In The Matter Of:

City of Doraville

State of Georgia

-City Council Meeting-

September 8, 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 7:15 p.m. on Tuesday, September 8, 2009.

* * *

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

P R O C E E D I N G S

MAYOR JENKINS: Good evening, everyone. Meeting come to order.

Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Here.

MAYOR JENKINS: We need to approve the minutes for 7/27/09. Do I have a motion, please?

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: And the minutes for 8/3/09. Have a motion, please?

COUNCILMEMBER ALEXANDER: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Abstain.

CLERK BLACKMON: Abstain?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

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CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: 8/17/09. Do I have a motion?
COUNCILMEMBER BATES: So moved.
MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: I promised to -- I didn't promise it but I put on the agenda, update on General Motors. I do not have that update. I think everybody

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picked up on the news today a couple of things, and it's Greek to me.
I will be meeting with CEO Ellis on Thursday, and I hope to find out something then that I can give an update on. So that's all on GM.
Clinicare Lease. We have some people that want to rent our Clinicare building. And I've got Murray to write up a probable contract on it, and of course we didn't get it till today. I understand that. But the people are pushed to get out of the place that they're in now, and the building that we have up here needs a lot of renovation, and they've agreed to take it, and we've agreed to do some of the renovation and then them improve it as they go along.
And I have Mrs. Margi Shindell here tonight. She is a representative.
Would you come up to the microphone?
I know you haven't had much time to look at this but it's --
MS. SHINDELL: I haven't seen it at all.
MAYOR JENKINS: Excuse me?
MS. SHINDELL: Oh, I'm sorry. I thought you were talking to me.
MAYOR JENKINS: Oh, okay. Anyway, I just want you to answer questions when we get ready.

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Murray, could you kindly paraphrase this and see if we can get something going on this?
ATTORNEY WEED: Yes, Mr. Mayor.
Late in August, the administration was approached with a proposal from Ms. Shindell's organization, which is a nonprofit. The organization is the Georgia Real Estate Investors Association. They are a duly incorporated nonprofit in the state of Georgia. Their mission statement is that they do training for people who are interested in entering the real estate field: if they want to turn houses, if they want to do real estate-type projects. They are in a facility now. However, they are looking to get out of their current facility and they are very interested in the building right across the street at 5921 New Peachtree Road.
What they are proposing essentially would be they're willing to pay first and last months' rent, a monthly rent of $1,500. They are prepared to go ahead and enter the building and put their furniture in there. They'd like the lease to begin on October the 1st.
They've asked us to do an evaluation of the heating and air system to see if it's adequate and make repairs necessary. They've also offered to the

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general public a 10 percent discount if members of the public in Doraville wish to join their organization, a 20 percent discount for membership if City employees wish to join the organization.
With regard to the interior of the facility, I had an opportunity to tour the facility with the Mayor. It is designed right now -- I don't know how many of you have been in it. It's definitely designed for a medical-oriented facility. There are a number of very, very small, clearly, examination rooms; a number of bathrooms that pretty much -- anything other than a medical facility I don't think would ever need the number of bathrooms that they currently have in there.
It is the administration's point of view that much of the work that we can have this organization do, we the government would have to do anyway to make that building compliant for something we might want to use it for in the future.
And based upon that, I was asked to do an analysis of the proposals that came in and do a preliminary license agreement, which I did complete and send to you late this afternoon.
With that, I'm happy to answer questions that you've got with regard to the legal aspect of it.

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You are under no compunction whatsoever to lease or license that facility to anybody. You are not required to do that. It can sit fallow for however long you wish it to. However, the administration felt this might be a good opportunity to get some money coming in. And of course, as you know, changes that are made to the facility, we get to keep. We get the benefit of that either way if they're there for a year or there for two months as long as the projects are complete.

Another important caveat I'll add would be obviously all the work that's done would have to be permitted, would have to be done up to appropriate standards and would be inspected.

MAYOR JENKINS: Okay. Any questions?

COUNCILMEMBER ROCHE: I guess my main concern is that we've received this at 4:21 this afternoon, and the lessee hasn't even had a chance to look at it either. So since we're talking October 1st and we do have another Council meeting in between then and now, I would think it would make sense to go ahead and wait until then. That would give us a chance to look over this and make sure we have all our questions answered, et cetera, and make a decision the next Council meeting.

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MAYOR JENKINS: These people do have a time frame of getting out of where they are, and I think we need to, if we possibly can, move forward on it. I'm not trying to push anything over on the Council, but they need to get out of where they are and they need a place to move in.

And I think this is going to be an asset to the city because what they're doing is actually going to improve the building, and if we ever have to use it, I think it would be an asset to us to go ahead and let them go in.

COUNCILMEMBER PITTMAN: And what is your time frame?

MS. SHINDELL: We would like to move in and start work October 1st, which means we have to start moving the stuff in this weekend if possible.

COUNCILMEMBER SPANGLER: When is your lease up at your current location?

MS. SHINDELL: We are up through the end of September.

COUNCILMEMBER ROCHE: So what would it take if we wanted to get out of the lease for some reason?

ATTORNEY WEED: Well, as usual, what I've built into the lease would be the first termination period is the end of the calendar year. As you

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recall, we've got the multi-year contract clause that we have to utilize in these matters, which means the contract dies automatically on December the 31st, and unless the Council takes affirmative action to keep it dead, it'll spring back to life on January 1.

The first -- it's a one-year lease, meaning 12 months; however, the first we could get out of it would be the end of the calendar year if we found out things weren't working out.

COUNCILMEMBER ROCHE: Well, I didn't want to jump ahead in the agenda, but one of the things that had been brought up as a potential idea was to use that site for a fire station here in Doraville. And if we encumber it now, we may not be able to have the opportunity to do that. I didn't realize that this was happening until, you know, we just recently got the e-mail.

ATTORNEY WEED: And I'd like to address that very briefly. I was asked to review proposals that came in in late August --

COUNCILMEMBER ROCHE: I understand.

ATTORNEY WEED: -- by the administration. I was asked Friday to prepare a draft lease. I did that over the weekend. Obviously, I was off --

COUNCILMEMBER ROCHE: No. I understand.

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ATTORNEY WEED: -- Monday, and I generated it today.

I'm not recommending you do this. I'm not recommending you don't.

COUNCILMEMBER PITTMAN: I will say that I did some research --

ATTORNEY WEED: The license is legal. I can tell you that.

COUNCILMEMBER PITTMAN: I did some research and have in the past in reference to the fire department and had been working with Dekalb County Fire Services. And although it sounds like a potentially good idea, they were really reluctant to being too close in to the tank farms. They were looking more if we could come up with an area, Buford Highway, the opposite side within the city would be a little bit more feasible for that because of the danger. If something did happen, it doesn't do any good if we blow up the fire department, too, so --

COUNCILMEMBER ROCHE: Sorry. I don't understand. You're saying that --

COUNCILMEMBER PITTMAN: They were saying --

COUNCILMEMBER ROCHE: You're talking back this way; right?

COUNCILMEMBER PITTMAN: Yes.

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COUNCILMEMBER ROCHE: Okay. So this is too far but --

COUNCILMEMBER PITTMAN: With the study and the work I've done with Dekalb County, that would be what they said.

COUNCILMEMBER ROCHE: And a hundred yards farther is okay, though. That doesn't make sense.

Could you share that with the rest of the Council?

COUNCILMEMBER PITTMAN: I will if you'd like.

COUNCILMEMBER ROCHE: Great. Thank you.

COUNCILMEMBER PITTMAN: Yeah. It is true, it is in the previous minutes.

COUNCILMEMBER ROCHE: I'm sorry. What was in the previous minutes?

COUNCILMEMBER PITTMAN: What we just talked about.

COUNCILMEMBER ROCHE: Yeah. It's in the old -- it's under old business.

COUNCILMEMBER PITTMAN: I understand. I'm saying the information that I've given out has been discussed in previous times. It's in the minutes. But I'll see if I can get that for you.

COUNCILMEMBER ROCHE: Thank you.

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COUNCILMEMBER BATES: Do we have any estimate of what the renovations, the repairs might run?

MAYOR JENKINS: No. I have an estimate on bringing the heating and air up. Two fifty, unless it's something serious wrong with it, but they've already checked it out. That's on the heating and air.

ATTORNEY WEED: And based upon the proposal, work we would be required to do would be to demolish three nonload-bearing walls, add a door that does not exist now, look into the heating and air conditioning and also do an energy efficiency study, and if that proved that there was a lot of heating or air bleeding out of the building, provide insulation; although as long as the building isn't being used, we're not required to bring any of the bathrooms up to ADA compliance, but that would ultimately be our expense as well.

However, I will say that if you're going to use that building for some other function and just not let it sit, which you can always let it sit for however long you want to, the work that is to be done would be work you'd more likely than not, do anyway.

COUNCILMEMBER FLEMING: Do we have to update

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the parking for ADA compliance?

ATTORNEY WEED: I believe the parking would probably be sufficient now. There is an existing ramp, if I remember correctly, and it's already got a painted parking space there.

We have been asked to fill in the potholes by the realty group and asked -- they've asked to restripe it with fresh paint.

MAYOR JENKINS: We'll do that either way.

COUNCILMEMBER ROCHE: Is there adequate parking for this use?

MS. SHINDELL: There is. That's one of --

COUNCILMEMBER ROCHE: Sorry.

MAYOR JENKINS: Excuse me?

COUNCILMEMBER ROCHE: No. I was asking if there was adequate parking for the use. I just wanted to make sure that we had all that part straightened out.

COUNCILMEMBER BATES: Mr. Weed, I apologize for asking if it's in here. Does it reference who is responsible for utilities?

ATTORNEY WEED: Actually, I did not address that.

MAYOR JENKINS: They're --

ATTORNEY WEED: My assumption --

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MAYOR JENKINS: They're responsible.

ATTORNEY WEED: -- would be that they would of course pay for all the utilities. That is not currently set out in the lease.

COUNCILMEMBER BATES: Can we add that?

ATTORNEY WEED: Absolutely.

MAYOR JENKINS: Yes.

COUNCILMEMBER BATES: And are we required to have the ADA-compliant facilities?

ATTORNEY WEED: I believe that when you actually begin -- when you engage in this license --

If the building is empty, you don't have to do anything to it. You can simply let it sit there. You're the government. But if you have the facility being used by some third-party entity, then my opinion would be yes.

COUNCILMEMBER ALEXANDER: And it specifies too.

ATTORNEY WEED: Correct, it does.

COUNCILMEMBER ALEXANDER: Is that because of the size of the facility or?

ATTORNEY WEED: Yes.

COUNCILMEMBER ALEXANDER: Okay.

COUNCILMEMBER BATES: Mr. Mayor, how much of the work would we be able to do with our crews versus

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having to contract it out?
MAYOR JENKINS: We can take the walls out. We've already checked to see if they're load bearing. And as far as we know, we can take all three --
Three walls, I believe it is; right?
MS. SHINDELL: There's three walls.
MAYOR JENKINS: -- without any problem. Our Maintenance can do that and patch the ceiling and floor where the walls are taken out. Our Maintenance can do that.
COUNCILMEMBER BATES: And what about interior finishes as far as painting and carpet?
ATTORNEY WEED: That's their -- that will be their responsibility.
MAYOR JENKINS: That will be their responsibility.
COUNCILMEMBER FLEMING: I don't know how our Maintenance Department would be able to renovate this, and them move in this weekend. I find that a little bit difficult.
MAYOR JENKINS: I do, too. I don't believe that's possible.
COUNCILMEMBER FLEMING: I'm sorry.
MAYOR JENKINS: They mainly need to get some of their equipment out of the other building.

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Am I correct?
MS. SHINDELL: That is correct.
And actually, most of the stuff we're talking about is in one half, so we could temporarily put stuff in the other half.
ATTORNEY WEED: Surprisingly, this is an extremely large facility. I was frankly surprised going into it Friday how big the place is. It's very large.
MAYOR JENKINS: Very large.
Bob, do you have questions?
COUNCILMEMBER SPANGLER: No, sir, I don't have any, any questions.
I would think that Ms. Shindell would like to look at this lease before she would even want to entertain.
MAYOR JENKINS: You have worked the lease out, is that correct, Ms. Shindell?
MS. SHINDELL: That is correct. And assuming that it was done the way we discussed it, I have no problem with it.
MAYOR JENKINS: We discussed it before we (inaudible).
ATTORNEY WEED: And I don't mean to be difficult, but in this case, beggars can't be

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choosers.
MAYOR JENKINS: Do what?
ATTORNEY WEED: I said in this case, no offense to Ms. Shindell, beggars can't be choosers. I mean if she -- I think she understands that, you know, we are under no compunction to do this. We're under no time crunch; they are. That's the deal. They're big people.
COUNCILMEMBER ROCHE: Yeah. And again, that's my concern is that, you know, we just now got the agreement a little while ago, and of course we had a 5:30 meeting so I didn't really have a chance to look at it.
It doesn't mention who's responsible for the utilities, and we have no idea what the costs are going to be to make the -- to renovate the building to make it -- to meet the needs of the tenant. So we could very easily lose money on the deal versus it just sitting their empty. So I have a difficult time supporting this at this moment just because of those, you know, open questions.
I understand your situation, but --
MAYOR JENKINS: We will be getting some rent money out of it.
COUNCILMEMBER ROCHE: But it may cost us

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more than what we're getting out of it.
Too many times we've come up here and things have been handed to us, and we've said okay, fine, and we make a decision and then later on we live to regret it.
MAYOR JENKINS: Such as?
COUNCILMEMBER ROCHE: And so --
MAYOR JENKINS: Can you give me an example of that?
COUNCILMEMBER ROCHE: Actually, I think we may be discussing one here very soon.
COUNCILMEMBER PITTMAN: And if we hold off, your alternative would be? What would you do?
MS. SHINDELL: I'm not quite sure at this moment.
COUNCILMEMBER FLEMING: The next meeting is on September 21st, and I truly would like to postpone this until September the 21st and make a decision at that time.
COUNCILMEMBER SPANGLER: I would second that. I would like a chance to read this a little more thoroughly. Again, we didn't get it until about 5:30 this afternoon. I think you may have sent it at 4:00, 4:00-something.
COUNCILMEMBER ROCHE: 4:21.

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COUNCILMEMBER SPANGLER: I didn't have the opportunity to read it.
ATTORNEY WEED: It was late this afternoon. I'm sure none of you had time to look at it.
COUNCILMEMBER SPANGLER: You have a question out in the audience, Mayor.
COUNCILMEMBER ROCHE: And we'd also like to get the cost, what it's going to cost us to do the renovation.
COUNCILMEMBER FLEMING: We have a planning meeting on the 14th if that's --
COUNCILMEMBER PITTMAN: We have another -- before our Council meeting, another special-called meeting, we might could add this to the agenda?
CLERK BLACKMON: There is one on the 14th --
ATTORNEY WEED: The 14th.
MAYOR JENKINS: 14th.
CLERK BLACKMON: -- at 6:30.
COUNCILMEMBER ROCHE: I would be fine with that.
COUNCILMEMBER FLEMING: I'd like to make a motion to postpone this until September the 14th and add that to the agenda for the September 14th meeting.
MAYOR JENKINS: Do we get a second?
COUNCILMEMBER SPANGLER: Second.

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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 ALEXANDER: Mr. Weed, did you send our copies?
ATTORNEY WEED: No, I haven't.
CLERK BLACKMON: I have an extra.
MAYOR JENKINS: Thank you.
ATTORNEY WEED: I wanted to find out if Council was remotely interested in doing this before I did that.
COUNCILMEMBER FLEMING: That meeting begins at 6:30, just so that you --
That particular meeting will begin at 6:30; correct? 6:30.

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MS. SHINDELL: I might have to send another representative because that is the night of our general meeting, and I'm the executive director, so I have to run that meeting.
COUNCILMEMBER FLEMING: Thank you.
COUNCILMEMBER PITTMAN: Thank you.
MAYOR JENKINS: Doraville Days. Pam, I'm going to let you make a report on Doraville Days.
COUNCILMEMBER FLEMING: Thank you. Doraville Days, and I think Maria wants to say something and Brian, too, as well maybe.
Doraville Days is coming up October the 17th. What I did this evening is I went ahead and put a volunteer worksheet down, and it's just an XL spreadsheet that indicates some of the areas in which we need to have volunteers. And I know that the graduates of the Citizen Police Academy really came through for me last year and -- came through for us, I should say -- and really did appreciate that for over at the inflatable fun area. So anybody that would like to volunteer, I've got it over there.
Maria would like to take over for me.
COUNCILMEMBER ALEXANDER: I did confirm that our gracious partition manufacturer is lending us partitions again to display our children's art work.

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And if I could beg and plead with Mr. Anderson and Ms. Crawford to assist again with the art show. I think it was a great success.
And also if we have any able bodies that would like to help us clean out Council chambers and assemble the partitions that Friday night before the show, your help would be appreciated also.
COUNCILMEMBER PITTMAN: And Hightower's already on board for the art.
MAYOR JENKINS: We got a sign-up sheet over here if you want to volunteer.
COUNCILMEMBER FLEMING: I appreciate all of you. We look forward to another great, successful year.
MAYOR JENKINS: Okay. Is that all?
Donna?
COUNCILMEMBER PITTMAN: This coming Saturday is Movies Under the Stars. And if you've never come out for one of these, they're a lot of fun. The gates will open at 5:30. They're going to be showing "Kung Fu Panda," so bring your picnics and your friends and family and come out. It really is a lot of fun. If you've come out before, you'll know that it's a great family event and environment. So we hope everybody can come out this Saturday.

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1 Brian, did you have anything you wanted to
2 add?
3 COUNCILMEMBER BATES: Movie time is probably
4 going to be about 8:30?
5 COUNCILMEMBER PITTMAN: A little bit earlier
6 because it gets dark a little bit earlier. But we
7 open the gates at 5:30. They usually play games, and
8 there's going to be face painting and balloons and
9 other things for the kids or adults.
10 That's it.
11 MAYOR JENKINS: Okay. We got some software
12 bids?
13 CLERK BLACKMON: Yes, sir.
14 COUNCILMEMBER ROCHE: Mayor, before we do
15 that, I have a couple of very -- a couple of concerns
16 about the software RFPs and opening it, I'd like to
17 discuss.
18 I see Mr. Maxwell is not here tonight. But
19 I had an opportunity to review the RFP after it was
20 published, and I ran into -- we saw some serious
21 issues or what could be serious issues with the RFP
22 itself.
23 And I guess in general I'm concerned that if
24 we go this route, we will not get our audit done in
25 time this year. I think that we'll be spending money

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1 that we don't need to be spending. So I would like to
2 go ahead and discuss that before we bother to open
3 this.
4 Also, there's some other information that
5 was brought to my attention over the weekend, and I'm
6 thinking that this is a personnel issue and perhaps we
7 should go into Executive Session to discuss a
8 personnel issue that's directly related to the soft-
9 ware RFP.
10 So I'd to make that motion.
11 COUNCILMEMBER SPANGLER: I'll second.
12 MAYOR JENKINS: What are you saying is wrong
13 with the RFP?
14 COUNCILMEMBER ROCHE: Well, before we go
15 there, Mayor, I think we have -- there's some other
16 information that came in about our accounting and our
17 software RFP for the accounting system, and we may
18 want to discuss that first. I think we need to
19 discuss that in Executive Session.
20 MAYOR JENKINS: Murray?
21 ATTORNEY WEED: I have no legal objection.
22 The motion appears to be proper.
23 I would, you know, counsel the Council that
24 you can't receive evidence with regard to a personnel
25 matter in Executive Session but you can certainly

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1 discuss actions to be taken and deliberate in
2 Executive Session.
3 COUNCILMEMBER ROCHE: So we'd present what I
4 just passed out here outwardly then or --
5 ATTORNEY WEED: Yes, sir. I mean what the
6 rule of law is is that any evidence that the Council
7 would be looking at with regard to a personnel matter
8 is done in the open air and then deliberations,
9 discussions of actions to be taken can be done in
10 Executive Session.
11 COUNCILMEMBER ROCHE: You know, unfortu-
12 nately, Mr. Maxwell is not here tonight. I was kind
13 of hoping he would be, so that as we discussed this,
14 he would be able to --
15 MAYOR JENKINS: Well, you should --
16 COUNCILMEMBER ROCHE: -- present his side.
17 MAYOR JENKINS: -- have let me know, and
18 Mr. Maxwell would have been here.
19 COUNCILMEMBER ROCHE: Well, I didn't know
20 about this other information until just recently,
21 Mayor.
22 The Council has this in front of them. I
23 mean I don't know if we want to go ahead and discuss
24 this. I guess I could bring this out.
25 MAYOR JENKINS: Murray?

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1 COUNCILMEMBER ROCHE: I don't know if you
2 got a copy of it. I --
3 ATTORNEY WEED: Where you are at proce-
4 durally is that there's been a motion to go into
5 Executive Session for consideration of a personnel
6 item. There has been a second to that motion.
7 My advice will be to go ahead and deal with
8 the motion first. And if you decide to go into
9 Executive Session, at that point, you could --
10 Mr. Roche could make the presentation of whatever,
11 quote/unquote, evidence he would like to present in
12 public and then you could excuse yourselves to
13 deliberate on said evidence outside of the presence of
14 the public.
15 MAYOR JENKINS: You're saying he cannot
16 present this information in Executive Session.
17 ATTORNEY WEED: That is correct.
18 MAYOR JENKINS: Well, what's the use to go
19 into Executive Session?
20 ATTORNEY WEED: Well, in Executive Session,
21 that gives you an opportunity to digest the infor-
22 mation, discuss the information outside of public
23 scrutiny and make some preliminary decisions about
24 whether the information should be acted upon or not.
25 That's my opinion.

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MAYOR JENKINS: Anymore discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: No.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: No.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: I'm fine. Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: No.
CLERK BLACKMON: Motion carried 4 to 2.
MAYOR JENKINS: Excuse me?
CLERK BLACKMON: Motion carried 4 to 2.
ATTORNEY WEED: Now, where you're at procedurally, Mr. Roche, you have the opportunity now if you care to to present the evidence that's come to your attention.

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And then Council, you've got the option to go into some other forum to discuss that information.
COUNCILMEMBER ROCHE: Yeah. A lot of this is already well known.
MAYOR JENKINS: Wait just a minute. I don't understand the call for the motion.
CLERK BLACKMON: Councilmember Fleming, Pittman, Roche and Spangler all were yes.
MAYOR JENKINS: To go into Executive Session.
CLERK BLACKMON: Yes.
COUNCILMEMBER PITTMAN: And you said no, so we're not.
UNIDENTIFIED SPEAKER: Mr. Spangler said no.
COUNCILMEMBER SPANGLER: Spangler said yes.
CLERK BLACKMON: No. The only two no's I got were Ms. Alexander and Mr. Bates.
COUNCILMEMBER SPANGLER: It was the Mayor that said no.
CLERK BLACKMON: But he thought it was a tie, and it was not.
MAYOR JENKINS: I did. I apologize.
CLERK BLACKMON: It was not a tie.
COUNCILMEMBER PITTMAN: Okay.
MAYOR JENKINS: Pam, your motion was?

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COUNCILMEMBER FLEMING: I didn't make the motion, sir. It was Mr. Roche.
COUNCILMEMBER ROCHE: I made the motion.
MAYOR JENKINS: Excuse me.
COUNCILMEMBER FLEMING: But my vote was yes, to go into Executive Session.
MAYOR JENKINS: So we'll go into Executive Session; is that correct?
COUNCILMEMBER PITTMAN: Well --
CLERK BLACKMON: He's going to present first.
COUNCILMEMBER ROCHE: I have a couple things that I just have to bring out.
First of all, I think that a lot of people in town understand that Mr. Maxwell has apparently applied for a position at a different --
COUNCILMEMBER FLEMING: Municipality.
COUNCILMEMBER ROCHE: -- Finance Director of McDuffie County, and I guess he'll be making a decision probably in a day or two.
And what he says is that he lives -- Mr. Maxwell lives in Milledgeville -- this is reading from a news report -- and if he's hired, he'd prefer to commute back and forth to Thompson.
His comments were the only down side of

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working in Doraville is that "I have to live in Atlanta during the week. Even though this is a small price to pay for an excellent job, I miss being at home with my wife. She just accepted a job as a K-12 math coach for Taliaferro County, and this provides me with a possible opportunity. If selected for the job, I would be able to carpool/commute with my wife."
Obviously, Mr. Maxwell, as I would -- you know, it's a very long commute. And the reason I'm bringing it up here is that we're talking about spending, you know, tens of thousands of dollars on a software package that -- you know, to accommodate Mr. Maxwell, and at the same time, there's real evidence that Mr. Maxwell may be looking for another position.
There are some other things here but I don't think that I'd want to bring them out right now because Mr. Maxwell is not here. But I think that some of these, the Council is aware of; some, they may not be aware of.
So that's about all I had, really, before we went into Executive Session.
MAYOR JENKINS: Rhonda --
COUNCILMEMBER ROCHE: But I do have some other concerns as far as the RFP itself and our whole

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1 process that we're going about this with.
2 MAYOR JENKINS: Why don't you bring it on
3 out, the RFP? What's wrong?
4 COUNCILMEMBER ROCHE: Well, I'd like to go
5 ahead and, you know, deal with the personnel issue
6 first.
7 MAYOR JENKINS: Rhonda, what did Mr. Maxwell
8 tell you about that particular job?
9 CLERK BLACKMON: He tells me that he turned
10 down a position. That's what he told me last week.
11 COUNCILMEMBER FLEMING: Turned down a
12 position or --
13 CLERK BLACKMON: He did not specify.
14 COUNCILMEMBER FLEMING: -- the position?
15 CLERK BLACKMON: He did not specify.
16 COUNCILMEMBER ROCHE: Right; because there
17 won't be a decision made on this particular situation
18 until Wednesday, which is tomorrow, I guess.
19 CLERK BLACKMON: I would like to go on
20 record that we need a software package, anyway,
21 regardless. It was not just for Mr. Maxwell.
22 MAYOR JENKINS: We certainly do. I think
23 everybody knows that.
24 COUNCILMEMBER SPANGLER: I think -- while
25 we're up for discussion and everybody's giving their

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1 opinions, I've talked to a person that sells these
2 software packages, and I think Ms. Alexander's company
3 uses MAS 90 also.
4 When we interviewed these accounting --
5 potential accountant people, we asked if they could
6 use MAS 90. That was one of the questions that I
7 remember that was asked to every one of them.
8 MAS 90 does work. What we have will work.
9 We just need somebody that knows how to work it.
10 CLERK BLACKMON: I disagree.
11 COUNCILMEMBER SPANGLER: And are you an
12 accounting person?
13 CLERK BLACKMON: I have to deal with it on a
14 daily basis doing vendor payables and receivables, and
15 it does not -- it is not user friendly and it does not
16 give you the reports that you need. You have to
17 create the reports yourself within MAS 90.
18 No, I'm not an accountant.
19 ATTORNEY WEED: Mr. Mayor, where you're at
20 procedurally, there's been a motion and a second which
21 has been duly adopted to go into Executive Session to
22 deliberate upon the evidence that you have heard in
23 the public eye. You may do so now if you so care to
24 or you may not.
25 COUNCILMEMBER ROCHE: Well, I think we

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1 should. We have made the motion, and I think it would
2 be better for everyone if we just used the Mayor's
3 office briefly.
4 MAYOR JENKINS: Very good.
5 I apologize to the audience for this, but
6 looks like they're determined to do it, so we'll go do
7 it.
8 - - -
9 (Executive Session - 7:50 p.m. - 8:15 p.m.)
10 - - -
11 COUNCILMEMBER SPANGLER: Motion to get back
12 to the regular meeting.
13 COUNCILMEMBER PITTMAN: Second.
14 MAYOR JENKINS: I have a motion and a
15 second.
16 MAYOR JENKINS: Call the roll, please.
17 CLERK BLACKMON: Councilmember Alexander?
18 COUNCILMEMBER ALEXANDER: Yes.
19 CLERK BLACKMON: Councilmember Bates?
20 COUNCILMEMBER BATES: Yes.
21 CLERK BLACKMON: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BLACKMON: Councilmember Pittman?
24 COUNCILMEMBER PITTMAN: Yes.
25 CLERK BLACKMON: Councilmember Roche?

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1 COUNCILMEMBER ROCHE: Yes.
2 CLERK BLACKMON: Councilmember Spangler?
3 COUNCILMEMBER SPANGLER: Yes.
4 MAYOR JENKINS: Everybody ready?
5 COUNCILMEMBER FLEMING: Trying to get to the
6 money, honey.
7 COUNCILMEMBER ALEXANDER: We are opening
8 RFPs received for an accounting system?
9 MAYOR JENKINS: Yes.
10 COUNCILMEMBER ALEXANDER: I have Public
11 Sector Solutions. Total software and implementation
12 estimate is 113,700.
13 COUNCILMEMBER SPANGLER: How much, Maria?
14 COUNCILMEMBER ALEXANDER: One thirteen,
15 seven hundred.
16 COUNCILMEMBER SPANGLER: Thank you.
17 COUNCILMEMBER BATES: I've got CSI
18 Technology Outfitters, three prices. Four prices;
19 sorry. Option one is fifty-three thousand eight
20 ninety-nine and fifty cents with a tech support
21 estimate of eleven thousand nine sixty-eight; and then
22 there's a technology equipment option two, it looks
23 like, of twelve thousand eight seventy-eight.
24 COUNCILMEMBER ROCHE: Okay. I have one.
25 It's Waypoints, LLC, in Melbourne, Florida. Let's

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1 see. They have travel expenses. Okay. They have two
2 different bids. One's for standard-edition software
3 with professional services and travel, estimated
4 travel, $39,462. Professional edition software,
5 professional services and travel is $45,212.
6 COUNCILMEMBER FLEMING: Where are they from?
7 COUNCILMEMBER BATES: Easley, South
8 Carolina. CSI; Easley, South Carolina.
9 COUNCILMEMBER PITTMAN: I have one here for
10 Tyler Technologies. Looks like it's also broken down.
11 Summary investment, sixty-one thousand, eight sixty-
12 five; travel expense, nine thousand nine eighty-five;
13 online training and software maintenance, seven
14 thousand seventy-eight.
15 COUNCILMEMBER FLEMING: I have Harris
16 Spectrum. I have several items here. First one is
17 software license fee, $42,935. The annual maintenance
18 and support fee, ninety-one ninety-five; professional
19 services, $14,725; customization fee, $1,990; and if
20 we wanted optional software, which includes a report
21 writer, Crystal, $1,575.
22 COUNCILMEMBER ROCHE: I think we already
23 have Crystal, actually. See, they would pull into the
24 same Crystal we have now.
25 COUNCILMEMBER PITTMAN: Tyler also has

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1 software and professional services, five thousand five
2 seventy-eight and then a conversion breakdown of two
3 thousand.
4 COUNCILMEMBER ROCHE: Well, one thing, in
5 the original RFP it said they must have 10 customers
6 or ten clients that are municipalities within the
7 state of Georgia.
8 And the one I just read a minute ago
9 apparently only has -- (counting) one, two, three -- I
10 guess, if I understand correctly by the RFP, then they
11 don't meet the standards of the RFP.
12 COUNCILMEMBER FLEMING: I believe our goal
13 was to open the RFPs, and I make a motion at this time
14 not to make a decision on any of them.
15 COUNCILMEMBER ROCHE: And I'll second that.
16 MAYOR JENKINS: The motion was what, now?
17 Not to make a decision on --
18 COUNCILMEMBER FLEMING: Not to make a
19 decision this evening.
20 MAYOR JENKINS: Okay. When do you want to
21 make a decision, or do you want to go back to the
22 drawing board?
23 COUNCILMEMBER FLEMING: I'm sorry?
24 MAYOR JENKINS: When do you want to make a
25 decision, or do you want to go back to the drawing

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1 board?
2 COUNCILMEMBER FLEMING: I believe, first of
3 all, I don't have the experience to be able to look at
4 and know what I'm seeing.
5 MAYOR JENKINS: I understand.
6 COUNCILMEMBER FLEMING: So I'll leave that
7 up to you, Mayor.
8 MAYOR JENKINS: Well, who do you think is
9 qualified to look at them, then?
10 COUNCILMEMBER FLEMING: I wouldn't have any
11 idea. And if there are exceptions to the RFP, we need
12 to be looking at these a little bit deeper to know
13 whether they meet the qualifications of the RFP that
14 we submitted. If they don't, then, yes, sir, we need
15 to go out for another RFP.
16 MAYOR JENKINS: Okay. That's what I was --
17 Thank you.
18 COUNCILMEMBER FLEMING: You're welcome.
19 MAYOR JENKINS: Did we get a second?
20 COUNCILMEMBER ROCHE: I seconded it.
21 MAYOR JENKINS: Okay. Anymore discussion?
22 COUNCILMEMBER ROCHE: Yes. I have a lot of
23 concerns about this course of action that we're
24 taking, the idea of going out and buying a new
25 software package at this point in time.

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1 I understand that the MAS 90 system may not
2 be the best system out there. Currently, I believe
3 the architecture is they use the MAS 90 for accounting
4 and then pull the data into Crystal Reports for
5 reporting.
6 We have an audit coming up that must be due
7 and completed by the end of the year. We've already
8 been given two years, it was late, and the way it's
9 going now, I think we'll be lucky if we're not late
10 with this.
11 I think it's the worst possible time to go
12 out and try to buy and install a whole new software
13 system. All the data would have to be converted, all
14 reports would have to be set up, everybody would have
15 to be trained. Again, I think we have a huge risk of
16 not getting the audit done this time.
17 The MAS 90 system can produce acceptable
18 results. I've talked to other people about it. You
19 know, we talked about fund accounting, I think, was
20 the big concern. Well, if I'm a software salesperson
21 and I say, "Well, can you do fund accounting?", if I
22 can find a way to say no, of course I'm going to say
23 no, because I sell software.
24 It's like I took my car, my Subaru, my 2008
25 Subaru Forester to the dealership and said, "Hey,

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that's a really nice 2009 Subaru out there," and the car salesman said, "Oh, no, Mr. Roche. You should keep the car you have."

And when he said that, I reached under the desk and started pulling his leg just like I'm pulling your leg.

But anyway, I think that our challenge is we need -- we could either hire a consulting company to come in here and straighten out our MAS 90 system and pull the reports into Crystal -- pull the data into Crystal Reports and get our reports out and get this audit done on time.

If we needed to, we could go out and we could replace -- we could find someone that -- we could hire an employee that has the needed skill sets to do this in the first place, which is something that the City did not do.

We could bring back our prior accountant who at least knew how to use the system, and even if it's for just two or three weeks to just train people.

For the time it would take to train our current accountant on some new software application, we might as well just train them on the software application that we have today. I mean it makes a lot of sense to me.

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So anyway, that's all I wanted to say on that, and I think we're going in the wrong direction on this.

MAYOR JENKINS: Thank you, Bob.

Anybody else got any discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: Motion carried.

COUNCILMEMBER ROCHE: Thank you.

MAYOR JENKINS: Okay. Item number 4, Murray.

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ATTORNEY WEED: Mr. Mayor, my name is referenced to that item.

You'll recall, in mid August, we discussed the existing alcohol beverage ordinance and I had made some recommended changes to it based upon some cases that have come down since 2005.

Since we have the engine out of the car, I made very, very conservative changes to the existing ordinance, and I did that very purposefully. The main goal I was attempting to reach was making sure that residency requirements were appropriately dealt with underneath the current law and making sure that where we had character qualifications, when we looked into people's backgrounds, that there was a connection between -- for example, if it was a misdemeanor or felony offense, that there was a logical connection between the existence of that offense and the sale/use/manufacture/dealing in alcohol beverages, which is what the cases say you have to have. You've got to have some kind of logical connection between the two.

Since that time, Council wanted to take a look at this, and they wanted to also explore the section that dealt with character qualifications and prior offenses as to when a person could possibly lose

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their license and what other punishments were available.

Councilman Bates and Councilman Fleming have generated some charts based upon some of their thinking on that, essentially kind of creating a statute of limitations with regard to those offenses.

So with that, my recommendation is at a minimum that you adopt the ordinance that we presented on August the 17th of 2009. At a minimum, that ordinance will do the two things that I talked about: it'll clear up the residency issues and make that completely legal, and it will also, in my opinion, clear up some of the character-qualification issues.

So that's what I'd recommend you do at a minimum, and if you do something beyond that, of course that's up to the Council. And Councilman Bates and Councilman Fleming will probably want to be heard on the chart that they've prepared and shared with you previously.

MAYOR JENKINS: Brian, do you have anything?

COUNCILMEMBER BATES: Yeah. Give me one second, please.

MAYOR JENKINS: Yes, sir.

COUNCILMEMBER BATES: Mr. Weed, correct me if I'm wrong, but the ordinance that you drafted did

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not reference the time period for violations of under-age; is that correct? That's a separate ordinance?
COUNCILMEMBER FLEMING: That's 3-270.
COUNCILMEMBER BATES: Well, Ms. Fleming --
COUNCILMEMBER FLEMING: Or -272. Sorry.
COUNCILMEMBER BATES: -- the ordinance that Mr. Weed has prepared for us doesn't address --
COUNCILMEMBER FLEMING: No. That's a stand-alone ordinance.
COUNCILMEMBER BATES: Right.
ATTORNEY WEED: Yes.
COUNCILMEMBER BATES: Yours does not address 3-270.
ATTORNEY WEED: Correct.
COUNCILMEMBER BATES: Okay.
ATTORNEY WEED: You know, once again, my goal was to do two things, make sure the parts that I didn't feel comfortable with were, you know, brought up to what I believe the current case law says.
COUNCILMEMBER BATES: And the concern that we had on this at the time was the residency require-ment that was carried over, I believe, from the existing statute in that it requires an entity who wishes to sell alcohol to be a resident or have a designee be a resident of the city of Doraville.

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ATTORNEY WEED: That is correct.
COUNCILMEMBER BATES: Okay.
ATTORNEY WEED: You can't -- you can't mandate that it necessarily has to be the actual licenseholder but you can mandate that the license-holder get somebody, or themselves, you know, be able to be a resident.
COUNCILMEMBER BATES: And there was -- I guess there was a question on whether or not we could make that requirement to be the person of record with the Secretary of State, who is the holder of the business license.
ATTORNEY WEED: You can do that. That is legal.
COUNCILMEMBER BATES: Okay. That, Council, is my preference: that we go to the designee as the person who is listed on the Secretary of State's -- as the licensee.
ATTORNEY WEED: Well, let me ask a question.
COUNCILMEMBER BATES: Yes, sir.
ATTORNEY WEED: If you are in Doraville and you have your lawyer be your registered agent, which is allowed, and that lawyer lives in Timbuktu, which would also be allowed, are you saying that the registered agent could be the person responsible for

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the license and you still want a residency require-ment or are you just saying that no residency's okay as long as you can get to a Georgia registered agent?
COUNCILMEMBER BATES: That, my preference, a registered Georgia agent.
ATTORNEY WEED: And either one is legal.
And once again, you don't have to have any residency requirement at all. It is an option. Your current code had that, so I just took the logical step of trying to make your current code fresher.
COUNCILMEMBER BATES: To bring the audience up to date and for guests, the current ordinance and the proposed ordinance reads in numerous instances that an applicant for a alcohol license must have resided continuously for a period of three years in the state of Georgia and the person must be a resident of Dekalb County and the city of Doraville, and it's referenced a number of times.
I just find that incredibly burdensome for a prospective business owner. So my motion is going to be amend the ordinance to utilize the registered agent per the Secretary of State's -- Georgia Secretary of State's office as the --
Mr. Weed, as the designee? Is that the correct terminology?

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COUNCILMEMBER ROCHE: Without any residency requirement.
COUNCILMEMBER BATES: Without any residency requirement.
COUNCILMEMBER ALEXANDER: I think I would like to have that as a requirement, but in some of the ordinances that we were reviewing, it also suggested that the registered agent be -- for example, if you have a chain, would be the manager of that particular location or the person who's going to be in charge of that operation, because I believe perhaps if we look up, say, Chili's or someone, that they may be registered in Chicago or Delaware or somewhere.
ATTORNEY WEED: Yes, you can do that.
If I understand what the councilman is saying correctly, if you are a Chili's franchisee, the license might very well be held by Chili's Restaurant, Inc., that might be a Delaware corporation.
But every corporation doing business in Georgia needs to register and would have a registered agent here, and then that local Georgia registered agent -- you can draft an ordinance, in my opinion, that would have a residency requirement on that agent, and you could also say that that agent's got to be the manager or responsible person for the license. That's

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also legal.
The real goal, however you achieve it, in my opinion is to make sure you've got a human being that you could A, serve papers on, and B, who you know is responsible for the ongoing activity at the business. That's what you want to accomplish.
COUNCILMEMBER BATES: Absolutely.
So I apologize. You made a statement, and I thought it sounded good. Could you reiterate that for me so I can amend my motion?
ATTORNEY WEED: Well, I think what you're talking about would be that the Georgia registered agent, you would not require them to reside in Doraville or even Dekalb County; however, that Georgia registered agent, wherever they're residing, would be the official designee as responsible party for the license for purposes of service and for purposes of managing the license.
COUNCILMEMBER BATES: Can we add in what Ms. Alexander was referencing, that the manager or the on-site person be listed additionally or is that --
ATTORNEY WEED: Yes. That's what I kind of meant to say or that's what I was trying to get at, but --
COUNCILMEMBER BATES: Okay.

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ATTORNEY WEED: -- that was my understanding of what --
COUNCILMEMBER BATES: So registered with the Secretary of State --
ATTORNEY WEED: Right.
COUNCILMEMBER BATES: -- and/or the local manager or designee?
ATTORNEY WEED: Well, I think you probably ought to make it "and," just to clear that up.
COUNCILMEMBER BATES: Okay. Council, are you with me on that?
So it would be to utilize the Secretary of State's registration as the designee and, where appropriate, a local manager, to be the official designee.
ATTORNEY WEED: So when the entity, whatever entity it is, comes into town and they want to sell alcoholic beverages here, if they didn't already have a Georgia registered agent, they'd have to get one, and that person would not only be the Georgia registered agent but they would also be the responsible managing entity for the alcohol beverage license-issued business.
COUNCILMEMBER BATES: So moved.
MAYOR JENKINS: Murray?

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ATTORNEY WEED: Yes, sir.
MAYOR JENKINS: I have sign-ups on this. Should we have them speak before the motion or after?
ATTORNEY WEED: That's entirely up to your prerogative as Mayor.
MAYOR JENKINS: Brian, what would you say?
COUNCILMEMBER BATES: Mayor, you can have --
MAYOR JENKINS: Would you want to hear their input before you --
COUNCILMEMBER BATES: Sure.
MAYOR JENKINS: -- make the motion?
COUNCILMEMBER BATES: That's fine.
MAYOR JENKINS: Mr. Harold Shinn, would you come up to the microphone?
Did you understand what Mr. Bates --
MR. SHINN: Not completely. I only had a chance to look at this about two hours ago.
MAYOR JENKINS: We'll give you five minutes, sir.
MR. SHINN: Yes, sir.
I think the way this was written it requires Dekalb County -- that the agent be a resident of Dekalb County and the city of Doraville.
COUNCILMEMBER BATES: Yes.
MR. SHINN: My understanding is currently

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that it requires the agent to be a resident of Dekalb County only.
COUNCILMEMBER BATES: That, I don't believe is correct. I believe it --
MR. SHINN: It's not?
COUNCILMEMBER BATES: I believe it does require city of Doraville residency.
MR. SHINN: Okay. It does require city of Doraville residency. Okay.
If what was being discussed was to amend it to mean a resident of the state of Georgia and a registered manager of the location that's being operated, then I personally don't have a problem with that.
I thought the requirement for the city was either -- I think I understand the principle. In other words, there's -- you have somebody in close proximity you can serve papers to or get ahold of.
But in the case of my business, maybe a bar that's open late at night -- I'm open full-time during the day. What would end up happening, I would just try to find somebody in the city of Doraville who can serve this purpose. Whatever notice that would legally be required for them to receive, they would be served, and then it would just come through it. They

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might not have any relation to the business, they might not understand anything about my business at all. They would just serve as a conduit.

In that case, having the requirement be actually a manager on site I think is more direct and more accessible.

MAYOR JENKINS: Thank you.

MR. SHINN: On that issue.

There was another point in the portion that I read. Should I discuss that within the same allotment of time? because they haven't covered it yet.

COUNCILMEMBER BATES: Sure.

MR. SHINN: And I appreciate your patience. I haven't had a lot of time to prepare.

There is a section in there that describes punishment for the violation, and I believe it's limited to liquor sales, sales of distilled spirits.

COUNCILMEMBER BATES: Could you reference a page number for us, please?

MR. SHINN: Okay. Page number 9 of 14.

And it seems like a lot of the wording is kind of -- I understand it was necessary, and I'm not an attorney by any means, but it was necessary. But it seemed a lot of it kind of repeated itself, so it was it was hard for me to make this one out.

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And if my understanding is correct, it says, starting at about three-quarters of the way down, "Should any applicant, partner, officer, employee or agent used in the sale of distilled spirits after a license has been granted be convicted or plead guilty or nolo contendere to any felony or to a crime involving moral turpitude or the violation of any laws regulating the sale of narcotics, distilled spirits, wine or malt beverages, or the lottery or gambling laws of the state, or to prostitution or other sex-related offense, the license shall be instantly revoked and canceled."

My first reading of that, I was somewhat alarmed because that would -- I thought that that could apply to anybody under my employee.

A little bit more careful reading, it actually specifically says to "sale of distilled spirits," which I do not sell. I sell beer and wine. So I'm presuming this is designed to address either liquor stores or bars.

But even then, it's just -- even though it would not affect my business personally, it's just the idea of any employee that you have, who you have no idea and presumably no control what they do when they're not employed with you, could cause you to have

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your license instantly revoked and canceled. It just seemed overly problematic to me or too punishing for those types of businesses.

COUNCILMEMBER BATES: It actually does apply to beer and wine, too. It's on page 6.

MR. SHINN: On page 6. Okay. Well, then -- then yes. I am definitely against it.

I have over 300 employees. Many of those employees are part-time. I go through -- I have relatively high employee turnover as anybody in the grocery or fast-food service business does. Some of the more sensitive ones that do cash handling, we would, by self interest, do background checks, but certainly, obviously, for every bag boy, it's somewhat burden-some.

And then to consider that any of those employees, if they break the law in such a manner off of business and could cause me to lose my license seems a little bit problematic or severe in my opinion.

COUNCILMEMBER BATES: And hang tight with me.

MR. SHINN: Yes.

COUNCILMEMBER BATES: Mr. Weed, is Mr. Shinn's assertion correct?

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ATTORNEY WEED: Yes. And that's already the code.

COUNCILMEMBER BATES: Got it.

So Buford Highway Farmers Market, back stockroom person commits a felony, that impacts his ability to sell beer and wine.

ATTORNEY WEED: That could be evidence -- that would be evidence that this Council could use to revoke a license. That is correct.

COUNCILMEMBER ROCHE: Would a solution be to have essentially the same language only say that if it happens on the premises during business hours or something like that?

ATTORNEY WEED: Yeah, you can limit it pretty much to whatever degree you care to.

COUNCILMEMBER ROCHE: I mean, well, clearly this is a real point. I mean if we did some research, I'm sure we could find somebody out there that's ever worked for you and -- you know.

MR. SHINN: Well --

COUNCILMEMBER ROCHE: Obviously we need to fix that.

MR. SHINN: May I speak?

COUNCILMEMBER ROCHE: Sure. Sorry.

MR. SHINN: You know, because you have a

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1 large store with many people, I've had examples where
2 employees will get into fist fights with other
3 employees. I don't want that to happen, but by human
4 nature -- And I try to screen for that as best as we
5 can in the hiring process. I can't guarantee that
6 will never happen.
7 So if one employee, and certainly without my
8 approval, got into a fight with another employee on my
9 premise and then was convicted, would that auto-
10 matically cause me to lose my license?
11 COUNCILMEMBER ROCHE: Good point.
12 COUNCILMEMBER BATES: I don't want to go
13 into hypotheticals. I've got another question for
14 Mr. Weed.
15 ATTORNEY WEED: It can right now. Please
16 bear in mind that's --
17 MR. SHINN: Oh, yes, sir.
18 ATTORNEY WEED: -- the way it's worded now.
19 MR. SHINN: Yes, sir.
20 ATTORNEY WEED: And it has been for years.
21 MR. SHINN: Yes, sir.
22 ATTORNEY WEED: I'm not saying it's good.
23 I'm just saying it is what it is.
24 MR. SHINN: Yes, sir.
25 COUNCILMEMBER BATES: Mr. Weed, the language

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1 reads such license shall be immediately revoked and
2 canceled.
3 Could not the terminology be changed to read
4 that such license shall be immediately reviewed?
5 Because as it reads right now, there is no hearing.
6 There is no evidentiary procedure. It is done,
7 sealed.
8 By the language that I'm reading, "shall be"
9 is not a possibility. That is a definitive statement.
10 That's declarative: shall be immediately revoked and
11 canceled. That doesn't lead me to suggest that
12 there's a hearing involved before this body or any
13 other body. It says finis, done. Is that correct?
14 ATTORNEY WEED: Yes.
15 COUNCILMEMBER BATES: So could we at least
16 not in the short sense change that to require a
17 hearing, a due-process hearing or review of the
18 applicant's license versus immediately and capri-
19 ciously canceling it?
20 ATTORNEY WEED: Yes.
21 COUNCILMEMBER ROCHE: Well, I guess I'm just
22 -- and obviously we need to fix this. But what would
23 be the process? Is that like, you know, we arrest --
24 you know, the Doraville police arrest somebody for DUI
25 or the Smyrna police arrest somebody for DUI and say,

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1 "Oh, boy. You work at the farmer's market, so I'm
2 going to --?" You know, how would all that work, I
3 guess?
4 ATTORNEY WEED: Well, the way your ordinance
5 is broken down now, it's broken down into the
6 different types of licenses you can get, and there are
7 -- in order to even be able to be qualified to apply
8 for a license, a background check is conducted. And
9 if you had let's say a felony of moral turpitude in
10 your record within a certain time frame, you wouldn't
11 even qualify to be issued --
12 COUNCILMEMBER ROCHE: Right.
13 ATTORNEY WEED: -- a license at all and your
14 application would be rejected.
15 And then the other phase of it is after a
16 license is issued, then there are certain character
17 requirements that deal with if a crime is committed
18 after the fact, then, you know, it can negatively
19 impact the license.
20 So the answer to your question, can you do
21 that, yes, you can.
22 Can you create a situation where you can
23 have -- can you create a situation where if someone is
24 convicted or pleads guilty to a certain offense, you
25 come before the Council for the hearing? Yes. And

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1 you should do that; that's appropriate in my opinion.
2 COUNCILMEMBER ROCHE: I feel uncomfortable
3 with the part about the employees, though.
4 ATTORNEY WEED: Well, now, I mean, you don't
5 you don't have to regulate employees. That's
6 certainly a choice.
7 But I do think you're going to want to
8 regulate the employees in the sense that you don't
9 necessarily want someone to be a waiter or waitress
10 who's got a felony offense for, you know, drugs
11 necessarily, selling a mind-altering substance. And
12 that's why the state law is such that it gives the
13 local governments such great authority in this arena.
14 COUNCILMEMBER ROCHE: But it sounds like
15 from what you were saying, if someone came to us and
16 wanted a liquor license and they had 200 employees,
17 they would basically have to do a background check on
18 all 200 employees.
19 ATTORNEY WEED: That's exactly what they
20 have to do, and that's usually expected in most juris-
21 dictions. And that's their responsibility, it's the
22 cost of doing business, because, once again, the first
23 thing in the alcohol beverage state law, the very
24 first part of the statute 3-3-1 says the service of
25 alcoholic beverages is a privilege, not a right. It's

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unlike other professions.
COUNCILMEMBER ROCHE: Okay.
ATTORNEY WEED: There's no right to it, because, once again, it's a mind-altering substance, so the folks who are in that business are held to a higher standard literally than the guy who pumps your gas.
I'm not saying that's right or fair but I'm just saying that's the law.
COUNCILMEMBER BATES: Yeah. I'm not inclined to take away the employee portion of that but I do feel that there needs to be a process, a procedural element in place versus, based upon this, automatically and without a hearing.
ATTORNEY WEED: What I'd like to put forward is I'd like to -- Once again, what I tried to do here was simply cure the problem of the day, and now it appears we're going to have a little bit more time to decide this than I at first estimated.
So my recommendation is if the Council -- the feedback I'm getting is you kind of all feel this way -- would be to kind of rework this language and simplify it. Most of this is not our language, it's already in your ordinance, and I wanted to just make sure it was legal.

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COUNCILMEMBER BATES: While you're in there -- And I'm perfectly fine with that.
Let me ask you this question. We've got two or three different sections, one that talks about distilled spirits, one that talks about beer and wine and maybe even a third section. Is there any reason to keep those segmented out versus combining it all under one alcohol ordinance?
ATTORNEY WEED: It's purely a -- it's purely a philosophical decision. I have had some clients say that if you come in for a beer and wine license, that you should be able to take just that part of the code that would be applicable to that entity and they don't need to be exposed to all the other parts of the code.
So clearly there's a lot of repetition here. But the person who wrote it did so on purpose, and I imagine with that idea in mind.
Other jurisdictions have one section for all of these businesses; you qualify; here's a list of qualifications, and if you do something wrong, this is what can happen to you, and it's two sections, and you just have language that says this applies to whatever license you've got. And that's legal, too.
COUNCILMEMBER BATES: Can you --? Because I've read through it and I've not been able to

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identify any discerning differences between the beer and wine and the distilled spirits.
Are there specific differences between the two sections that make one less difficult -- i.e., beer and wine -- and one more difficult? Is there anything identifiable that you've been able to see --
ATTORNEY WEED: No.
COUNCILMEMBER BATES: -- between these two sections?
ATTORNEY WEED: The original language is almost identical, and therefore, the language I used was almost identical.
COUNCILMEMBER BATES: I would be inclined, Council, if we're okay with consolidating this into one ordinance that covers alcohol as a general piece of legislation.
COUNCILMEMBER ROCHE: Okay. We had a motion. We never got a second. I mean did we want to just --
COUNCILMEMBER BATES: I'll withdraw that motion, and I think Mr. Weed has -- unless we want to do it just so that it's clear on what we want him to do.
ATTORNEY WEED: Well, I think I have an idea.

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COUNCILMEMBER BATES: But that's just me. That's not consensus from Council, so --
ATTORNEY WEED: Since we have a little bit more time, what I propose is that I make a stab at a simplifying the ordinance generally and putting all the qualification requirements in one section, putting all the penalty and punishment requirements in another section, obviously in the same ordinance.
But when I say "all of them," meaning that I would have language -- you know, you'd find language in the beer and wine section that says, you know, "Qualifications for applications shall be found in Section 1-23," and then when you flipped over to distilled spirits, it would be "Qualification for this section is found in Section 1-23" and just refer to it as that one chunk of language. That's perfectly legal.
COUNCILMEMBER ROCHE: I guess I make a motion to table this until the next Council meeting?
ATTORNEY WEED: Yes, sir.
COUNCILMEMBER BATES: I'll second that.
ATTORNEY WEED: And I'll do a draft like that.
COUNCILMEMBER ALEXANDER: May I ask another question on this? In this other municipality's

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1 ordinance, it is requiring all applicants to submit a
2 completed State form from the Georgia Department of
3 Revenue Alcohol and Tax Control Unit. I don't know
4 that that's something that we require but I don't see
5 us requiring them to complete a State form being a bad
6 thing.
7 ATTORNEY WEED: Well, I suppose it all
8 depends on what the State form entails. That's not
9 usually language that I find in most of these
10 ordinances, however, I can certainly get a copy of the
11 form and we'll see what they're asking for.
12 COUNCILMEMBER ALEXANDER: It's Personnel
13 Statement Form ATT-17, State of Georgia Department of
14 Revenue Alcohol and Tax Control Unit.
15 ATTORNEY WEED: By the way, that may already
16 be required for their State license, and you ordi-
17 narily get your local license first before you get
18 your State license.
19 COUNCILMEMBER ALEXANDER: They must require
20 proof that they are going to get their State license
21 before they issue the local. Maybe that's what
22 they're doing.
23 ATTORNEY WEED: I will look at the form and
24 get back to you.
25 MAYOR JENKINS: Anymore discussion?

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1 MR. SHINN: If I could make just a quick
2 comment or an observation?
3 MAYOR JENKINS: Very quick.
4 MR. SHINN: Yes, sir.
5 In reading this, it almost seemed like --
6 And I don't know if the person who initially developed
7 this envisioned a strip club or like a roadside bar
8 where you have lots of bad stuff going on. That's
9 what I felt when I was reading it.
10 And I think the problem is there are a lot
11 of businesses that are very, very removed from that
12 type of business, including mine, and I think it
13 should be reworded or at least considered to
14 accommodate my concerns.
15 MAYOR JENKINS: Thank you.
16 Call the roll, please.
17 CLERK BLACKMON: Councilmember Alexander?
18 COUNCILMEMBER ALEXANDER: Yes.
19 CLERK BLACKMON: Councilmember Bates?
20 COUNCILMEMBER BATES: Yes.
21 CLERK BLACKMON: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BLACKMON: Councilmember Pittman?
24 COUNCILMEMBER PITTMAN: Yes.
25 CLERK BLACKMON: Councilmember Roche?

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1 COUNCILMEMBER ROCHE: Yes.
2 CLERK BLACKMON: Councilmember Spangler?
3 COUNCILMEMBER SPANGLER: Yes.
4 MAYOR JENKINS: Okay. Item number 5, Pam.
5 COUNCILMEMBER FLEMING: Yes, sir. Item
6 number 5 is amending the alcohol ordinance. We
7 presently have this as Section 3-270 in our City Code
8 of Ordinances.
9 There are 46 alcohol establishments in the
10 city of Doraville, and our Police Department did an
11 outstanding job in regards to underage sale or
12 possibly not identifying through the person's driver's
13 license. And of the 46 establishments, I believe it
14 was 15 or 16, 16 establishments violated the identi-
15 fication where they did not ask for the I.D.
16 Now, we presently have a fine, an immediate
17 fine of $1,000. But we go on to say in our ordinance
18 3-270 that on the first violation, those people are
19 going to come to us and we are going to give them a
20 30-day consecutive suspension in their license, so for
21 those 30 days, they are not going to be able to sell
22 any alcohol. And that's, you know, the nice
23 restaurants or whatever the case might be.
24 And this economy is what I'm thinking about
25 at this time. 30 days without that possibility of

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1 selling alcohol, that would put them out of business.
2 Our second violation is if it was another
3 employee, for instance. Second violation, and that's
4 in lifetime. We don't even have it in this ordinance
5 that it is in a one-year period or a six-month period.
6 It's lifetime. If you get a second offense, your
7 business license -- your alcohol permit is taken away,
8 it's revoked and you never get it back again.
9 Now, I am not an advocate for selling to
10 minors or not asking for your I.D. Don't take me
11 wrong. I'm thinking about that. I feel that this
12 particular ordinance that we presently have in effect
13 is again too strict.
14 Mr. Bates and I have both gone back and
15 forth in regards to charting it out for a five-year
16 period or a four-year period, and I think I came to
17 the conclusion I think that we were making it a little
18 too difficult in regards to putting that in an
19 ordinance.
20 And Mr. Bates, I will leave that up to you.
21 But I think to try to narrow it down, that we should
22 first of all put the additional penalty besides the
23 $1,000, okay, put it within a one-year period. If you
24 have an offense in a one-year period, then your
25 additional fine is da-da-da-da; not in a lifetime,

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that they've lost their permit for the entire lifetime.

So that's the first thing I want to address. I really do believe that we need to put a time frame in there.

COUNCILMEMBER SPANGLER: What was your thoughts on the time that they would not be allowed to sell alcohol the first time?

COUNCILMEMBER FLEMING: First time? At this particular moment, I would make a proposal of no suspension on the first one; on the second offense, a 30-day suspension or 30-day community service; and then the third time within a year, they've lost their license.

COUNCILMEMBER PITTMAN: And Ms. Fleming, I very respectfully disagree with you on that.

I do agree that we do need to put a time frame in there of when they can possibly reapply for a license, but this was set in place because the past, what we had was not strict enough, and they were continuously doing this.

And I would like to see it stay as-is, but I do agree that we need some clarity on if it's revoked, when, and give them the opportunity to possibly reapply -- not be forever.

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COUNCILMEMBER BATES: Well, I'm going to respectfully disagree with both of you.

COUNCILMEMBER PITTMAN: Okay.

COUNCILMEMBER BATES: I do think that for a first-time offender, we need to send a very clear message, and I think that needs to be a very substantive message that we take this very seriously about serving to underage individuals.

The 30-day suspension, in retrospect, I think is probably much too severe. I would be amenable to a 15-day, first-time offender.

I am frustrated at our -- when we passed this ordinance, that we didn't look at the time frame for a second offense. And to use Mr. Shinn, because he's here for us, if at the Buford Highway Farmer's Market, an employee sold to an underage individual today and they were caught, they would get their suspension, and 30 years from now, if they sold to an underage person again, they would lose their license under this ordinance.

There is no window of probation. It is a lifetime sentence or two-strikes-and-you're out no matter how long the time is between offenses. So I think we need to look at that because to me if someone makes a mistake, we all make mistakes, and we should

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be punished for mistakes that we made but we shouldn't be held liable for a mistake that was made five years ago or 10 years ago. There's a window of probation that I think needs to be put in place.

If someone sells to an underage person, both stings within a year, I don't have much sympathy for you because you didn't learn your lesson the first time.

But I think we need to look at this and be a little bit more understanding and set some parameters on when that revocation takes place, because certainly there are instances where it's warranted and justified but not a second offense with no sunset on it. So that's . . .

COUNCILMEMBER PITTMAN: And Mr. Bates, I agree with the latter part of that but I still feel that we need to stick with 30 days. That's just my thoughts.

COUNCILMEMBER SPANGLER: And if you'll check with the other municipalities. Have you, Mr. Bates?

COUNCILMEMBER BATES: I have not.

COUNCILMEMBER SPANGLER: Years ago, it was two weeks, it was a two-week suspension around the county.

ATTORNEY WEED: It's all -- I mean they're

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everywhere. I do a lot of this type of law, and the jurisdictions are all over the board.

COUNCILMEMBER SPANGLER: And what is the most common, Murray?

ATTORNEY WEED: The most common that I have seen would be done in one-year blocks of time, three strikes you're out.

COUNCILMEMBER SPANGLER: That -- that --

ATTORNEY WEED: First offense, you know --

COUNCILMEMBER SPANGLER: How many days?

ATTORNEY WEED: -- would usually be some sort of a financial penalty; second offense would be, you know, 30-day suspension; third offense would be revocation.

A lot of the communities I've seen actually put people on probation, too; therefore, that handles in part one of Councilman Bates' concerns, that if you're on -- during your one-year license period for 2010 and you have one offense in January, then you could be placed on probation for it; if it's something more severe, even if it is a first offense, then the second offense the same year might warrant revocation.

So I've seen some communities have got a probation option, too, in addition to revocation and suspension.

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What the law says is you can do -- you know, alcohol beverage regulation is one of those things that the local governments can do whatever they want to, pretty much, up to a maximum fine of -- up to a maximum application fee of $5,000.

But the statute as far as qualifications, punishments, et cetera, they're pretty wide open.

COUNCILMEMBER SPANGLER: I agree with Mr. Bates on the two-week suspension for the first time; 30 days, second time; and then the third time within a year, loss of license.

But I think if you make it 30 days like we presently have it, it's a hardship, like Ms. Fleming said, on these restaurants and on these supermarkets or convenience stores. We lose a lot of revenues. Or we lose a lot of revenues when they don't have the sales. And they not only lose sales on the alcohol. Since the people can't buy the alcohol, they're not going to be buying anything else; they're going to be going somewhere else, and maybe even out of the city or out of the county.

So I agree with Mr. Bates on the two weeks for the first offense, 30 days for the second offense, and then third offense, termination of license.

COUNCILMEMBER ALEXANDER: I have some

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questions and comments. And again, I'm not putting you on the spot by reviewing other municipalities' works. But why do we have to have a definitive number of days?

This particular ordinance has "time shall not exceed three days," "time shall not exceed 60 days," and they give their council the flexibility to issue the punishment.

ATTORNEY WEED: There's no legal requirement for a mandatory number of days.

COUNCILMEMBER ALEXANDER: Okay. Further, I had discussed an idea with Captain Atkinson and a business owner.

Is there any requirement that it be consecutive days?

ATTORNEY WEED: No.

COUNCILMEMBER ALEXANDER: Because I understand if we did a restaurant, that you take away their alcohol sales for two weeks straight, what an impact it would have on their business.

So my idea was to force them in writing in some type of legal agreement for them to come back to us and say, "Okay. We've analyzed our business. This is our slowest day," and so for 14 Tuesdays, they're not allowed to sell alcohol or something like that so

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that it does impact them but it doesn't impact them all at once.

That was just another idea, trying to be a little bit more business friendly.

COUNCILMEMBER ROCHE: Actually, I like both ideas.

Well, the thing about picking a day, I'm not . . .

This is a difficult question. I don't think anyone up here, you know, says it's great to go out and sell alcohol to minors.

I have a question, a quick question. There's some confusion. Were any of these citations strictly for not requesting identification, not carding somebody?

CHIEF ATKINSON: Some establishments did not request I.D. and some requested I.D. and looked at it and still served.

COUNCILMEMBER ROCHE: Okay. But what I'm getting at is were all the offenses, that they actually did serve to a minor?

CHIEF ATKINSON: Yes.

COUNCILMEMBER ROCHE: Okay. So it was never a situation where you didn't card me and -- well, I guess would you have (inaudible). . . Okay. That

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makes sense. I just wanted to make sure we had that clear because there's been some talk about that.

It seems reasonable. I like the idea of the 15 days but I also like the idea of the up to 15 days. Everyone makes mistakes; I make mistakes.

I'm concerned at the way our law is written now. Basically it's a capital punishment, because there are so many businesses, particularly in the current environment, the current economy, if you give them a 30-day suspension, it would effectively put them out of business, and I think that that's way too rough.

I like the idea of saying first offense, a thousand dollars and up to 15 days' suspension; second offense would be -- I guess the maximum is the thousand dollars and up to a 30-day suspension, and then the third offense would be up to revocation.

Would that be a good basis to begin the discussion?

ATTORNEY WEED: And can you do that? Yes.

My only caveat would be, you know, just remember you have to be judicious. In other words, when you have these hearings, you have to put on the record what is it about the evidence that made Joe Smith's business more compelling or a lesser

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1 punishment for the same offense than somebody else's.
2 That's what judges do all the time, but you just have
3 to be very careful about that.
4 COUNCILMEMBER ROCHE: Well, if we're going
5 to put a time frame on this, if we're going to say
6 this is within a one-year period, well, so a year goes
7 by and then here they are again. Well, in one
8 situation, maybe they've never had this violation
9 before whereas someone else had exactly the same
10 violation 367 days ago so you're going to nail them
11 with the 15 days. You see what I'm saying?
12 ATTORNEY WEED: And you can legally make
13 those distinctions.
14 COUNCILMEMBER ROCHE: Right.
15 ATTORNEY WEED: I want to stress, though,
16 that you want to be careful and you're going to have
17 to measure the evidence on the record and what your
18 reasoning was when you made those distinctions --
19 COUNCILMEMBER ROCHE: Of course.
20 ATTORNEY WEED: -- between those two
21 licenseholders.
22 COUNCILMEMBER PITTMAN: And again, I stand
23 my ground. I am not willing to budge on that.
24 I do agree that the businesses should not --
25 absolutely should not be penalized for a lifetime but

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1 we should come up with something, but I am not going
2 to budge on what's already there.
3 COUNCILMEMBER SPANGLER: Let me ask you
4 this, Mr. Weed: Can we make it mandatory that these
5 businesses that have an alcohol license card every-
6 body?
7 ATTORNEY WEED: Yes.
8 COUNCILMEMBER SPANGLER: No exceptions.
9 ATTORNEY WEED: (Nods head)
10 MAYOR JENKINS: Let's go ahead and take a
11 five-minute break.
12 - - -
13 (Brief recess)
14 - - -
15 MAYOR JENKINS: We're still on item number
16 5. Let's finish it up and then we'll see where we
17 are. We started 15 minutes late so we're about on our
18 9 o'clock mark.
19 So let's finish item number 5, Pam.
20 COUNCILMEMBER FLEMING: We've had much
21 discussion. I'll just go ahead and make a motion.
22 I'd like to make a motion to amend Section
23 3-270 -- one second here, I'll give you the proper --
24 I'm sorry.
25 I'd like to make a motion to amend Section

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1 3-270(d) as in David to read on the alcohol
2 violations, selling to minors and/or not asking for
3 I.D., that the first violation be up to a 15-day
4 suspension, that the second violation be up to a
5 30-day suspension and that the third violation within
6 one year -- and all of those were within one year --
7 that on the third violation, the license would be
8 revoked for a period of one year.
9 ATTORNEY WEED: Now, bear in mind, you've
10 limited your motion only to sales to minors, and I
11 don't know if you intended to do that, because right
12 now, everything else would stay the same with regard
13 to every other offense that's committed.
14 COUNCILMEMBER FLEMING: I'm sorry?
15 ATTORNEY WEED: The way you worded your
16 motion, you limited the penalty change for application
17 only to sales to minors.
18 So if the manager of a business committed a
19 felony offense let's say on the property by taking a
20 liquor bottle and hitting somebody in the head in
21 anger and killed them, that business could still get a
22 license. And you may have intended that, but you've
23 only changed the penalty for one narrow subset and
24 that's only for sales to minors, and I don't know if
25 you meant to do that. I'm asking.

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1 COUNCILMEMBER FLEMING: In regards to
2 Section 270, Mr. Weed, it contains all of those items;
3 correct?
4 ATTORNEY WEED: Well --
5 COUNCILMEMBER ROCHE: Well, but the way you
6 said it --
7 ATTORNEY WEED: -- currently 270 --
8 COUNCILMEMBER FLEMING: Okay. I would like
9 to amend my motion.
10 I'd like to make a motion to amend Section
11 3-270 (d) to read: The first violation, the alcohol
12 license will be suspended for up to 15 days; the
13 second violation, will be suspended up to 30 days; and
14 the third violation the license will be revoked for
15 one year.
16 COUNCILMEMBER ROCHE: And those will be --
17 COUNCILMEMBER FLEMING: And these are within
18 a period of one year time.
19 COUNCILMEMBER ROCHE: I'll second that.
20 COUNCILMEMBER SPANGLER: What about the
21 fines? Do we need to --
22 COUNCILMEMBER FLEMING: No. The fines are
23 in 3-272, and we had already corrected that to $1,000.
24 COUNCILMEMBER SPANGLER: Okay.
25 ATTORNEY WEED: And I think that's a great

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1 motion.
2 The only other question I guess would be,
3 when you say one year, are you thinking about a
4 licensing year?
5 COUNCILMEMBER FLEMING: From the date of
6 offense.
7 ATTORNEY WEED: So 12 months from the date
8 of offense.
9 COUNCILMEMBER FLEMING: Yes, sir.
10 COUNCILMEMBER PITTMAN: And they can reapply
11 for a license.
12 I mean we reinstate so they can serve
13 alcohol at the end of that date.
14 COUNCILMEMBER FLEMING: They would have to
15 reapply.
16 COUNCILMEMBER PITTMAN: Exactly. That's
17 what I'm asking.
18 ATTORNEY WEED: Right.
19 COUNCILMEMBER PITTMAN: Reapply or -- is it
20 automatically they got to go back and reapply?
21 ATTORNEY WEED: Well, if they got the maxi-
22 mum punishment, they'd have to reapply --
23 COUNCILMEMBER PITTMAN: Okay.
24 ATTORNEY WEED: -- completely.
25 COUNCILMEMBER BATES: Ms. Fleming, may I

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1 make a friendly to your motion, that the suspension
2 read consecutive days versus just 15 days or up to 15:
3 so it would read, "License shall be suspended for a
4 period of up to 15 consecutive days," and then "up to
5 30 consecutive days?"
6 COUNCILMEMBER FLEMING: Before I answer your
7 friendly motion --
8 Ms. Alexander, in your research with the
9 other items --
10 I'm sorry. Were there anybody else on this
11 for discussion, Mayor, on the sign-up?
12 COUNCILMEMBER BATES: Yeah. Are there
13 people signed up?
14 MAYOR JENKINS: Yes. Before you finish the
15 motion --
16 COUNCILMEMBER FLEMING: Yeah, I guess.
17 So Ms. Alexander, in your research, were
18 there other cities that did not have consecutive days?
19 COUNCILMEMBER ALEXANDER: This particular
20 ordinance reads, "First suspension in a 12-month
21 period of time shall not exceed 30 days." It does not
22 say consecutive days.
23 MAYOR JENKINS: At one time, I believe -- in
24 reference to that, I believe at one time, we did let
25 the people take it two or three days a week on their

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1 off days or one day a week on their off days.
2 I'm saying at one time we have done that.
3 I'm not saying we want to do it. We have done it.
4 COUNCILMEMBER ROCHE: So to prevent that, we
5 would want to add the word "consecutive days."
6 MAYOR JENKINS: So if you want to put
7 consecutive, that'll put a stop to it.
8 COUNCILMEMBER BATES: Well, and this is
9 going to be a question for Captain Atkinson.
10 On an enforcement of such an ordinance --
11 I'll give you two hypotheses: one that Ms. Alexander
12 raised, and that was the business chooses to take 15
13 consecutive Tuesdays versus 15 consecutive days. Are
14 there pros and cons on the enforcement from a manpower
15 standpoint, from a tracking standpoint, either of
16 those?
17 CHIEF ATKINSON: I don't think so. We just
18 need to know which days. I mean we would have to know
19 exactly which days, because we're going to have to
20 check it no matter what, whether they're consecutive
21 or whether they're every other or whatever you choose
22 to pass. So we will still have to . . .
23 COUNCILMEMBER BATES: I am personally
24 inclined, based upon reducing this from 30 down to an
25 up-to-15, if we allow them under this scenario to

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1 chose the days that they are suspended, it weakens the
2 intent.
3 And I will go back to my position that the
4 first offense needs to be a very firm don't-ever-do-
5 this-again offense. So if you will, I would ask that
6 you add "consecutive days" as a friendly to your
7 motion.
8 COUNCILMEMBER FLEMING: So moved.
9 COUNCILMEMBER ROCHE: I'll still second it,
10 the amendment.
11 MAYOR JENKINS: Okay. We have --
12 CHIEF ATKINSON: Could I say one additional
13 thing?
14 MAYOR JENKINS: Yes.
15 CHIEF ATKINSON: If you go with consecutive
16 days or if you don't go with consecutive days, could
17 we just have something, Mr. Weed, that it starts this
18 day and ends this day, so they know, so when we show
19 up there is no confusion --
20 COUNCILMEMBER ROCHE: Right.
21 CHIEF ATKINSON: -- they have signed or they
22 are fully aware?
23 ATTORNEY WEED: Yeah. I mean it is required
24 that if Council punishes some entity, there will be a
25 hearing, and they will be issued something in writing

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1 saying, you know, "This is the punishment" after the
2 hearing, and it begins on blank day and will end on
3 blank day. So you would definitely have a copy of
4 that because your people are going to serve it to
5 them.
6 COUNCILMEMBER ROCHE: Well, selling alcohol
7 during a period of your alcohol license being
8 suspended is a violation which would trigger the next
9 step potentially, so --
10 ATTORNEY WEED: Correct.
11 COUNCILMEMBER FLEMING: And also Section (e)
12 of this ordinance indicates that a 12 by 12 sign --
13 COUNCILMEMBER ROCHE: Right.
14 COUNCILMEMBER FLEMING: -- is to be placed
15 at the establishment with the dates of suspension
16 included. So we're addressing that already.
17 COUNCILMEMBER ALEXANDER: I have some
18 additional questions.
19 How long does it take to get an alcohol
20 license in our city?
21 CLERK BLACKMON: Within a week if they have
22 all their documentation. It depends on whether --
23 COUNCILMEMBER ALEXANDER: So if a certain
24 person -- Maria Alexander's the designee, and I am the
25 one that is suffering the punishment, can my brother

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1 come in and get a license?
2 ATTORNEY WEED: Yes.
3 COUNCILMEMBER ALEXANDER: Okay. So I could
4 be under punishment and my address on Buford Highway
5 could not be selling alcohol; but I could call my
6 brother, he could come over here and get a license and
7 he could start selling alcohol at the same location
8 the next day.
9 ATTORNEY WEED: It depends, but the answer
10 generally is yes.
11 COUNCILMEMBER ALEXANDER: Okay.
12 ATTORNEY WEED: And bear in mind, what sin
13 did your brother commit? He's only committed the sin
14 of being related to you, and no one should be --
15 COUNCILMEMBER ALEXANDER: He would agree --
16 ATTORNEY WEED: -- punished for that.
17 COUNCILMEMBER ALEXANDER: -- that is a sin,
18 probably.
19 ATTORNEY WEED: But in all seriousness, you
20 know, if your brother and you were partners in the
21 business, he would be prevented from changing the
22 licensing into his name alone. But if he's unrelated
23 to the business, then yes, he could do that.
24 COUNCILMEMBER PITTMAN: And that's what was
25 occurring before.

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1 ATTORNEY WEED: I have no doubt, no doubt.
2 But bear in mind, though, that if the
3 brother comes in and starts the business, he is
4 required by law -- And he is signing forms, so, you
5 know, it's a felony to lie to the government. But
6 he's signing forms that are saying -- He's got to
7 identify everybody who gets a share out of the
8 business. It's required. So if he's paying
9 Ms. Alexander anything out of the business, he's
10 committing an offense, and he can also be prosecuted
11 for that and he could lose the license in his name as
12 well.
13 But if he's -- although he is related to her
14 and he just takes it upon himself to do that, you
15 know, he just -- he can't give her any money out of
16 it. He could still hold the license in his own name.
17 MAYOR JENKINS: Anymore questions at the
18 table?
19 - - -
20 (No response)
21 - - -
22 MAYOR JENKINS: We have some people that
23 have signed up.
24 Mr. Shinn, do you want to say something
25 else?

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1 MR. SHINN: Yes, sir.
2 MAYOR JENKINS: Make it short, please, sir.
3 MR. SHINN: Yes, sir.
4 As of the last comments, I have no objection
5 to that. And in fact, I think it's better. I agree
6 that the first violation should be strong enough to
7 send a clear message.
8 Give you a relation. When I was a kid -- I
9 don't think you can do this anymore, but, you know,
10 when I got into trouble, my dad spanked me pretty
11 hard, and I got the message very loud and clear. And
12 the idea I think is to send a message with punishment
13 that is significant enough that actually hits your
14 pocketbook, where they really consider what steps they
15 need to take to take preventive action in the future.
16 But I think what you also don't want to do
17 is to create a situation where somebody can too easily
18 lose their license while they're still trying to make
19 those corrective measures.
20 So as it had been discussed so far, I don't
21 see any problem with it.
22 One thing that occurred to me, as Mr. Weed
23 had mentioned, it seems like if there's some flexi-
24 bility built into the punishment -- in other words,
25 you have up to a certain number of days, whether it's

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1 minimum to maximum number of days and whether that
2 includes a fine and/or that that actually --
3 I think the flexibility is good because not
4 all cases will be the same, not all businesses will be
5 the same, not all circumstances are the same. You
6 could have a business that tries very, very hard to
7 comply with this law, and a mistake or a bad employee
8 caused them to have a violation. You could have a
9 business that really flagrantly really doesn't care,
10 and when they get an inspection, they just got lucky
11 and they missed -- you know, they missed the
12 violation.
13 So having that flexibility I think is good,
14 but I think what it does imply is that the City
15 Council or whichever body or the City Attorney, I'm
16 not sure, has to make some judgment when the person
17 who is being suspended or for suspension or revocation
18 comes up. You have to listen to what they say, and
19 what is their story, what are the things that they've
20 tried to do to prevent this type of thing from
21 happening?
22 COUNCILMEMBER FLEMING: Thank you.
23 COUNCILMEMBER ROCHE: Thank you.
24 MAYOR JENKINS: Tom Hart?
25 MR. HART: I think the key word here is

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1 "reasonable" on both the previous topic as well as
2 this alcohol beverage ordinance.
3 I know several of these people that own
4 these restaurants and taverns and stuff and even a few
5 of the C-stores are highly dependent on beer sales to
6 attract customers, and to be going for 30 days without
7 a license, particularly in this economy, will
8 basically put them out of business. So I call for
9 reasonableness.
10 We had a three-strikes law originally that
11 was passed when I was on the Council, and it seemed to
12 work. And all of a sudden we got crazy and just
13 decided it was two strikes and then we were going to
14 put $2,500 fines, and we started -- the punishment
15 just escalated. And we had people that were shot and
16 killed in parking lots and we were giving the license
17 back in 15 days or the ownership where members of the
18 family would change. And the law was written for two
19 different people. It was written and punished for
20 these wild west bars we had in the city of Doraville,
21 and then family restaurants that were -- you know,
22 that caused no trouble whatsoever were paying the
23 price.
24 You have to think about these restaurants
25 you're dealing with. I mean Baldino's. We're talking

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1 about Monterrey's. These people are family
2 businesses, and occasionally people make mistakes. So
3 three strikes -- I think three strikes in one year is
4 a little freebie. I think maybe two years may be
5 advisable.
6 And the other thing, in the court system
7 when these people are given these tickets, I mean it's
8 sort of like this dealmaking process where it's a
9 thousand dollar fine. It was $2,500 and they have
10 taken it back to down a thousand dollars.
11 It's really $500, because you'll get 16
12 tickets. And they'll all go to court, they all line
13 up, and then they go through the solicitor's office
14 and it's called let's-make-a-deal. Well, it's a
15 thousand dollars if they argue in the court or it's
16 500 bucks if they just pay the guy. So you end up
17 with this courtroom with 200 people there. And
18 believe me, I had a lot of experience recently in
19 courtrooms. It's going to be $500. You end up in the
20 courtroom and there's four people trying to argue
21 their case.
22 So when you pass these things, think about
23 what you're doing. Is it the wild west show you're
24 trying to get rid of or are you trying to keep
25 underage people from being sold alcohol or are we just

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1 trying to raise revenues, okay? Is it about public
2 safety or is it about these people that, in today's
3 economy, are basically hanging on, you know, by the
4 skin, whatever, whatever the analogy is currently?
5 And so three strikes, two years, you know.
6 I'm not so much about the 15 days. I mean I'd rather
7 see the second strike be the sledge hammer, you know.
8 You didn't know the first time but you sure as heck
9 did know the second time.
10 So thank you.
11 MAYOR JENKINS: Thank you, Tom.
12 Jimmy Cushman?
13 MR. CUSHMAN: I agree with you on the motion
14 that you have right there and I appreciate y'all's
15 consideration for this.
16 MAYOR JENKINS: Thank you.
17 Stuart Anderson?
18 MR. ANDERSON: I pass.
19 MAYOR JENKINS: Okay. We got a motion and a
20 second on the table. What was the motion?
21 CLERK BLACKMON: She amended 3-270(d) --
22 MAYOR JENKINS: Yeah, okay.
23 CLERK BLACKMON: -- with the first violation
24 being 15 days and --
25 COUNCILMEMBER FLEMING: Consecutive.

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1 COUNCILMEMBER SPANGLER: Consecutive up to
2 15 days.
3 COUNCILMEMBER FLEMING: Up to.
4 CLERK BLACKMON: Consecutive, yeah.
5 COUNCILMEMBER FLEMING: Up to 15 --
6 CLERK BLACKMON: And the second was
7 consecutive 30 --
8 COUNCILMEMBER FLEMING: -- consecutive days.
9 CLERK BLACKMON: -- and then the third was
10 revocation.
11 COUNCILMEMBER PITTMAN: I mean this might be
12 a stupid question, but is there any way -- Because I
13 know when they came in here, some of them said yes,
14 they provided training in reference to this and some
15 of them said no, we just told them not to do it.
16 Is there any way to have them provide
17 training or proof of training of the employees?
18 ATTORNEY WEED: Certainly.
19 COUNCILMEMBER PITTMAN: Because I would like
20 to add that. Would that be --
21 ATTORNEY WEED: Hapeville actually required
22 every holder of an application to come to city-
23 sponsored training. They literally had to come. They
24 were given a copy of the ordinance. They had to sign
25 for it and they had to sit through the city training

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1 on the ordinance and what it meant.
2 COUNCILMEMBER PITTMAN: I don't know how we
3 would go about it, but I think that that's something
4 we -- like I said, most of them just said no, we just
5 told them. There was no real training. They signed
6 -- you know, they signed nothing.
7 That's just my thoughts.
8 MAYOR JENKINS: Leave your motion like it
9 is? That's the reason why I asked her to read the
10 motion.
11 COUNCILMEMBER FLEMING: Well, Mr. -- Excuse
12 me, Mayor.
13 In regards to the character of the previous
14 ordinance, not the penalties, the character of the
15 ordinance that you had drafted that we're now going to
16 be relooking at, would that not be part of that?
17 ATTORNEY WEED: If you would like it to be,
18 yes. You know, it's currently not in the -- it's not
19 a requirement in your existing ordinance.
20 On the next version I do with the main
21 changes, I could certainly include a training require-
22 ment.
23 COUNCILMEMBER ROCHE: Okay.
24 COUNCILMEMBER PITTMAN: I'm fine with that,
25 as long as it's there somewhere.

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1 COUNCILMEMBER ALEXANDER: But we don't have
2 that city -- we don't have that training.
3 COUNCILMEMBER PITTMAN: That's what I'm
4 saying. I'm not sure how we would go about that.
5 COUNCILMEMBER ROCHE: Yeah.
6 COUNCILMEMBER PITTMAN: We would have to --
7 ATTORNEY WEED: Well, you know, I'm not
8 looking for work, but the way Hapeville did it -- and
9 bear in mind, at the time that we did it this way, I
10 was a full-time employee.
11 To give you a very limited background,
12 Hapeville was the wild, wild west. Council became
13 very tired of that. They literally had one business
14 that shut the town down on weekends. You couldn't
15 park a car, you couldn't drive down Main Street. So
16 they rewrote the entirety of their alcohol beverage
17 ordinance and made it extremely strict and they
18 mandated training for all of the licenseholders. So
19 we had everybody from the Hilton down to, you know,
20 Mom's Liquor Store. They all had to come to training,
21 and I'm the one that trained them on the ordinance.
22 They all had to sign for the ordinance, sign an
23 affidavit that they'd been to the training, and, you
24 know, when they came up for review, there were no
25 excuses.

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1 COUNCILMEMBER PITTMAN: Right, and --
2 ATTORNEY WEED: And they shut a lot of
3 businesses down, but that's what they wanted to do
4 there.
5 COUNCILMEMBER PITTMAN: And in the event
6 they do not participate in that?
7 ATTORNEY WEED: Shut 'em down.
8 COUNCILMEMBER PITTMAN: Okay.
9 MAYOR JENKINS: Susan, I'm going to give you
10 a chance to say briefly --
11 MS. CRAWFORD: I didn't sign up but --
12 MAYOR JENKINS: -- and that's it.
13 MS. CRAWFORD: Susan Crawford, Oakcliff.
14 I think that we all agree underage drinking
15 is a serious problem, and as a mother of three
16 daughters, I know this all too well, and there has to
17 be accountability.
18 But in the case of, for example, Mr. Shinn,
19 if he instructs his employees -- and he has hundreds
20 of employees -- to card underage -- well, card anybody
21 who wants to drink, and one of his employees is having
22 a bad day or, you know, isn't paying attention, is
23 that employee not the one who should be held
24 accountable at least on the first offense?
25 Are we kind of shooting ourselves in the

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1 head by shutting down the responsible business owner
2 for something that one of his employees does? Just a
3 thought.
4 COUNCILMEMBER BATES: My response would be
5 the employee would be held accountable, and that would
6 be by the business owner.
7 MAYOR JENKINS: Mr. Shinn, you've already
8 had your time, sir.
9 MR. SHINN: I know. I'm sorry, sir. I know
10 it's overbearing but it related to what the group was
11 talking about.
12 I actually had the privilege of having
13 violated --
14 THE REPORTER: Mr. Shinn --
15 MAYOR JENKINS: You're going to have to come
16 up.
17 MR. SHINN: Certainly.
18 I was hoping maybe this might be useful. I
19 have actually violated this ordinance four-and-a-half
20 years ago, and it actually -- when I got caught, it
21 made me real paranoid because, you know, I didn't
22 understand the full extent of what happened.
23 The server was a cashier. She got ticketed
24 and fined, and there was an internal discussion as to
25 what we should do. She was otherwise a perfectly fine

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1 employee. Never had a problem with her. Well liked
2 by everybody. And they said, no, I can't fire her, I
3 can't fire her.
4 And we said, you know, the fine.
5 She said, well, the fine, I was doing this
6 on the job.
7 No. You did something we told you not to
8 do. That's your fault.
9 And after that point, we had a -- I guess
10 you would call it a no-tolerance policy. So the
11 cashier sells alcohol to -- doesn't card somebody and
12 sells alcohol to an underage; you're fired. And
13 that's really the greatest sanction an employee can do
14 for -- an employer can do for an employee.
15 Secondly, most large grocery stores, the
16 current POS system as of several years ago can
17 incorporate a system by which an alcoholic beverage
18 item, if scanned, it will prompt you to input a date.
19 So there is some things built in.
20 Now, is that an absolute guarantor that it
21 can never happen? No. But you know, there are steps
22 and procedures you can incorporate and perhaps, with
23 some thought to this, you could even incentivize, that
24 would help prevent this behavior from happening in the
25 first place, which I think is what -- what everybody's

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1 goal ultimately is.
2 But even -- I think our alcohol policy is
3 pretty good, but I don't think it's foolproof. I
4 don't think there's a -- there's a possibility that I
5 could guarantee that it would never happen in the
6 future -- if it was a parachute, I wouldn't jump out
7 of a plane -- but, you know, I think it's pretty good.
8 I don't want it to happen, and I want to try to do
9 everything that is possible to keep it from happening.
10 They mentioned training. There's actually
11 ServSafe, which is I think put on by the National
12 Restaurant Association, that has a course which I
13 think is both online and seminar-related if the -- if
14 it's too much of a burden for the city. I think it's
15 around $40.
16 I think there's also a program called TIP.
17 It's also available within a comparable amount. But
18 there are many, many things that a business owner can
19 do to help prevent these things from happening.
20 MAYOR JENKINS: Thank you.
21 MR. SHINN: And I'm --
22 COUNCILMEMBER ROCHE: Thank you.
23 MR. SHINN: -- very sorry for the speech.
24 MAYOR JENKINS: Thank you.
25 COUNCILMEMBER FLEMING: You know, that

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1 ServSafe might not be a bad idea instead of the
2 fifteen --
3 COUNCILMEMBER BATES: ServSafe or TIPS.
4 COUNCILMEMBER PITTMAN: Uh-huh.
5 MAYOR JENKINS: The motion still stands.
6 Call the roll, please.
7 CLERK BLACKMON: Councilmember Alexander?
8 COUNCILMEMBER ALEXANDER: Yes.
9 CLERK BLACKMON: Councilmember Bates?
10 COUNCILMEMBER BATES: Yes.
11 CLERK BLACKMON: Councilmember Fleming?
12 COUNCILMEMBER FLEMING: Yes.
13 CLERK BLACKMON: Councilmember Pittman?
14 COUNCILMEMBER PITTMAN: Yes.
15 CLERK BLACKMON: Councilmember Roche?
16 COUNCILMEMBER ROCHE: Yes.
17 CLERK BLACKMON: Councilmember Spangler?
18 COUNCILMEMBER SPANGLER: Yes.
19 MAYOR JENKINS: Okay.
20 ATTORNEY WEED: Mr. Mayor, I have one more
21 thing on this, which is you currently have character
22 qualifications for every type of license and you've
23 got them both for applicants and for employees, and I
24 didn't know if you were comfortable with the character
25 qualifications that you've got or if you wanted to

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1 create some form of statutory limitation that, you
2 know, might make it more palatable.
3 I'm throwing out there, for a misdemeanor
4 offense, you'd go back two years; for felonies, you'd
5 go back at least five or you could go back ten; crimes
6 of moral turpitude -- those are more heinous crimes
7 like child molestation, et cetera -- you might also
8 want to go back five to ten years. Those are just
9 some ideas.
10 MAYOR JENKINS: Thank you.
11 COUNCILMEMBER ROCHE: Because right now, if
12 you get a speeding ticket you could lose your liquor
13 license.
14 ATTORNEY WEED: Well, we narrowed it --
15 Well, right now, that's correct; yes, sir.
16 The draft ordinance I did narrowed it down
17 to it had to be somehow related to narcotics, the
18 traditional --
19 COUNCILMEMBER ROCHE: Right.
20 ATTORNEY WEED: -- secondary negative
21 impacts of alcohol use.
22 COUNCILMEMBER ROCHE: Yeah, but you're
23 talking about 3-13 . . . the first one you talked
24 about. Right.
25 ATTORNEY WEED: Right.

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1 COUNCILMEMBER ROCHE: Yeah, I think that we
2 were going to do that.
3 MAYOR JENKINS: Okay.
4 COUNCILMEMBER ROCHE: I just had a quick
5 question now that we've changed this ordinance.
6 I realize there are some people that are
7 going to be coming to us on appeals. Does the
8 ordinance that we passed today apply to those people
9 that are coming to us on appeals?
10 ATTORNEY WEED: That's an interesting
11 question and it's a complicated answer.
12 If, for example, this were a zoning
13 ordinance and you wanted to have the advantage of
14 vested rights and then the Council changed the
15 ordinance on you, if you had your information and
16 application in prior to the effective date of the
17 ordinance, then your rights would be vested in the
18 existing ordinance.
19 What you're worried about doing is creating
20 what's called an ex post facto law criminalizing or
21 punishing something today that when the event occurred
22 was legal.
23 In this situation, the penalties were
24 probably -- were much more severe then than they are
25 now, so I don't think we're going to have an ex post

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1 facto law problem.
2 COUNCILMEMBER ROCHE: Nobody's going to sue
3 us, right, for that?
4 ATTORNEY WEED: You essentially lessened the
5 penalties. No, certainly not.
6 COUNCILMEMBER ROCHE: I think we're okay,
7 then.
8 ATTORNEY WEED: You know, we haven't issued
9 notices to anybody yet for the obvious reason we've
10 had these problems. Citations have been issued but
11 they've been dealt with in the criminal court.
12 The next thing is the civil aspect of it,
13 and my take on it would be, let's get the ordinance
14 passed and we'd operate underneath the ordinance as
15 passed.
16 COUNCILMEMBER ROCHE: Thank you.
17 COUNCILMEMBER FLEMING: I need to ask Chief
18 Atkinson.
19 They have all gone to court; is that
20 correct?
21 CHIEF ATKINSON: That is correct.
22 COUNCILMEMBER FLEMING: And am I under-
23 standing a possibility that they were not all given
24 the penalty of a $1,000 fine, or do you know that?
25 CHIEF ATKINSON: No. I do not know what

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1 their penalties were.
2 I know that they either pled or were found
3 guilty. I don't think we had anybody that was not
4 guilty, but I do not know their fines.
5 COUNCILMEMBER PITTMAN: But is there room
6 there for negotiation?
7 COUNCILMEMBER FLEMING: See, I was reading
8 this ordinance. I'm like Ms. Pittman. I was reading
9 this ordinance as, by gosh, you're getting a $1,000
10 fine.
11 COUNCILMEMBER BATES: Because it doesn't say
12 "up to."
13 COUNCILMEMBER FLEMING: No.
14 COUNCILMEMBER BATES: It just says "is
15 $1,000."
16 ATTORNEY WEED: Can you create -- like the
17 federal system, can you create a mandatory fine that
18 is, you know, this is the mandatory fine but you don't
19 any discretion to go anything lower? Yes, you could
20 do that.
21 Now, I'm not the solicitor and I have no
22 idea what happened when these people were found guilty
23 or pled, so I don't know what they got. That's
24 between the solicitor and the judge.
25 COUNCILMEMBER BATES: But if we set the law

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at $1,000, how --
ATTORNEY WEED: And if you make that fine mandatory, then my opinion would be the judge would not have the -- would not be able to exercise discretion to lower it.
COUNCILMEMBER ALEXANDER: We were under the impression that it --
ATTORNEY WEED: They could simply find the person not guilty, though.
COUNCILMEMBER ALEXANDER: -- was mandatory.
COUNCILMEMBER BATES: Because it reads the fine for any violation shall be. Doesn't say --
COUNCILMEMBER FLEMING: And if they're getting off and then they're coming in -- I mean not getting off. They're getting a reduced fine. And they come in to us and we have the up to 15 days or up to 30 days, and you've got somebody over here that got a fine of two fifty and another one over here of $1,000, we would never know it.
COUNCILMEMBER PITTMAN: And I do know they're given an option that if they go before the judge, they might get fined the whole thing, but if they choose to plea out, sometimes they get a lesser fine for not doing that, just talking to the solicitor.

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ATTORNEY WEED: And that's what most solicitors do.
COUNCILMEMBER PITTMAN: Right.
ATTORNEY WEED: And please bear in mind that that's a good thing. There are hundreds of cases that go through that court. And if you take that authority away from the solicitor, you are hurting the city in my opinion --
COUNCILMEMBER ROCHE: So if you made it mandatory --
ATTORNEY WEED: -- because the solicitor --
COUNCILMEMBER ROCHE: -- then every --
ATTORNEY WEED: Two things the solicitor's got to do: one, seek the truth, and two, keep the courts functioning. So you know, if you take that discretion away from the solicitor, then what you might find is the judge could simply say not guilty.
COUNCILMEMBER PITTMAN: And on certain ones like this, could we not make it mandatory? I mean I'm not talking about everything.
ATTORNEY WEED: Absolutely. You've got that right.
COUNCILMEMBER PITTMAN: Because it defeats the purpose.
ATTORNEY WEED: You can make the fine manda-

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tory, and the judge would have no discretion in the sentencing and the solicitor would have no discretion in negotiating, and if the judge took a fancy, the judge could just say not guilty.
COUNCILMEMBER ROCHE: Which would basically mean, though, that in this case, I think you would have 14 trials versus however many.
ATTORNEY WEED: Yes.
COUNCILMEMBER ROCHE: And I'm not saying --
ATTORNEY WEED: That's a --
COUNCILMEMBER ROCHE: -- that's good or bad.
ATTORNEY WEED: -- distinct possibility.
COUNCILMEMBER ROCHE: Sixteen trials. Well, why not? You know, if I'm going to have to pay anyway, I might as well take my chances.
ATTORNEY WEED: That is correct. You know, if I were their lawyer, that's what I would tell them to do.
COUNCILMEMBER ROCHE: Yeah.
ATTORNEY WEED: There's no why-not. There's no incentive not to eat up as much of the government's time and money as you can.
COUNCILMEMBER ROCHE: It's a tricky question.
COUNCILMEMBER ALEXANDER: I believe our

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intent when making the fine $1,000 was to hammer home the punishment.
ATTORNEY WEED: And you have every right to do that if that's your intent.
COUNCILMEMBER FLEMING: We were trying to hammer home the punishment at $2,500.
COUNCILMEMBER BATES: Right.
COUNCILMEMBER ALEXANDER: We didn't. Previous Council did that. I don't think we did that.
COUNCILMEMBER FLEMING: No. I think we did it.
COUNCILMEMBER ROCHE: No. We did it but --
COUNCILMEMBER FLEMING: We did it and --
COUNCILMEMBER ROCHE: -- $2,500 wasn't legal.
COUNCILMEMBER FLEMING: -- had to reduce it because Mr. Weed said that it wasn't allowed.
ATTORNEY WEED: Well, Mr. Weed didn't say that. The legislature of the state of Georgia said that.
COUNCILMEMBER BATES: Well, I'm going to make it very, very clear. I'm going to make a motion to amend 3-272 Penalties, the fine for any violation shall be $1,000 mandatory.
COUNCILMEMBER FLEMING: I second --

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COUNCILMEMBER ALEXANDER: And I --
COUNCILMEMBER FLEMING: -- that.
COUNCILMEMBER ALEXANDER: -- will second that.
COUNCILMEMBER ROCHE: I would ask for a friendly amendment to say that that takes effect on September 9th.
COUNCILMEMBER BATES: Yeah. I'll accept that.
COUNCILMEMBER SPANGLER: And should we have extended --
COUNCILMEMBER ROCHE: Tomorrow. That way --
COUNCILMEMBER SPANGLER: -- this meeting, Mr. Weed?

- - -

(Multiple overspeaking)

- - -

COUNCILMEMBER BATES: I'm accepting Mr. Roche's friendly that the fine for any violation shall be $1,000 mandatory effective September 9, 2009.
COUNCILMEMBER ROCHE: I'll second.
MAYOR JENKINS: Okay. You got the second.
COUNCILMEMBER PITTMAN: And as Mr. Lowe --
MAYOR JENKINS: Anymore discussion?
COUNCILMEMBER PITTMAN: And I was just going

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to say, as Mr. Lowe just stated, we need to make sure that they get this in a timely manner up there so they will know.
MAYOR JENKINS: Well --
ATTORNEY WEED: I'll send a courtesy letter to the judge.
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.
Well, I'd like -- if we're going to continue on with the meeting or give the citizens an opportunity to speak, we need to extend the meeting. We've gone over about 45 minutes.
MAYOR JENKINS: Okay. Do you want to --
COUNCILMEMBER SPANGLER: My motion is to

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either extend the meeting or --
MAYOR JENKINS: Well, say one or the other.
COUNCILMEMBER SPANGLER: Well, let's extend the meeting to give the citizens an opportunity.
COUNCILMEMBER ROCHE: Well, let me make a quick motion. I make a motion that we delete numbers 8, 9 and 10 from the agenda. That'll apply to next week's agenda -- the next agenda also.
MAYOR JENKINS: You're going to put it on the next agenda?
COUNCILMEMBER ROCHE: No. I'm saying that way --
COUNCILMEMBER PITTMAN: He's taking it off.
COUNCILMEMBER ROCHE: -- it's gone forever.
MAYOR JENKINS: Okay.
COUNCILMEMBER BATES: Well, if they're yours, I think you can just take them off.
COUNCILMEMBER ROCHE: Okay. Well, consider it -- make it so, whatever.
ATTORNEY WEED: I'd actually prefer that you vote on that. I'm sorry. In the past, you have -- now the agenda has been set, you've got a rule that you if you had an item, you had to vote on it; take it away --
COUNCILMEMBER BATES: I'll second the

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motion.
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. I can always put them back on if . . .
MAYOR JENKINS: Okay.
COUNCILMEMBER SPANGLER: I want to make a motion to extend the meeting until --
MAYOR JENKINS: So the citizens can --
COUNCILMEMBER SPANGLER: -- 10:00 -- 10:15 so the citizens will have an opportunity to make any comments they wish to make.
COUNCILMEMBER ROCHE: I'll second that.
MAYOR JENKINS: Okay. I would like to get

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the Police Department comments first. Would that be all right?

COUNCILMEMBER SPANGLER: That's up to you, Mayor.

COUNCILMEMBER ROCHE: Yeah, that's fine.

MAYOR JENKINS: You only got a -- what do you got?

CLERK BLACKMON: Can we vote on that first, please?

MAYOR JENKINS: Yeah. Excuse me. Call the roll.

CLERK BLACKMON: Sorry.

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.

CLERK BLACKMON: Okay. Sorry.

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MAYOR JENKINS: Chuck, do you have something right quick?

CAPTAIN ATKINSON: Mayor, the only thing that I've got is I've got three bids here. We need to get our air ducts cleaned.

I've got some photographs of what these ducts look like in the Police Department. I'll pass these around. That's coming out into the dispatch office right there inside, and we need to get those cleaned as soon as possible if we may.

MAYOR JENKINS: Do you want to pass the bids around?

CHIEF ATKINSON: We have three here. I mean I don't know where to pass them to (presenting).

COUNCILMEMBER BATES: I've got Duct Man of Atlanta. Duct Man.

COUNCILMEMBER FLEMING: Is this for also cleaning the air conditioning units themselves as well? Air conditioning and heating?

CHIEF ATKINSON: Just the ventilation.

COUNCILMEMBER FLEMING: Okay.

MAYOR JENKINS: How much is it?

COUNCILMEMBER BATES: And Duct Man is eight thousand six ninety-five.

COUNCILMEMBER FLEMING: Eight thousand what?

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I'm sorry?

COUNCILMEMBER BATES: Eight thousand six ninety-five.

MAYOR JENKINS: How much is your duct man?

COUNCILMEMBER PITTMAN: I have Ductz Indoor and Professionals. That's Ductz -- D-U-C-T-Z -- Indoor and Professionals, and it's $6,910.

COUNCILMEMBER ROCHE: I have HVAC -- H-V-A-C -- Cleaning Technologies, and the price is $6,800.

COUNCILMEMBER SPANGLER: Have we used any of these companies before, Mr. Atkinson?

CHIEF ATKINSON: I'm not sure which one we used before. Captain Brinkley worked on this and got these bids put together for us, so I'm not sure exactly which one, but we have used -- we have had them cleaned before, but I'm not sure which company.

COUNCILMEMBER ROCHE: I will make a motion that we accept the HVAC Cleaning Technologies bid at $6,800 because it's the lowest bid.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Okay. Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

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COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: You got it?

CHIEF ATKINSON: Yes, sir.

And one quick question. Is it possible if we need to do this a second time this year or within a year, do I have to go back and get bids again or can I use the same?

COUNCILMEMBER ROCHE: It's over $5,000, so, unless we modify the --

MAYOR JENKINS: Yeah. Rebid it each time.

CHIEF ATKINSON: Okay.

MAYOR JENKINS: Anything else?

CHIEF ATKINSON: No, sir, that's all.

I did want to report that -- the last meeting, I did report that we were having a problem with some perpetrator stealing the air conditioning units off the top of the businesses. That person has

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been caught.
MAYOR JENKINS: Good.
- - -
(Applause)
- - -
CHIEF ATKINSON: They were actually caught up in Gwinnett County, and we got word of it and we went and interviewed the gentleman, and he confessed to all of ours, and we ended up taking nine warrants out on him as well.
COUNCILMEMBER ROCHE: Oh. So the shooting did not happen in Doraville.
CHIEF ATKINSON: No, sir. No. I'm glad it didn't.
COUNCILMEMBER ROCHE: We sent an e-mail to the CVS, and they actually modified their web page.
MAYOR JENKINS: Citizens' comments, three minutes.
MS. CALVERT: Ginny Calvert.
I am a member of the North Dekalb Senior Connections, and I'm very proud to announce that Linda Rollins has had the honor of being appointed to its board.
So Linda, we need to give you a big hand.
- - -

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(Applause)
- - -
MAYOR JENKINS: Who's next?
MS. ROLLINS: Thank you, Ginny. It was an honor, a very, very nice honor.
But what I wanted to do -- I'm Linda Rollins, Oakcliff Estates, and Senior Connections Board member.
I wanted to invite everyone here and their family to Community Connections Day. This is going to happen September the 26th at Senior Connections in Chamblee from 11:00 a.m. till 3:00 p.m. Bring your friends, your family, children. We're going to have live music. We're going to have activities for children. You will be able to tour the whole facility, the kitchen, to see where we produce thousands of meals a day.
Senior Connections has served Metropolitan Atlanta since 1973 as a 501(c)(3) nonprofit organization with programs and services designed to help seniors age in their place, which would be in the comfort of their own homes. We do Meals on Wheels, we do in-home care, we do transportation, we do home repair and we do the senior centers.
I never would have been able to take care of

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my mother at home for all these years that I did if it hadn't been for Senior Connections and their programs.
Like I say, it is an honor to be on their board. It's a three-year term.
Please come see us on September the 26th and enjoy our facility and see what we have to offer, and I'll leave some of these brochures on the table out front.
Thank you.
COUNCILMEMBER FLEMING: Thank you.
COUNCILMEMBER ROCHE: Thank you.
- - -
(Applause)
- - -
MAYOR JENKINS: Next?
MR. HART: Congratulations, Linda. I did the Meals on Wheels deal for a long time, and it helped out my mother when she was still alive. Thank you.
We seem to have opened a can of worms with the $500 in the courtroom. I guess it pays to be ticketed in Doraville. You find out the seedier side of life -- what the inside of the Dekalb County jail looks like, what the inside of Doraville jail looks like from the other side. I went through sort of the

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advanced Police Academy here where you actually get tossed in the back seat and handcuffed.
The court system is this little money churn we have in Doraville where you go to the solicitor's office, and it's let's-make-a-deal. And that's the reason why the courtrooms are not very crowded: because people know if they go in there, it's going to cost them at least double to walk in the front door. And judging from the cases that I've been involved in, it doesn't really matter what you say; you're still going to get fined, anyway.
So the businesses here didn't run their businesses by being stupid. They know what it costs to do business, and part of that cost of doing business is make a deal with the solicitor rather than going in that courtroom because the outcomes are going to be the same: you're still going to be guilty. It's what it's going to cost you.
And so I think when you're talking about training for the businesses to recognize underage -- you know, people buying underage alcoholic beverages, there also needs to be training for the court personnel. If you're going to hand out tickets for koi fish, at least you should be able to spell the word "koi" and understand just basic -- the facts of

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life: that maybe fish eat mosquito larvae, which your court system doesn't quite understand.

So you got a court system that you think you're passing out fines, you think you're accomplishing something, and quite a different thing happens not only in Doraville but also in Dekalb County.

So it's that deal that's being made, and you don't seem to -- you don't accomplish things by beating people over the head with a sledgehammer, you know. So I think your court system has one thing you're trying to accomplish and another thing is happening up at the top of the hill there, and it's not just about money.

Thank you.

MAYOR JENKINS: Next?

- - -

(No response)

- - -

COUNCILMEMBER SPANGLER: I'll make a motion to adjourn since no one else wants to speak.

MAYOR JENKINS: Second?

COUNCILMEMBER BATES: Second.

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

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COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

- - -

(Meeting concluded at approximately 10:00 p.m. the same day.)

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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 14th day of September, 2009.

_____

Theresa Bretch, CCR

Permit No. B-755

[SEAL]

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