, then I would have to investi-
24 gate. But before I found out, I definitely don't read
25 The Champion normally and I would have no way of even

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1 knowing until it was brought to my attention.
2 So I agree with you that there should be a
3 courtesy as far as just a -- just a letter sent out
4 for both address and the County, what they say who
5 owns it. Thank you.
6 MAYOR JENKINS: Thank you.
7 Okay. I'll bring it back up to the table.
8 COUNCILMEMBER ROCHE: Yeah. I mean sending
9 a letter, it doesn't necessarily have to be a return-
10 receipt letter.
11 COUNCILMEMBER BATES: I think it does.
12 COUNCILMEMBER ALEXANDER: I do.
13 COUNCILMEMBER BATES: I think it absolutely
14 does. I think --
15 MAYOR JENKINS: That way, you'll have a
16 record.
17 COUNCILMEMBER BATES: That way, you've got a
18 record.
19 COUNCILMEMBER FLEMING: And you've got it
20 attached to the advertisement that was in the
21 newspaper. And if they don't show up for the public
22 hearing, we have that signature that they at least
23 received the letter.
24 COUNCILMEMBER BATES: Yeah. I don't know
25 that we necessarily need to go the route of the big

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1 signs, especially if that's going to create problems
2 on potential trespass issues.
3 But I really do think we need to, for even
4 the few that we've got remaining, the common courtesy
5 of sending that notice saying -- because they may have
6 record and evidence that we've done previously.
7 So I'm with you. Thank you, Ms. Fleming.
8 COUNCILMEMBER FLEMING: I'd like to make a
9 motion at this time that City-initiated rezoning
10 procedures be put in place -- that would be our Zoning
11 Code 1601 through 1605, somewhere in that area,
12 Mr. Weed, if you don't mind, and Mr. Haeberlin -- a
13 procedure indicating that a certified return-receipt
14 notification to the affected property owner that's on
15 file by Dekalb County be sent to them as well as to
16 the address, which may be a rental, which may be
17 whatever the case may be, but at least those two
18 letters be sent out.
19 MR. WEED: Councilman Fleming, do you want
20 the --? And we have time to discuss this because we
21 have to go through all the process.
22 COUNCILMEMBER FLEMING: That's correct.
23 MR. WEED: But do you want this mandatory?
24 And by that, I mean to say or do you want language in
25 there that says, you know, these things will occur;

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1 however, if we do not receive a return on the
2 certified letter, that the zoning can go forward, or
3 do you want the zoning process to end there?
4 COUNCILMEMBER PITTMAN: Can we do that like
5 after so many days, possibly a time limit?
6 MR. WEED: Sure.
7 COUNCILMEMBER ROCHE: Well, again, I --
8 COUNCILMEMBER PITTMAN: (Inaudible)
9 COUNCILMEMBER ROCHE: -- think this motion
10 tonight -- I'm sorry.
11 COUNCILMEMBER PITTMAN: That's okay.
12 COUNCILMEMBER ROCHE: I think this motion
13 tonight is just basically to get the process started
14 and we can sort that out later.
15 MR. WEED: I respect that. But if we don't
16 work these things out now, then, you know, I'll have
17 multiple drafts of ordinances for you, or we can
18 decide tonight.
19 COUNCILMEMBER FLEMING: Mr. Weed, first of
20 all, they're not the ones that are returning the
21 receipt. The Post Office is. So --
22 MR. WEED: They've got to sign for the
23 letter.
24 COUNCILMEMBER FLEMING: That's correct.
25 However, we're going to send two out. We're

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1 going to send one to the address and one to the
2 property owner on file. If it happens to be the same,
3 one and the same, then they're going to get two. So I
4 would feel much more comfortable with requiring a
5 signature on file.
6 MR. WEED: Which would mean if we didn't get
7 the signature on file, that we would not be doing the
8 City-initiated rezoning on that piece of property --
9 COUNCILMEMBER FLEMING: But you --
10 MR. WEED: -- which is fine. If you want to
11 do that --
12 COUNCILMEMBER FLEMING: That's correct,
13 because --
14 MR. WEED: -- that's the way we do that.
15 COUNCILMEMBER FLEMING: Because at this
16 point in time -- And I appreciate Mr. Haeberlin's
17 efficiency. He is trying to correct what we presently
18 have, to the zoning map that we presently have, and I
19 appreciate that. But that way, sending out both of
20 the letters, getting it back in with a receipt, a
21 signature, then we have notified them.
22 COUNCILMEMBER BATES: So there's three
23 scenarios. There's a return receipt that says they
24 sign for it, means that they received it. There's a
25 return-to-sender, meaning that they no longer live

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1 there or they didn't pick it up or something. And
2 then there's it just disappears, either --
3 MR. WEED: And we never hear anything.
4 COUNCILMEMBER BATES: -- the Post Office
5 loses the return receipt, never makes it there to
6 begin with.
7 Are you suggesting, Ms. Fleming -- and I
8 just want to be clear for everybody -- that under
9 scenarios one and two, we get a return receipt signed
10 or we get a not-deliverable, that we can move forward
11 with the City-initiated rezoning?
12 COUNCILMEMBER FLEMING: If it is not
13 deliverable and we get that receipt back from the Post
14 Office, then we should be able to proceed.
15 COUNCILMEMBER BATES: But if we don't get
16 anything back, either returned mail or a signed
17 receipt, then the City-initiated stops?
18 COUNCILMEMBER FLEMING: Correct. But we
19 should be getting something back. I mean I realize
20 what you're saying, the scenario of the Post Office
21 losing it. And I'm sorry that we're taking up so much
22 time on this but I think it's very important.
23 MAYOR JENKINS: We've already brought this
24 up to the table, please. We've had citizens comments.
25 We're going to keep it at the table.

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1 We got a motion on the table. Could we get
2 a second on it?
3 COUNCILMEMBER ROCHE: I'll second that.
4 MAYOR JENKINS: Okay.
5 COUNCILMEMBER ROCHE: We're going to have
6 more discussion, obviously. We'll have a public
7 hearing scheduled on this and everything else, too.
8 COUNCILMEMBER SPANGLER: So did you receive
9 the information you needed, Mr. Weed?
10 MR. WEED: Not yet. You haven't voted on it
11 so I don't --
12 COUNCILMEMBER PITTMAN: Just --
13 COUNCILMEMBER SPANGLER: No, but I mean --
14 MR. WEED: -- know what we're going to do
15 yet.
16 COUNCILMEMBER SPANGLER: Well, you asked for
17 some additional.
18 MR. WEED: I wanted to find out. I got the
19 impression that the ordinance I'm going to draft is
20 that if we don't receive a return receipt signed by
21 the owner of the property based upon the tax record,
22 the City-initiated rezoning will not occur, that it
23 will end there.
24 COUNCILMEMBER FLEMING: No, sir.
25 MR. WEED: Okay. Well, let's keep talking

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1 about it, then, because --
2 COUNCILMEMBER FLEMING: Because I said I
3 wanted it to go to the address, okay? And it's going
4 to go to the property owner on file. It could be one
5 and the same.
6 But if it's a renter there and we still get
7 a signature, I'm okay with that. How about you guys?
8 Because surely they're going to notify. One would
9 think that they're going to notify, on City letterhead
10 if you've got something here --
11 COUNCILMEMBER PITTMAN: No. That's a great
12 theory, but we've had issues with sanitation and other
13 bills that they've gotten and they've tossed, and the
14 owner didn't know anything about it.
15 So that's a great -- in theory, that's
16 wonderful, but they don't always do it. A lot of
17 times, they just take it and toss it.
18 I mean I appreciate that, but it's -- we've
19 had to deal with that before.
20 COUNCILMEMBER FLEMING: Recently?
21 COUNCILMEMBER PITTMAN: Yes. So --
22 MR. WEED: As a compromise, you could do
23 both, meaning that I could write the ordinance in such
24 a way that we would hope we get a return receipt
25 within X-amount of time frame, and, failing that, if

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1 the City has sent out a U.S. postage regular mail to
2 the last known address based upon the tax records,
3 that would be deemed to be sufficient additional
4 notice in addition to 36-66-4. I can do it that way.
5 That's a little weaker than what you first proposed,
6 but it's more than you're doing now.
7 COUNCILMEMBER SPANGLER: Well, this letter,
8 certified letter that goes to the address, couldn't we
9 say to this address, for property owner?
10 MR. WEED: Sure. Yes, sir. We can address
11 it to whomever.
12 COUNCILMEMBER SPANGLER: So then if the
13 lessee or lessor did not turn it over to the property
14 owner, then we're still covered.
15 MR. WEED: Under what I suggested, we would
16 be. If we also send the notice U.S. regular mail to
17 the property --
18 We can do this: you could send it U.S.
19 regular mail to the last known owner in the Dekalb
20 County tax records, regular mail; you could send it
21 certified mail and you could send it to the actual
22 property itself, in those three ways.
23 And if you would deem it appropriate, as
24 long as you got, you know, either something signed
25 back underneath the two return receipt, that would be

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1 great; or the alternative, you would have at least
2 made the extra effort to mail something to the
3 property. And it may be lying on the ground on the
4 property, but you would have tried to do it that way.
5 And that's -- once again, that is less than what
6 Councilman Fleming originally proposed but at least
7 you could go forward with the rezoning that way. Or
8 if you can just say that if we don't get something
9 signed back, we don't get it back, and that's it.
10 COUNCILMEMBER FLEMING: Regular mail to the
11 property owner is not adequate. As far as I'm
12 concerned, it needs to be return receipt requested.
13 COUNCILMEMBER PITTMAN: I mean my preference
14 would be to have a certified letter of each one go to
15 the property owner and returned to us. And if you
16 want to send one as a courtesy to the person that's
17 living there, fine, but the property owner should be
18 the one that actually gets that. And that's who we
19 need to require signature back from, not the people
20 that are living in the house. Just my opinion.
21 MR. WEED: I hear you.
22 Please bear in mind what they're going to
23 get would be an envelope with a green return receipt
24 on it. And so if it's a business, the secretary who
25 usually signs for those things may sign for that.

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1 Will that be adequate signature, or will, you know --?
2 That's what you have to consider.
3 COUNCILMEMBER PITTMAN: Is there something
4 even though the person -- the person that --
5 There's something that you can do with the
6 mail system. The person's name has to be the one that
7 signs --
8 MAYOR JENKINS: No, no, no.
9 COUNCILMEMBER PITTMAN: -- isn't there,
10 Mayor?
11 MAYOR JENKINS: It's addressee only. Nobody
12 can sign for it except the addressee.
13 COUNCILMEMBER PITTMAN: That's exactly
14 right.
15 MR. WEED: We can do it that way. That's
16 fine with me.
17 COUNCILMEMBER PITTMAN: That's what I would
18 think.
19 COUNCILMEMBER ALEXANDER: One of the
20 concerns I guess I have is -- not to speak dispara-
21 gingly of the Postal Service, Mayor -- they're not
22 known for quick return of mail that is not picked up.
23 I mean I've got items that I mailed in January that I
24 didn't get back until March.
25 COUNCILMEMBER PITTMAN: And that's why I was

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1 saying days, so many days, because she's absolutely
2 right.
3 MR. WEED: And I assume that if it's a
4 corporate entity that owns the property, we're going
5 to accept any officer's name, any officer of the
6 corporation or the registered agent? That be okay?
7 MAYOR JENKINS: Anymore discussion?
8 Do you want to leave your motion as it is?
9 MR. WEED: We don't really need another
10 motion because we have to get through all this.
11 I just want to get a firm idea about if you
12 are generally -- if there's a general consensus of
13 what what we've talked about as the first draft, I can
14 give you the first draft on that basis.
15 MAYOR JENKINS: On the motion, you can give
16 us a first draft?
17 MR. WEED: Yes, sir. Yeah. You don't --
18 MAYOR JENKINS: Then we have to vote on it
19 again; is that correct?
20 MR. WEED: Correct, yeah. This will have to
21 go through the entire process, but we'll --
22 MAYOR JENKINS: Okay.
23 MR. WEED: -- we'll make a draft.
24 MAYOR JENKINS: Call the roll.
25 COUNCILMEMBER ALEXANDER: Councilmember

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Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
COUNCILMEMBER FLEMING: Thank you.
MAYOR JENKINS: Thank you.
Number 6 will be Scott.
MR. HAEBERLIN: You guys have before you a draft Mr. Weed has prepared, and this certificate of completion arose out of our discussion with the Dekalb County Tax Assessor's Office when they were in attendance at the City Council meeting. And as you're aware, we don't have a certificate of completion in our Code.
We really do need one. It is a management tool for the Building Official and it allows him to finalize projects where there is not occupancy, such

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as garages and storage buildings and things of that nature, guard shacks. But also, too, we can use this as a management tool when we are finishing stages of construction such as the exterior shell of the building, the landscaping and things of that nature.
So this is just a management tool for the Building Official, and it is something that is lacking. Because today if you built a shed in the city and I want a final sign-off, I want something that proves that it's been inspected, well, you can't get anything because we don't have anything. And that's what this certificate of completion is designed for, and like I said, as well, a management tool for phases of construction -- for shells, for landscaping, for things that, on large projects, in our discussion of the GM site, for example, things that will need to be done.
We will -- as time goes on, we will have more and more involved construction projects, and the Building Official really needs this tool.
COUNCILMEMBER ROCHE: Once one of these is issued, would it be sent to the County tax assessors?
MR. HAEBERLIN: It would be part of our packages that would be sent on a monthly basis. But as you've heard from Dekalb County tax assessors, they

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are not concerned about accessory structures and those do not figure into their calculations on taxation.
I of course am equally as concerned as you are regarding that, because you can have very expensive accessory structures. But be that as it may, we will send it to them. I don't know what they'll do with them.
Yes?
COUNCILMEMBER BATES: What triggers requiring certificate of completion?
MR. HAEBERLIN: On nonhabitable structures, things that people never live in, it'll be automatic. Okay? On large-scale construction projects, it'll be a management tool that the Building Official will use his discretion.
COUNCILMEMBER BATES: And I guess what I'm getting at is size, because one of the structures which require certificates of completion include but not limited to planted common open spaces.
Walk me through understanding if I want to plant a bunch of fall mums out in my open space -- I guess not common.
MR. HAEBERLIN: I mean technically the city does not have any common open spaces right now. I mean let's be very frank --

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COUNCILMEMBER BATES: And what about --
MR. HAEBERLIN: -- the subdivision -- the subdivision amenities that were in existence when these communities were built are actually now owned by the city. So other than a new development, we don't really have any common open space.
COUNCILMEMBER BATES: And landscape islands?
MR. HAEBERLIN: The same way as well for shopping centers.
COUNCILMEMBER BATES: Does each landscape island need to get its own certificate?
MR. HAEBERLIN: No. They would get it as a collective group. If you had 50 and they're all done and they're completed according to the plans, you would get one certificate of completion.
COUNCILMEMBER BATES: For the entire area or for just the landscape islands?
MR. HAEBERLIN: Depends on what stage of construction that the Building Official's dealing with.
Remember when we get to these more complicated developments, we are literally going to have situations where we are going to be meeting the contractor out there and there's going to be last-minute installation, as it always occurs with

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1 commercial, okay, and there will be situations where
2 weather precludes planting and other items.
3 It's going to allow him a management tool to
4 say right now, that we have inspected those and they
5 meet the plan requirements. Because quite frankly,
6 right now you have nobody on staff who's available to
7 do that, but this is going to give the Building
8 Official a certain level of authority and also a
9 responsibility with development.
10 The only change I did want to note on page 2
11 of 5 is that when we originally wrote this, it was
12 some time ago and that the date in (a) should be
13 tonight's date. It has September 7, 2009, which I
14 think it would be appropriate to have tonight's date.
15 The only thing that we have not addressed in
16 here is a fee for this item. That could be addressed
17 later in a fee code, and I think that's an appropriate
18 place for it to be.
19 COUNCILMEMBER ALEXANDER: Who's going to
20 compose the forms and all of that information?
21 MR. HAEBERLIN: Pardon me?
22 COUNCILMEMBER ALEXANDER: You're going to
23 compose the forms --
24 MR. HAEBERLIN: Correct.
25 COUNCILMEMBER ALEXANDER: -- to utilize?

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1 MR. HAEBERLIN: We will work on our forms.
2 I have suggested before that the City go to
3 security paper for all forms that it formally issues.
4 That way, when they're copied, the City of Doraville
5 symbol or, you know, something inscribed across it so
6 we have much less potential for there to be false
7 documents. So hopefully then we'll get with a printer
8 on that.
9 COUNCILMEMBER ROCHE: Well, I'll make a
10 motion if it's that time, to waive first reading on
11 this Ordinance Section 5-16, Certificates of
12 Completion.
13 COUNCILMEMBER SPANGLER: Second.
14 MAYOR JENKINS: Excuse me. Do I get a
15 second?
16 COUNCILMEMBER ALEXANDER: Second.
17 MAYOR JENKINS: Anymore discussion?
18 COUNCILMEMBER ROCHE: Did we have people
19 sign up, Mayor?
20 MAYOR JENKINS: Yes. Oh, no, not on this
21 one.
22 I believe, Stuart, you --
23 MR. ANDERSON: No. I signed up for this.
24 MAYOR JENKINS: Sir?
25 MR. ANDERSON: I did. I thought I did.

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1 MAYOR JENKINS: Yeah. Well, you wrote in
2 City-initiated rezoning's what you wrote in. Come on
3 up.
4 MR. ANDERSON: I'll make it short and sweet.
5 Stuart Anderson.
6 I thought this was brought up by Councilman
7 Fleming when Charlene brought up the fact that we had
8 a bunch of tax money due us that hadn't been sent to
9 us due to CRTs or certificates of completion. I agree
10 a hundred percent that we need certificates of comple-
11 tion.
12 The other thing to Scott is his comment
13 about the -- I think the podium should be turned
14 around so we can talk to the public as well, by the
15 way -- but Scott commented that accessory structures
16 were not taxed by the County. In my tax bill, my
17 garage is 40-some thousand dollars and I'm taxed on
18 it. Does that mean I can go to the County and ask for
19 a reduction?
20 MR. HAEBERLIN: Sir, I'm just restating what
21 was shared to me in the public meeting where the
22 County was present, and they said they're not
23 interested in receiving information on accessory
24 structures.
25 MR. ANDERSON: Interesting. Thank you.

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1 MAYOR JENKINS: Thank you, Stuart.
2 We'll bring it back to the table. We have a
3 motion and a second. Anymore comment? This is on
4 waive the first reading.
5 - - -
6 (No response)
7 - - -
8 MAYOR JENKINS: Call the roll, please.
9 CLERK BLACKMON: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BLACKMON: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BLACKMON: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: Yes.
15 CLERK BLACKMON: Councilmember Pittman?
16 COUNCILMEMBER PITTMAN: Yes.
17 CLERK BLACKMON: Councilmember Roche?
18 COUNCILMEMBER ROCHE: Yes.
19 CLERK BLACKMON: Councilmember Spangler?
20 COUNCILMEMBER SPANGLER: Yes.
21 MAYOR JENKINS: Do I have a motion?
22 COUNCILMEMBER FLEMING: I'd like to make a
23 motion to adopt Section 5-16, Certificates of
24 Completion.
25 COUNCILMEMBER BATES: Second.

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MAYOR JENKINS: He's got 5-1 on here. Did he change it?
COUNCILMEMBER FLEMING: I'm sorry?
MAYOR JENKINS: 16?
COUNCILMEMBER FLEMING: It should -- we are adding item number 5-16 --
MAYOR JENKINS: Okay.
COUNCILMEMBER FLEMING: -- Building Ordinance, Certificates of Completion.
MAYOR JENKINS: Okay.
COUNCILMEMBER BATES: Ms. Fleming, will you accept a friendly to make the date be as of tonight?
MR. HAEBERLIN: Correct. That's what I was going to add: on page 2, the date reflective of tonight's meeting.
COUNCILMEMBER FLEMING: Will that give you enough time to format the completion of the actual form itself or do you want to make it November 1 or something?
MR. HAEBERLIN: No. I think we should make it, you know, effective immediately. I mean certainly, you know, this is something we can do. And in the time being, you know, we'll make out with what we have. But we really do need to work on our forms in general is my opinion.

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COUNCILMEMBER FLEMING: Okay.
MR. HAEBERLIN: Let's just make it effective and we'll catch up if we need to.
COUNCILMEMBER FLEMING: That's fine.
Yes, Mr. Bates, effective today's date, October 5th, 2009.
COUNCILMEMBER BATES: Second.
MAYOR JENKINS: Anymore discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: All right.

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COUNCILMEMBER FLEMING: Mr. Mayor, I need to ask one question --
MAYOR JENKINS: Yes, ma'am.
COUNCILMEMBER FLEMING: -- if you don't mind. I'm so sorry.
Don't know whether Section 5-8 through 5-15 is part of this. Is it?
MR. HAEBERLIN: Well, ma'am, this -- you know, Mr. Weed did prepare this for you, but we --
COUNCILMEMBER FLEMING: Okay. All right.
MR. HAEBERLIN: -- we're not discussing that tonight because it needs to go --
MR. WEED: That's a --
MR. HAEBERLIN: -- to the Planning Commission.
MR. WEED: -- zoning ordinance.
COUNCILMEMBER FLEMING: Okay. All right.
MR. WEED: We have to go through that other process. We're eliminating the corresponding sections out of the Zoning Code.
MR. HAEBERLIN: Correct, and I will notify the Council of the Planning Commission date that this item is scheduled for, you know, so that you'll see the process as it goes through.
COUNCILMEMBER FLEMING: Okay. Thank you

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very much.
MR. WEED: That's a good question.
MAYOR JENKINS: We're going to take a five-minute break, and let's make it as close to five as we can so we can move on.
- - -
(Brief recess)
- - -
MAYOR JENKINS: Item number 7.
COUNCILMEMBER ROCHE: Yes, Mayor. Item number 7 is Financial Reports and City Charter, and I just wanted to point out for the record that in the City Charter, 2-88 says Mayor to apprise Council of City's financial position. It shall be the responsibility of the Mayor to keep the Council apprised of the current condition of the City throughout the fiscal year.
This City Councilman has not received a financial statement, including budget to actual, since, I think, December, and I'm very concerned about that.
We did receive kind of a financial statement, and I guess it was received today because today is when it actually showed up on the agenda. We had one for the end of year that I had serious issues to.

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1 I neglected to request that the -- what's
2 the job title -- financial official would be here
3 tonight, but I have some serious questions about the
4 reports that we did receive.
5 I don't see how the City can operate without
6 something that shows budget to actual. I don't see
7 how a department head can operate without something
8 that says this is how much I've spent, this is how
9 much is in my budget, am I coming close to my budget
10 or not.
11 I just don't know how we can operate without
12 this. I don't know what the options are. I don't
13 know what the Council can do to compel the City to
14 begin creating these financial statements.
15 You know, we have had several options which
16 I believe I brought up before. We could hire a
17 consultant to come in and put these reports together
18 for us. We could, you know, hire a consultant to
19 train our financial person on how to put these reports
20 together for us. We could hire our original financial
21 person to come in and put together the reports for us.
22 It's not a matter of wanting to do it, but
23 we can do it. There's two or three ways we can do it.
24 It's a matter of will, and obviously the will is not
25 there to provide the city with financial reports.

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1 And I'm at a loss. I'm frustrated, more
2 frustrated every day that goes by. So we have no idea
3 if we're over budget, if we're under budget. You
4 know, we have no idea where we are financially. So
5 I'm bringing it up to the Council to see if there's
6 going to -- you know, if anyone wants to say anything,
7 add anything; we do a writ of mandamus. I mean what
8 are our options as a Council on this?
9 I'll start with the City Attorney.
10 MR. WEED: Um.
11 COUNCILMEMBER SPANGLER: Are you at a loss,
12 counsellor?
13 MR. WEED: No, sir. I just want to -- I
14 want to read over the Code.
15 COUNCILMEMBER ROCHE: It's 2-88.
16 MR. WEED: Yes, sir. What the Code says --
17 it's actually the Code, not the Charter, but that's
18 not that relevant. It says that it's the responsi-
19 bility of the Mayor to keep the Council apprised of
20 the current financial condition of the City throughout
21 the fiscal year.
22 There's no -- two things. One, there is no
23 detail about what kind of report must be issued or how
24 often the report must be issued. Those things are not
25 in the current ordinance.

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1 The Council could attempt to adopt an
2 ordinance that clarified that and created some form of
3 schedule -- that would be an option -- and/or you
4 could write an ordinance that dealt with what would be
5 contained in the actual report.
6 With regard to a mandamus action, you know,
7 obviously, if you took it upon your -- it depends on
8 who filed it. If the majority of Council wanted to
9 file such action against the Mayor, I would deem
10 myself to be conflicted out and I would advise you to
11 hire outside counsel if you do that. And if you
12 elected to do that, I think that probably it would be
13 defensible because of the way that 2-88 is written.
14 If the Mayor has given you an oral report,
15 that would be satisfactory. If he gave you a report
16 right now that said, you know, "Councilman Roche,
17 members of the Council, we're doing okay financially."
18 Right now, that would qualify under 2-88.
19 So my best advice would be if you want more
20 clarity with regard to that Code section was that, you
21 know, we would modify the Code section to create a
22 certain time frame and a certain quality of report
23 with regard to contents.
24 COUNCILMEMBER SPANGLER: So we were getting
25 monthly financials before, without this ordinance.

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1 MR. WEED: And that's -- I'm not here every
2 day, so I don't know what you were getting. I don't
3 disbelieve you, but if you're asking me, I don't know.
4 COUNCILMEMBER SPANGLER: Well, you were here
5 two years. You've been here more than a year.
6 MR. WEED: Yes, sir, I've been here two
7 years. But then again, if you got financials every
8 month or not, I genuinely do not know.
9 MAYOR JENKINS: We did not.
10 MR. WEED: I don't disbelieve you if you say
11 so --
12 COUNCILMEMBER SPANGLER: I'm just saying --
13 MR. WEED: -- but I don't know.
14 COUNCILMEMBER SPANGLER: I'm just saying we
15 were getting financials more often than what we are
16 now. Whether we were getting them every month, every
17 quarter, every trimester or whatever, we were getting
18 more information than what we get now. We don't know
19 where we stand.
20 MAYOR JENKINS: Did you get one today or --
21 COUNCILMEMBER SPANGLER: We got one today.
22 MAYOR JENKINS: -- did you ask?
23 COUNCILMEMBER ROCHE: But this is not really
24 a financial. This is, I guess, one form of a
25 financial statement, but it doesn't truly answer the

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1 question of where we are versus -- the budget versus
2 actual, which I have requested several times both
3 verbally, in e-mails. And the last time I asked for
4 it, we got something called unaudited for the period
5 ending of the last fiscal year but we haven't seen
6 anything since. It's been 90 days, over 90 days.
7 And before, you know, we got them when the
8 Mayor said we got them, basically, because at any
9 time, the financial person could produce the reports.
10 And boy, if it was two or three weeks late, boy, you
11 know, the blogs went crazy, everyone went nuts. And
12 now that we've got nine months, nine solid months
13 without a decent budget-to-actual, everything's fine
14 now, everything's all peachy, and I don't understand
15 that.
16 MAYOR JENKINS: Nobody said everything was
17 peachy, but we are in good financial shape and that'll
18 bring it up to date. As far as what Murray said, we
19 are in good financial shape, and I think you know the
20 reasons why we can't give you a complete one now.
21 We are -- actually, if you want to get down
22 to it, we're waiting on the Internal Revenue to give
23 us some information so we can move on. At that time,
24 we will be able to give you a complete financial
25 statement.

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1 COUNCILMEMBER ROCHE: What I'll do is this:
2 for now, I'd like to make a motion that we postpone
3 this agenda item until the next meeting and at that
4 meeting have Mr. Maxwell available to answer questions
5 about these financial statements that he's provided.
6 MAYOR JENKINS: You should have told me that
7 today. I would have had him here. You didn't ask me
8 to do that.
9 COUNCILMEMBER ROCHE: I didn't get the
10 financial report until today, Mayor. How was I
11 supposed to know this?
12 COUNCILMEMBER SPANGLER: Mr. Roche, I
13 believe Mr. Weed said we could make a --
14 Did you say an ordinance saying we wanted
15 specific information on a timely or monthly basis,
16 whatever period basis?
17 MR. WEED: That's correct.
18 COUNCILMEMBER SPANGLER: So you want to make
19 a motion?
20 COUNCILMEMBER ROCHE: Or I can --
21 COUNCILMEMBER FLEMING: No.
22 COUNCILMEMBER ROCHE: Let's just go ahead
23 and extend this to the next meeting, find out where
24 we're at, and then we can in between then and now
25 think about the motions.

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1 Later on in the agenda, we do have a
2 financial policy ordinance. I think we should address
3 it then.
4 COUNCILMEMBER FLEMING: I need to ask a
5 question before you make your motion if you don't
6 mind. Item number 9 is the financial policy
7 ordinance; however, I was under the impression that we
8 already had a financial policy and this was going to
9 be correcting it.
10 MR. WEED: We do. There is a current
11 financial policy.
12 COUNCILMEMBER FLEMING: And do you have
13 that? I do not have that with me this evening. Do
14 you have that with you?
15 MR. WEED: I do.
16 COUNCILMEMBER FLEMING: Would you mind
17 referring back to it and tell me whether we're
18 supposed to be getting monthly reports.
19 MR. WEED: It'll take me a while. While you
20 conduct other business, I'll certainly start looking.
21 COUNCILMEMBER SPANGLER: How about just
22 making a copy for all of us?
23 MR. WEED: I'd be happy to do that, too.
24 COUNCILMEMBER ROCHE: Mayor, did anyone sign
25 up on this one?

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1 MAYOR JENKINS: Yes.
2 COUNCILMEMBER ROCHE: Well, I think we
3 should let the citizens speak also.
4 MAYOR JENKINS: Okay.
5 COUNCILMEMBER PITTMAN: Are the employees
6 getting -- I mean the department heads getting
7 financial statements monthly now?
8 CLERK BLACKMON: I do not -- I have no --
9 COUNCILMEMBER PITTMAN: Captain, are you
10 aware of them getting -- Is your department getting?
11 CAPTAIN BROWN: I don't know.
12 COUNCILMEMBER PITTMAN: You don't know?
13 Okay. Just curious.
14 MAYOR JENKINS: Give your name, sir.
15 MS. KOONTZ: Stephe Koontz. I was here at a
16 meeting about the same time a year ago when they were
17 talking about being over budget, and the department
18 heads were saying, well, we had no idea of where we
19 were financially and we need financial reports and we
20 asked Priscilla to produce these reports, and the
21 whole Council agreed that the department heads can't
22 operate without knowing where they are.
23 And so Priscilla was trying to get these
24 reports while all this other stuff was going on. And
25 like Bob was saying, if she was a day late getting a

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detailed financial report, some of the Council members took her to task about not providing these reports.

And now it sounds like that nine months has gone by and the department heads have gotten no reports whatsoever -- I mean not detailed but just no reports at all -- and nobody cares now that Priscilla's gone, that these reports aren't being generated. And that just seem really strange to me that when she was here, it was a big deal, but now that she's been let go, nobody cares that these reports are not being generated.

And from a citizen's standpoint, watching this happening, it just seems -- how -- like you said, how can they know whether they're over budget, under budget or whatever, and the Council, how can y'all be voting on issues when you have no idea what the numbers even are?

MAYOR JENKINS: The department heads keep their own records. They know where they are.

MS. KOONTZ: Well, that wasn't what they said a year ago when they were over budget. They said that they couldn't keep their own records and they didn't know where they were. So it's one or the other. That's all I got to say.

MAYOR JENKINS: Thank you.

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COUNCILMEMBER FLEMING: And as a comment, Mayor, in defense of Mr. Maxwell, he's only been here five months --

MAYOR JENKINS: That's right.

COUNCILMEMBER FLEMING: -- so he was not the . . . for nine months. We were without an accountant for several months. So Mr. Maxwell has been here five.

MAYOR JENKINS: That's right.

Stuart Anderson?

MR. ANDERSON: I pass.

MAYOR JENKINS: Tom Hart?

MR. HART: Pass.

MAYOR JENKINS: Thank you.

I'll bring it back to the table.

COUNCILMEMBER ROCHE: Well, again, to restate my motion, I make a motion we postpone this agenda item to the next meeting and have Mr. Maxwell here because there are several questions about what little information he did present.

MAYOR JENKINS: Second?

COUNCILMEMBER SPANGLER: Second.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

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MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

COUNCILMEMBER ROCHE: Thank you.

MAYOR JENKINS: The next item on the agenda is one that Bob Roche put on the agenda. I did not put it on there. So I'm going to --

COUNCILMEMBER FLEMING: Mr. Roche, I respectfully request that this item be removed from the agenda. If you wish to speak about transparency in government, I don't have an objection to that at all.

I do have an objection to Mr. Anderson speaking. He was with us several months ago, and as

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disrespectful ways, and the items he brought up, I -- I can't condone his behavior. So I respectfully request to remove Mr. Anderson from item number 8.

COUNCILMEMBER PITTMAN: Is that a motion?

MAYOR JENKINS: Thank you.

COUNCILMEMBER FLEMING: Yes, it is.

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER ROCHE: There's a lot of discussion.

First of all, the City Charter -- and frankly, this came up because we didn't want to let Mr. -- some people apparently are very concerned about things that Mr. Anderson may say.

First of all, the Charter provides that a Councilperson can put something on the agenda. If we're going to set this precedent -- and what this means is that at any time somebody puts anything on the agenda -- that's elected official, or for that matter, a citizen or a business owner -- all it take is, you know, three Council members and a Mayor to kick it off and the citizens will never find out what's going on. Do we really want to go down that road?

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opportunity for the citizens of Doraville to find out who sitting up here truly believes in open government, who truly believes in, you know, open records, open government, because that's been a serious issue here for the city for a long, long time.

I don't think -- You know, see, maybe it's because I have nothing to hide, you know, and maybe that's why I don't worry about it so much. I don't know of anything that Mr. Anderson can say that would trouble me one way or another. If I'm doing something wrong, then maybe I need to hear about it.

So I personally have no fear for anything that Mr. Anderson may say, or anyone else for that matter. So the idea of taking someone off the agenda, again, we're taking away someone's right to say something. Again, I'm not afraid at all. You know, I have nothing to be afraid of.

So interestingly enough, we have an election coming up, and this is an opportunity for citizens to get a true idea of the kinds of people that are sitting up here, because some of us -- some of us are actually running for re-election.

Is open government just something you put on a campaign flyer to sound good or is it something you

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believes in it.

COUNCILMEMBER SPANGLER: And I also want to say for the record, I also believe in open government and I think that letting someone speak, although I don't know what Mr. Anderson's speaking about. I had no problem with what he spoke about before when he was up here. We allow our citizens to speak openly, we allow the Councilpeople to speak openly, and we've let business owners come in and speak openly even when they attacked Councilpeople or attacked other citizens, so I can't see why we can't let Mr. Anderson speak tonight.

COUNCILMEMBER FLEMING: My request had nothing to do with --

MAYOR JENKINS: That's right.

COUNCILMEMBER FLEMING: -- political campaigning, who's running, who isn't. Mr. Anderson, Mr. George Anderson -- let me put that on the record -- is not a citizen of Doraville, he is not a business owner in Doraville; he has no stake in the future of the city of Doraville.

As far as I'm concerned, I am not going to sit here and listen to him again demean every single one of us sitting up here, to demean the city.

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about getting the information within a timely period or not, though I truly believe in open government, I have no desire to listen to Mr. Anderson one more time.

MAYOR JENKINS: I had the opportunity to be at an ethics meeting. I'll reiterate what Pam says. Mr. Anderson really went out of his way to criticize the attorneys and the verdict. I did not like it. We let it go and we hoped that Mr. Anderson wouldn't come back, but he's back.

He's not a businessman, he's not a citizen of Doraville, he's not a citizen of Dekalb and is not a businessman of Dekalb, either.

Any citizen who wants to speak --. And I'll go along with Pam on this. If Bob wants to bring up what Mr. Anderson is referring to, he has that option.

COUNCILMEMBER PITTMAN: And I second that simply because not only was it the subject matter but because of him being disrespectful the last time and he did not stick to the subject matter that he was going to speak on when he got up here. He wandered off onto an attack, and I'm just not going to allow that to happen again.

COUNCILMEMBER SPANGLER: Well --

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Council --

MAYOR JENKINS: No, sir.

MR. GEORGE ANDERSON: -- I wanted to ask if I could share --

MAYOR JENKINS: No, sir.

MR. GEORGE ANDERSON: -- just a few words.

MS. FRAYSSE: No, sir. You do not --

MAYOR JENKINS: If you say anything else, I'll have you escorted out.

MR. GEORGE ANDERSON: Well, I was just going to state --

MAYOR JENKINS: Sit down, sir.

MR. GEORGE ANDERSON: -- that throughout the state of Georgia, they have called --

MAYOR JENKINS: Sit down, sir.

MR. GEORGE ANDERSON: -- they have called --

MAYOR JENKINS: (To Captain Brown) Escort him out, please, sir.

MR. GEORGE ANDERSON: -- individuals delegates or guests, councils and city commissions.

MS. FRAYSSE: You are out of order.

MAYOR JENKINS: You're out of order. You can sit back down or leave the room, whatever.

COUNCILMEMBER ROCHE: Let's have this vote

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MAYOR JENKINS: Open government's got nothing to do with it.

COUNCILMEMBER SPANGLER: Yes, it does, Mayor.

COUNCILMEMBER ROCHE: It has --

COUNCILMEMBER FLEMING: No, sir.

COUNCILMEMBER ROCHE: -- everything to do with it.

COUNCILMEMBER FLEMING: No, sir, it does not.

MAYOR JENKINS: We got a second. 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: No.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: No.

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speak.

Do you want to speak on his items?

COUNCILMEMBER ROCHE: Well, I wasn't sure exactly what he was going to talk about.

MR. GEORGE ANDERSON: I was going to talk about open government --

UNIDENTIFIED SPEAKER: No.

UNIDENTIFIED SPEAKER: No.

MAYOR JENKINS: Excuse me, sir.

MR. GEORGE ANDERSON: -- and I was going to speak about open records --

MAYOR JENKINS: We don't want to hear what you have to say.

MR. GEORGE ANDERSON: -- because you've got a City Attorney that's telling you lies, and --

COUNCILMEMBER FLEMING: Good night, --

MR. GEORGE ANDERSON: -- things that are illegal.

COUNCILMEMBER FLEMING: -- Mr. Anderson.

MAYOR JENKINS: Good night, sir.

COUNCILMEMBER BATES: Good night.

UNIDENTIFIED SPEAKER: You're not an attorney. How do you know?

MR. GEORGE ANDERSON: Just a moment.

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MR. GEORGE ANDERSON: The City Council is supposed to provide documents, and you can't hide behind the City Attorney cc-ing on all this stuff.

Four members of this City Council have talked to me about what's happening and this is not --

MAYOR JENKINS: Who hired you, sir?

MR. GEORGE ANDERSON: Yes, sir.

MAYOR JENKINS: Either get out or we'll take you out.

MR. GEORGE ANDERSON: You are supposed to be public servants. (Exits Council chambers.)

UNIDENTIFIED SPEAKER: Not for you.

MAYOR JENKINS: I apologize for that outburst. This is something that had to be done. This gentleman has done this before in a bigger, much tougher way right here with attorneys here, the whole Ethics Board. He criticized the Ethics Board. And I will not tolerate it again.

I took him -- I did not put him on the agenda. Mr. Roche chose to put him on there without an agenda item even.

Okay. What I'm saying is then he comes back after two or three meetings and puts what he wants to talk about.

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get up and leave for the simple reason that he criticized the attorneys, the Ethics Board and everybody that was in this room that particular night, and he did it one other time that Pam was referring to.

So I apologize to the audience for all this. We did not need this. I knew it was going to happen, and Mr. Roche could have prevented this.

COUNCILMEMBER ROCHE: Well, I do not --

MAYOR JENKINS: I will --

COUNCILMEMBER ROCHE: -- apologize.

MAYOR JENKINS: -- say that you could have prevented it.

COUNCILMEMBER ROCHE: I will not apologize.

I will read one statement and we can move on. I just put this together off the top.

It's my opinion and there's a lot of evidence to show that certain elected officials and staff of the City Council -- I'm sorry -- of the City of Doraville are cultivating a culture of secrecy and concealment. City Council members have to file Open Records -- I have to file an Open Records request to find out what's going on in City Hall. I have to pay for that, for every copy of everything.

I've been trying to find out a very simple

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building (indicating)? So far, I've spent money. I've had to do two separate Open Records requests because I got tangled up in something called client/attorney privilege. And to this day, I've been given all these documents and still don't know who built the building over there.

I mean I'm just a City Councilperson. I'm responsible to you people to make sure that our money is spent correctly; that we pass laws, follow those laws. And I can't do my job because I'm constantly obstructed from getting information on a day-to-day basis, and the financial statements is just another -- just another example of that.

So what we do here, we have this thing: any time you want to send an e-mail and you don't want anyone to know what's in that e-mail, we just simply copy the City Attorney. It magically becomes client/attorney privilege. That way, if I want to do anything bad or say anything mean or disrespectful, that's all I got to do. It's like the get-out-of-jail-free card.

Particularly now as of recently, the GM property issue is going to affect Doraville for years, and yet the response from some Council members is,

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refuse to even acknowledge that there's a potential threat, you know, to our city and Doraville's control of the GM site as well as future revenues, and we have to wonder whose side these Council members are on.

So you know, there are things that are and should be in Executive Session, very limited things. The law is very narrow there. But when it comes to the day-to-day operations and what's going on in City Council and in this city, citizens deserve to know it and --

MAYOR JENKINS: You got the --

COUNCILMEMBER ROCHE: -- I'll be --

MAYOR JENKINS: -- information you --

COUNCILMEMBER ROCHE: -- following up on this.

MAYOR JENKINS: -- needed this afternoon, Bob.

COUNCILMEMBER ROCHE: I'm sorry?

MAYOR JENKINS: You got the information.

COUNCILMEMBER ROCHE: No, I did not get the information, Mayor.

MAYOR JENKINS: You got all the information that we have.

COUNCILMEMBER ROCHE: This is the

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You know, I guess they're playing some kind of game as far as letting me know who the contractor was on this building. I finally get this document, and it's illegible, you know. It's like what's to hide?

COUNCILMEMBER SPANGLER: You're going to get all the information that you're going to -- you got all the information you're going to get. You'll never find out the information that you want regardless of how much money you spend.

COUNCILMEMBER ROCHE: I may find out after the elections.

MAYOR JENKINS: All right. It's 9 o'clock. Do we go into citizens' comments?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: Okay.

MR. WEED: Mr. Mayor, one thing we do have to do tonight would be the resolution extending service delivery strategy. We've re-passed that at a number of other times, but we are going to have to do that.

MAYOR JENKINS: Okay. We'll extend the meeting long enough to do item number 12.

Go ahead.

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Council and Mr. Mayor, this is a resolution that you pass literally every October. It deals with the service delivery strategy and the renewal of the same. There is a process that is ongoing with Dekalb County and the cities in Dekalb County.

I made one modification to the resolution that Dekalb County has developed, which is an exemption for the ongoing litigation with regard to certain double taxation. So I have made that change.

You adopted this resolution exactly with this exact wording, with the change that I recommended at least on one occasion, I believe twice now since I have been here. So it's the same resolution, different date. And it'll be ongoing every October, so September/October you'll be getting these until we actually resolve the matter.

COUNCILMEMBER FLEMING: Mr. Weed, we weren't copied on this or I haven't received a copy of it even though it's an annual type; correct?

I'm sorry?

CLERK BLACKMON: I believe it was in a packet a while back. I didn't reissue packets the last few times.

COUNCILMEMBER BATES: I don't recall seeing

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COUNCILMEMBER SPANGLER: We didn't get it.

COUNCILMEMBER FLEMING: So it's not that I don't agree with this agenda item and the passage of it, and I know that we do it annually in October, but I would feel more comfortable if I physically had it in hand. So if you have a copy of it and we can make a copy of it?

MR. WEED: Absolutely.

COUNCILMEMBER FLEMING: -- so that we can --

MAYOR JENKINS: Can we get it --

COUNCILMEMBER FLEMING: -- can review it --

MAYOR JENKINS: -- to them, Murray?

COUNCILMEMBER FLEMING: -- then I'll be more than happy to proceed.

MAYOR JENKINS: We'll put it on the next agenda, then.

MR. WEED: Well, Mr. Mayor, we really ought to pass this item if possible. Once again, it's the same language you've done three or four times previously.

If you don't want to take my word for it, we'll find it before the end of the meeting and I'll put it in your hands.

MAYOR JENKINS: Is that all right?

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don't take your word for it.

MR. WEED: I'm not saying that you are saying that. I'm just saying I will get it to you before the end of the evening.

MAYOR JENKINS: Go ahead and make a motion that we do it?

COUNCILMEMBER SPANGLER: No. We can --

COUNCILMEMBER FLEMING: No, sir. I would --

COUNCILMEMBER SPANGLER: We can have a --

COUNCILMEMBER FLEMING: -- like to --

COUNCILMEMBER SPANGLER: -- special-called meeting if we need to. If it has to be done this week, we can have a special-called meeting and come back after reviewing the document.

MR. WEED: For what it's worth, it was fax'ed to City Hall on 9/17/2009.

COUNCILMEMBER SPANGLER: But fax'ed to City Hall, not --

MR. WEED: Correct --

COUNCILMEMBER SPANGLER: -- to Council.

MR. WEED: -- yes, sir. That's --

CLERK BLACKMON: I was certain that it was in your packet, but will copy it now.

COUNCILMEMBER FLEMING: Ms. Alexander, did

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COUNCILMEMBER ROCHE: We should have filed an Open Records request.

COUNCILMEMBER SPANGLER: Yeah.

MR. WEED: I'm happy to give it to you right now, Council. We can address that any time you like.

COUNCILMEMBER SPANGLER: How many pages is it, Mr. Weed?

CLERK BLACKMON: Two.

COUNCILMEMBER SPANGLER: Okay, let's -- Is it okay with Council if we go ahead --

COUNCILMEMBER ROCHE: It's fifty cents.

COUNCILMEMBER SPANGLER: -- and get it now?

Fifty cents, yes.

You have change?

COUNCILMEMBER ROCHE: I got fifty cents.

COUNCILMEMBER SPANGLER: If anybody doesn't have their fifty cents, I've got it.

COUNCILMEMBER ALEXANDER: Oh, believe me. I'll be glad to pay for everyone's.

CLERK BLACKMON: (Presenting).

MR. WEED: That's the original, Councilman Fleming.

MAYOR JENKINS: Do you want time to look it over? Does everybody want to have time to look it

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COUNCILMEMBER ROCHE: I'd like to look it over.

MAYOR JENKINS: -- particular meeting?

COUNCILMEMBER ROCHE: Oh, is that the only copy? I'm sorry.

CLERK BLACKMON: I'm making more.

MAYOR JENKINS: Make them. I'll --

COUNCILMEMBER PITTMAN: Do we all get a copy?

MAYOR JENKINS: I'll pay for them in the morning. Go ahead and make them all.

COUNCILMEMBER FLEMING: Oh, here's the original if somebody wants to look at it. It originally had the original resolution.

This is for the record, Terri. The original resolution indicated that it was August 31, 2007 --

THE REPORTER: Could we have it quiet back here, because they're talking.

MAYOR JENKINS: (Gavel)

THE REPORTER: Please continue.

COUNCILMEMBER FLEMING: October 31st, 2007; October 31, 2008; April 30th, 2009; and October 31st, 2009, so --

MAYOR JENKINS: You want to go ahead and

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COUNCILMEMBER FLEMING: I'm sorry?

MAYOR JENKINS: Go ahead and read it.

COUNCILMEMBER FLEMING: Okay. (Reading) Resolution: Whereas, O.C.G.A. 36-70-1 requires the adoption of local governments' Service Delivery Strategy Agreement by municipalities and counties; whereas, the local government Service Delivery Strategy Agreement was approved by the City of Doraville on August 16th, 1999, and was renewed through August 31, 2007; October 31, 2007; October 31, 2008; April 30th, 2009; and October 31, 2009,

Whereas, the City of Doraville has submitted its 2005 Comprehensive Plan Update to the Department of Community Affairs,

And whereas, Dekalb County and other municipalities within Dekalb County have requested extensions in which to complete their Comprehensive Plan Updates,

The Mayor and City Council of the City of Doraville hereby resolve, one, that the document known as the Local Government Service Delivery Strategy shall be renewed and remain in full force and effect for a period of no later than October 31, 2010; number two, this Resolution shall not be deemed to

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double taxation or duplicative service charges; number three, that all resolutions or any part thereof in conflict with this Resolution are hereby repealed; and number four, this Resolution shall be effective immediately upon adoption.

So resolved this blank date of October 2009. So that would be so resolved this 5th day of October 2009.

MAYOR JENKINS: Anybody have --

MR. WEED: And obviously the drafts that were sent to you all on the 17th have a different date in them.

COUNCILMEMBER ROCHE: So would happen if we did not pass this? Would we be able to renegotiate this? I mean do we have any choice in the matter?

MR. WEED: My position and my opinion right now is there really is no choice and essentially this is a placeholder to prevent the triggering of very --

We have ongoing litigation with regard to duplicative services and with regard to double taxation. That suit's already been filed. We already are engaged in that with the other municipalities. That's ongoing.

Until the ultimate resolution of that, this

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record with the appropriate State agencies that we've discussed the Service Delivery Strategy and which services are being provided by what entity.

So the answer to your question is we would be in noncompliance with State law and we might not be able to accept or be given grants.

COUNCILMEMBER ROCHE: Thank you.

MR. WEED: That's always your option. You don't have to pass it.

COUNCILMEMBER FLEMING: Has everyone got a copy now?

COUNCILMEMBER ROCHE: Yes.

MAYOR JENKINS: Anymore questions on it?

- - -

(No response)

- - -

MAYOR JENKINS: Do I have a motion?

COUNCILMEMBER FLEMING: I'd like to make a motion to adopt the resolution for extending the Service Delivery Strategy with Dekalb County.

COUNCILMEMBER ALEXANDER: Second, with the date correction.

MR. WEED: Correct.

MAYOR JENKINS: Thank you.

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October.

MAYOR JENKINS: (To Captain Brown) Thank you, Jamie.

(To the Clerk) 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: Okay. We'll go into citizens' comments.

MR. WEED: Thank you.

MAYOR JENKINS: Thank you, Murray.

Three minutes on citizens' comments.

COUNCILMEMBER ROCHE: Mayor, are we doing Police comments?

MAYOR JENKINS: Well, he's back now.

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CAPTAIN BROWN: No, sir.

MAYOR JENKINS: Okay. Thank you.

Yes, sir.

MS. KOONTZ: While I don't approve of George Anderson's attitude, I can feel his frustration. I've filed some Open Records requests that were denied from this attorney/client privilege thing.

And I've done some research on the case law, and from what I've seen, the Georgia Supreme Court discusses this at length. And they say that just claiming potential future litigation isn't the bar that allows attorney/client privilege to apply to government -- intergovernment communications. They say that there has to be actual litigation, not just claim of potential future litigation, because you can claim that of anything and nothing can ever be Open-Records requested.

And I feel that's what's going on in Doraville is that people have decided that all they have to do is carbon copy the City Attorney with something and it becomes sealed, and that's not what Open Records laws were written to allow.

We should be able to get this stuff unless there is actual litigation, which means and the

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person has to have hired an attorney, their attorney has to have filed paperwork with the City that they are actively suing them for it to be considered litigation.

And what we've got going on now is that anything that the attorney touches, it appears, is being called potential future litigation and it's sealed, and that's not open government.

I don't know how this got started. I can or I am going to provide all the Council members with the case law that I've found regarding this, and I challenge the attorney to come up with case law that refutes it.

That's all I've got to say.

MAYOR JENKINS: Next?

MR. CRAWFORD: Ben Crawford, Doraville.

I'm actually going to join in with the minority. I didn't agree with not letting the gentleman speak. He might be a real pain in the behind, but I would have liked to have heard as a citizen what the gentleman had to say.

I think that the Mayor is well able to control the Council chambers and he has active police force here, as he proved earlier that he could take

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adept at setting the parameters for the gentleman's discussion, and I would have liked to have heard his five minutes.

And the second thing I have to say is that I applaud any City Council person who is actively engaged in doing the correct zoning and development of the GM plant, and those are the City Council people that I'm looking forward to working with in the future.

Thank you.

MAYOR JENKINS: Thank you.

Susan?

MS. FRAYSSE: Susan Fraysse, Spanish Oak Drive, Oakwood Estates.

I want to say, one, I am very glad that you did not waste our time tonight allowing Mr. Anderson to speak longer. I've heard from him on several occasions. I think the freedom to speak is something that we do, you know, here. This is our time. We don't have much time left to give to citizens from all over the state that have other agendas, so I appreciate you-all standing firm and not allowing him to interrupt. And he's been very disrespectful and rude in the past, so I'm grateful.

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heartened this week -- last week on Thursday night with the tone and tenor of the meeting that we had where the citizens were able to express their opinions about the future of the GM property. That shows us in the best light. I think it was helpful. There was no clapping, no jeering, no cat calls. It was very informative, and it showed how we can clean up our act in public and come together as a city, so I appreciate how that went.

I also want to point out that on a minor scale but something very important to people in neighborhoods like Oakcliff Estates, I have photos from the Million Word March which took place Friday a week ago -- two weeks ago, September 25th.

It was a great event. Everybody, every child in the Oakcliff Elementary School turned out dressed up like their favorite fairy tales and marched around. Everybody in your neighborhood probably heard it. They had the band from Cross Keys High come and play.

And the balloons that they released at the end, the deal is they were all pledging to read a million words this year, and they are a very high-achieving, high-performing school. They have a lot of

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released with a little note like this (indicating). So anybody in the neighborhood, anybody in Doraville that got a note, it would say, "My name is" -- this one was Adele -- "and my favorite book is," "and my goal is to read a million words."

So if you got one of these, if a balloon came down in your yard and you got one of these, I hope you take time and write a letter back to that child.

And that's the best of what Doraville is all about, so thank you.

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(Applause)

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MR. FEEDLER: Ray Feedler, Doraville.

We had some (imperceptible) moments here tonight, and it does sadden some of us in here that it had to end like it did.

But a couple weeks ago, we had -- we had someone up here, crazy, a certain Counc- -- member or two for things (imperceptible). But it seems like the people that really get the stuff done in the community don't get a lot of praise. And tonight, I would like to thank each and every Council member for what they

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Thank you.

- - -

(Applause)

- - -

MAYOR JENKINS: Susan?

MS. CRAWFORD: Susan Crawford.

Well, this is kind of boring in light of everything else, but I'm trying to get some art participation from the schools in the area, so any of you --

There are flyers, plenty of flyers. It's difficult these days to even get inside the school. It's kind of institutional, and my work hours are such that it's hard for me to get there before the school days ends.

So if anybody has an in with any of the schools and you could get some of the art teachers to respond to our request for art for the Doraville Days student art show, I would appreciate it.

MAYOR JENKINS: Well, you got a flyer or something you can --

MS. CRAWFORD: Yeah, we have many.

MAYOR JENKINS: I can get them to the school.

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Hightower covered.

MS. CRAWFORD: Good, because I got no response from them.

COUNCILMEMBER PITTMAN: Yeah.

MS. CRAWFORD: Also, I wanted to thank you all for going ahead with the zoning, the rezoning of the GM property. I think the tighter the zoning, the stronger we look if anything should arise in the future. And if anything should arise in the future, I hope that we will be kept abreast of this because there is strength in numbers. And I think that we all know pretty much what we want to happen and what we don't want to happen, and I think the other night proved that we can all work together and support you, and we should trust it.

And as far as the gentleman who was escorted out, I think I'm afraid I have to agree that -- but for maybe a different reason. To me, the saying there's no such thing as bad publicity kind of --

I have no idea what he was going to say, but now I'm really curious. Probably if he'd been allowed to speak, everybody's eyes would have glazed over and they would have yawned and that would have been the end of it, but now we're all, well, what did he want

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And thank you.

UNIDENTIFIED SPEAKER: Would you let a nonresident say one thing?

UNIDENTIFIED SPEAKER: Oh, no. I don't think so.

UNIDENTIFIED SPEAKER: Sorry about that.

MAYOR JENKINS: Who's next? Noonan?

UNIDENTIFIED SPEAKER: House fire.

COUNCILMEMBER PITTMAN: The lady in the blue.

MAYOR JENKINS: Which one?

COUNCILMEMBER PITTMAN: In the blue right here.

MAYOR JENKINS: Come on up.

John, wait a minute.

MS. GILLMAN: My name is Carol Gillman. I live at 3344 Chestnut Woods Circle.

And because we skipped item 13, Police Department Comments, I want to take the opportunity to say how very pleased I am to be able to participate in the Citizens Police Academy, very pleased. These professional men and women give up their time, their talent, their skill in time away from their families to spend time with us and give us a thumbnail sketch

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I'm very impressed. I sat there after I guess two minutes, and I said to myself at that first class, I am so very glad that I am here. I'm so glad that we have this program in Doraville.

I'm very impressed with everybody who presents, and I want you to know how much I appreciate it.

COUNCILMEMBER FLEMING: Thank you.

MAYOR JENKINS: Thank you.

- - -

(Applause)

- - -

MAYOR JENKINS: John?

MR. NOONAN: John Noonan, Doraville.

Regarding this item 7, Financial Reports and City Charter, I believe we have a mid-year budget review. I guess you-all are informed then of where we're at.

The department heads are keeping -- they know what's in their budget and they're keeping up with. The main problem we had is when they came to the mid-year budget review, their numbers didn't match with the reports. So that's where we had some conflicts. We're still trying to straighten all that

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As far as the building, I guess we're speaking about the police training building down there. That was built with forfeit assets. Those are Federal and State funds that our Police Department is allowed to spend, and so I don't see where you should have any interest in it whatsoever. That's at our Police Department's discretion and not the City Council's discretion.

Thank you.

MAYOR JENKINS: Thank you.

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(Applause)

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MAYOR JENKINS: Who's next?

Yes, sir. Come on up, Stuart.

MR. ANDERSON: Stuart Anderson, Doraville.

I appreciate the Crawfords and one or two others that brought this -- tried to bring this back to the business.

This was something I was going to say basically on 9/21 and we had a storm, I guess. Since 2006, I and Bonita and perhaps some others have been bringing up the necessity of having a sophisticated Planned Unit Developing zoning ordinance in place. I

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following.

I request that the City edit and make use of the PUD ordinance that we paid $100,000 for. It would benefit us in these ways. The existing M-2 zoning that currently protects us from undesirable development in the GM property is a thin shield.

Correct Planned Unit Development zoning put in place by the City would make a statement of intent by not only some of our aware citizens but would be a statement of intention by the City as a legal entity as to the City's desired use for this area. A sophisticated PUD zoning ordinance combined with quality architectural standards would speak to whoever buys this property, clearly and legally, of our intent for this space.

Some months ago, the City Council approved and discussed having work sessions on the vision for the GM property. They could be held in this time frame, in the time frame of putting an ad.

(To the audience) Is there something y'all want to say about this?

(To the Council) They could be held in the time frame of the public hearings and the zoning change which should happen as soon as possible.

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We've known that GM was going to quit five years ago. We need to protect ourselves. We need to get this going. With recent offers and rumors, I not only urge you to act on the PUD zoning change but I wholeheartedly endorse Mr. Roche's call for an expert development firm to provide zoning and economic development guidance for this extremely important tax-base asset that we currently have.

PUD zoning create what Doraville's vision is for this economic development of the GM property, something that we could all be proud of.

Thank you.

MAYOR JENKINS: Thank you, Stuart.

Next?

MS. CALVERT: She just brought to my attention that Saturday there's a health fair over in Chamblee. It is free. They're bringing in a big vehicle to give the blood pre- -- They take blood pressure, eye checks and bone density. There'll be children's game that day and free hot dogs and cookies and drinks.

MAYOR JENKINS: Would you volunteer to help over there Saturday?

MS. CALVERT: I believe it's at the

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Pardon?

MAYOR JENKINS: Excuse me. Are you going to work at the festival?

MS. CALVERT: No, I'm not going to work at that, huh-uh.

COUNCILMEMBER FLEMING: Seniors' Connection, right?

MS. CALVERT: Yes.

COUNCILMEMBER ROCHE: Senior Connection.

UNIDENTIFIED SPEAKER: Buford Highway in Chamblee.

MAYOR JENKINS: That's Northwoods United Methodist.

MS. CALVERT: Oh, okay.

MAYOR JENKINS: They put it on every year. They want to combine with the Doraville Days next year.

MS. CALVERT: That's good.

MAYOR JENKINS: So I've already talked about that, and they can't get enough people to work.

Anybody that could go over there and help, it's at the flea market in Chamblee in the front.

MS. CALVERT: That's good.

MAYOR JENKINS: And it's Northwoods Baptist

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MS. CALVERT: Yes.

MAYOR JENKINS: And they do all kind of tests. And so they're asking us now if they can combine with Doraville Days next year, so I appreciate you bringing that up. Thank you. That's what I call city business. Thank you.

Anybody else?

Did you turn your phone long enough to speak?

MR. HART: No. It's my own egg timer. It's more accurate than yours. It's down to four decimal places.

But concerning the building across the street in the Police Department, the asset forfeiture funds have a set of laws that were signed by Janet Reno. Pretty well spells out what you can and cannot do with that money.

But one thing is for sure is that the property it's sitting on when they built the building belongs to the city of Doraville, and that, the City Council has something to say about. That was Flowers Park, which was a park that was donated to the city of Doraville by the Flowers family. It has a beautiful stream that ran through it. It still has a swimming

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extension center was the Braves Cave for the high school kids, and it has a theater building which is in the middle with a fireplace in it, that's occupied by the Asian Center right now.

And like all the cities around here, like Thrasher Park in Norcross or over at the springs that were in Sandy Springs, every city has and demands a downtown park, which the City of Doraville had before we built a jail in the middle of it. And now we have a building that's occupying more of that park, that the City Council didn't vote on. It occupies City land.

So whether they have discretion of what they spend their money on, the City Council has the right to demand who built the building on that park property, and they demand to know who got the money from that. Was it bid out? Did you use the financial bid process the rest of the City goes by, that's required in the asset forfeiture law? You know, details.

And that's what we're talking about, open government, and that's what we don't have in Doraville right now. Thank you.

MAYOR JENKINS: Tom, if you'll do a little

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corner beyond the Braves Cave. And there is a park there. There's a swing and all. That's all there's room for.

This other was determined --

MR. HART: It was 7.2 before --

MAYOR JENKINS: -- not to be in Flowers Park.

You've finished your conversation. I'm just giving you my information on it. Thank you.

Anybody else?

MR. WEED: Mr. Mayor and members of the Council, I have a report to give you if you elect to go into Execution Session, for the acquisition of real estate.

MAYOR JENKINS: Okay. Can we close this meeting or do we have to --

MR. WEED: I'd prefer, before you close this meeting, that you have a motion and a second to go into Executive Session for the purpose so stated.

COUNCILMEMBER ROCHE: I will make a motion to go into Executive Session --

MAYOR JENKINS: Second?

COUNCILMEMBER ROCHE: -- for the purpose of --

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minutes, and then that might spur some conversation from Council, so --

- - -

(Executive Session)

- - -

(Whereupon, a motion was made by Councilmember Spangler and seconded by Councilmember Fleming to adjourn Executive Session, and the motion passed by unanimous vote.)

- - -

MAYOR JENKINS: Meeting come back to order. Murray?

MR. WEED: Mr. Mayor, we are back to the regular meeting, and I would ask the Council to make a motion to approve the action taken in Executive Session with regard to the acquisition of real estate.

COUNCILMEMBER SPANGLER: So moved.

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Any discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

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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.

And now I make a motion to adjourn.

COUNCILMEMBER BATES: Second.

CLERK BLACKMON: Who seconded?

COUNCILMEMBER BATES: I did.

CLERK BLACKMON: Thank you.

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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CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

- - -

(Meeting adjourned at 10:05 p.m. the same day.)

-o0o-

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C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 6th day of October, 2008.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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