In The Matter Of:

City of Doraville

State of Georgia

Doraville City Council Meeting

January 04, 2010

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the meeting held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 7:00 p.m., January 4, 2010.

* * *

APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Donna Pittman
Councilmember Bob Roche
Councilmember Pam Fleming
Sandra Bryant, Assistant City Clerk
Murray J. Weed, City Attorney

P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order.

First item on the agenda is the swearing in, so I want all of the three councilmen to step down by the podium, please.

- - -

(Mr. Bates, Ms. Pachuta and Ms. Pittman approached the podium)

- - -

Scott Carter, the illustrious Scott Carter, will do the honor.

JUDGE CARTER: Really, for us, I guess everybody can just do it all together, and I'll get you to raise your right hand and repeat after me.

- - -

(Councilmembers Bates, Pittman and Pachuta were duly sworn into office, taking the oath as follows:)

- - -

JUDGE CARTER: I solemnly swear or affirm that I will support the Constitution of the United States and of the State of Georgia, that I will in all respects observe the provisions of the Charter, the ordinances of the City of Doraville, and I will faithfully discharge the duties of Commissioner for the City of Doraville, so help me God.

- - -

(Applause)

- - -

MAYOR JENKINS: Okay. Call the roll, please.

ASSISTANT CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

ASSISTANT CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: Here.

ASSISTANT CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

ASSISTANT CLERK BRYANT: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Here.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

MAYOR JENKINS: Okay. Would you like to make a comment before we start?

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COUNCILMEMBER PACHUTA: Oh, I just want to say I'm looking forward to serving the city and I'm excited for the next four years.
MAYOR JENKINS: Thank you.
Brian?
COUNCILMEMBER BATES: Thank you for the opportunity. It's been an honor the last two years and I look forward to working with the residents and business owners, fellow Council members, Mayor, staff, on the next four and will work to make our city not just a good place to live but a great one. Thank you.
MAYOR JENKINS: Wonderful.
Donna?
COUNCILMEMBER PITTMAN: I also would like to thank everyone. I'm really excited. I know we have a lot of great things coming our way for the new year and I'm looking forward to working with everyone up here.
MAYOR JENKINS: Thank you.
- - -
(Applause)
- - -
MAYOR JENKINS: Okay. Want to approve the minutes for 11/9/09. I need a motion, please.
COUNCILMEMBER PITTMAN: So moved.

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MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll, please.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: And the minutes for 11/30/09, motion, please.
COUNCILMEMBER PITTMAN: So moved.
MAYOR JENKINS: Second?

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COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll, please.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: I get to go last now. Yes.
MAYOR JENKINS: And 12/14/09, motion, please.
COUNCILMEMBER FLEMING: 07, sir. 07.
MAYOR JENKINS: Excuse me?

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COUNCILMEMBER FLEMING: 12/07.
MAYOR JENKINS: That was the last motion. Okay. 12/07/09, then.
COUNCILMEMBER PITTMAN: So moved.
COUNCILMEMBER FLEMING: Motion.
MAYOR JENKINS: Call the roll, please.
COUNCILMEMBER ROCHE: Second.
ASSISTANT CLERK BRYANT: Who was first?
COUNCILMEMBER PITTMAN: It doesn't --
MAYOR JENKINS: Minutes for 12/14/09.
COUNCILMEMBER ROCHE: We didn't vote yet.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?

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COUNCILMEMBER PACHUTA: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Okay. Anybody that's signed up, you have three minutes to speak, five minutes on the agenda items if you're on the agenda.
ASSISTANT CLERK BRYANT: I think there's one more, the last one, 12/14.
MAYOR JENKINS: You-all really got me tangled up.
COUNCILMEMBER PITTMAN: There's a lot, so 12/14.
MAYOR JENKINS: What was the last -- How many motions have we had?
COUNCILMEMBER PITTMAN: Three.
COUNCILMEMBER ROCHE: Three.
ASSISTANT CLERK BRYANT: Three. We need one more.
MAYOR JENKINS: 12/14. That's the last one I asked about. 12/14/09.
COUNCILMEMBER ROCHE: I make a motion to

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accept the minutes of 12/14/09.
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Call the roll.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Is that all?
Okay. Three minutes on sign-up, five minutes if you're on the agenda, three minutes on citizens comments.

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First item on the agenda is --
Chief, would you come up to the microphone, please.
We have an item on the agenda of booting and impounding vehicles, and I would like the Chief to explain the reason we put this on the agenda.
ACTING CHIEF ATKINSON: The reason we put this on the agenda, over the last several days, we had numerous calls regarding the booting of vehicles, particularly tractor-trailers and tankers, at the Atlanta Eagles sports complex behind Butler Tire and we were just needing some direction to go with that.
I've been in communication with Mr. Weed, and we have someone here from the company that can explain details as well, but there have been several incidents or several instances that we've gotten calls to respond up there in reference to this.
COUNCILMEMBER PITTMAN: And they are being booted why?
ACTING CHIEF ATKINSON: Illegal parking. Several of the drivers were parking there, going into Burger King and getting some food and coming back out, and their trucks were immobilized.
COUNCILMEMBER PITTMAN: Were there signs posted?

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ACTING CHIEF ATKINSON: Signs are posted.
COUNCILMEMBER PITTMAN: And are they given a warning or they're just automatically booted?
ACTING CHIEF ATKINSON: Automatically booted, but I --
COUNCILMEMBER PITTMAN: So if they go in for four minutes, they're just automatically booted.
ACTING CHIEF ATKINSON: Correct.
COUNCILMEMBER BATES: And how much is the release-your-vehicle fee?
ACTING CHIEF ATKINSON: The fee that I've been made aware of is $500.
COUNCILMEMBER ALEXANDER: However, was there not an incident that they tried to collect $1,100?
ACTING CHIEF ATKINSON: Yes, there was an incident, and I spoke with the gentleman who owns the company. He said that $500 was his fee and $600 was the wrecker.
COUNCILMEMBER PITTMAN: So in the event they do not pay this, what happens? They tow them?
ACTING CHIEF ATKINSON: They tow them, yes.
COUNCILMEMBER PITTMAN: So they're towing tanker trucks --
ACTING CHIEF ATKINSON: They --
COUNCILMEMBER PITTMAN: -- full of gasoline?

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ACTING CHIEF ATKINSON: No, no, no, no. They towed one of the tractors; however, the tanker was loaded full of gas, and they disconnected that. Florida Rock, I believe, was the company. They came and had another tractor come and pull the trailer.

We were not going to allow the company to pull that trailer unless if they showed us that they had somebody who was HAZMAT certified in order to pull that.

COUNCILMEMBER BATES: Are there regulations in the Georgia code regarding booting?

ATTORNEY WEED: Yes, sir.

COUNCILMEMBER BATES: And what must a company do or display or announce in order to properly boot a vehicle?

Well, a business -- I mean I'm assuming this company had permission from the property owner or the tenant to --

ACTING CHIEF ATKINSON: Not the property owner. They had --

COUNCILMEMBER BATES: But the tenant. Okay.

ACTING CHIEF ATKINSON: -- had permission from the tenant.

COUNCILMEMBER BATES: What must be displayed, announced, promoted in order to properly do

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that?

ATTORNEY WEED: The statute's found in 44-1-15. And essentially a sign has got to be conspicuously posted on the property, the location where the vehicle is to be towed if it is to be towed must be listed, the cost of recovery must be provided on the signage, the form of payment that will be accepted must be providing on the signage.

The local government has an opportunity to approve the permitted towing entities, whichever ones are going to be allowed to tow, and the local government's got some right to -- for example, if it were a hazardous-materials vehicle, to require that whoever's towing it have the proper certifications to tow that particular type of vehicle.

The rates that can be charged can be no higher than the rates that the Public Service Commission charges with regard to towing.

And essentially, that's generally the rule other than the first 24 hours -- essentially, the person's not supposed to be charged within the first 24 hours but can be thereafter.

COUNCILMEMBER BATES: So a five-minute trip to Burger King somewhat violates that 24-hour.

ATTORNEY WEED: Well, I mean with regard to

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charging, yes. I don't believe it would violate with regard to towing. You have clearly the vehicle, if it's on private property, that's a trespass. But provided the proper notice has been given, et cetera, then the owner of the property and/or the tenant can do something about it.

So there are different private property rights at play here. You have the private property rights of the owner of the land where the person's illegally parking, so they don't have to tolerate illegal parking. At the same time, you have the private property rights of the vehicle owner, and those have to be protected as well, hence, the statute that I've just cited.

COUNCILMEMBER PITTMAN: So those signs clearly do not display all that information. They just say -- I don't believe.

ACTING CHIEF ATKINSON: I don't believe that one of the signs -- or the signs display the accepted forms of payment. To my recollection, the signs do not say if they'll take cash, credit card, check, whatever.

COUNCILMEMBER PACHUTA: Does the statute limit how much they can charge for the booting? I know Atlanta -- it's only $50 if you're booted in

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Atlanta.

ATTORNEY WEED: The statute really deals with the towing provisions particularly. I need to explore a little further to see if it's -- I don't think there's a clear differentiation between booting as opposed to towing. But in any case, I would assume somewhere it would be posted, the Public Service Commission rates, which I haven't found it yet. I haven't had time to find that. But it can't be more than whatever those rates are.

COUNCILMEMBER PACHUTA: But City of Atlanta, I think anyone who boots has to register with the City of Atlanta --

ATTORNEY WEED: And that would be --

COUNCILMEMBER PACHUTA: -- and then they set those rates.

ATTORNEY WEED: That would be applicable to us as well.

COUNCILMEMBER BATES: Mr. Shinn is here and Mr. Cushman is here. Is there a compelling --?

I mean I'm assuming that there's a reason for why those services were enacted.

ACTING CHIEF ATKINSON: I spoke with Mr. Shinn -- and he called Mr. Pineda, who is with the Atlanta Eagles. And Mr. Pineda -- I asked Mr. Pineda,

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1 you know, was his intent to stop the overnight truck
2 parking or all of it, and he said all of it.
3 He is responsible for damage to the parking
4 lot, and the tractor-trailers are eating up the
5 pavement, so there is a section there that has cones
6 blocking it. And Mr. Pineda is responsible for that
7 parking lot, for the damages to it, so he wanted it
8 stopped.
9 COUNCILMEMBER PITTMAN: And I actually spoke
10 to the property owner.
11 Mr. Cushman, could you maybe address this a
12 little bit, please, would you mind, on what you told
13 me?
14 MR. CUSHMAN: Just basically, you know, we
15 understood that there's a problem -- when you called
16 me, actually I think it was New Year's day and -- that
17 there was a problem and, you know, contacted Elmer and
18 found out what the situation was and, you know, talked
19 with him about it. And it was a problem with trucks
20 parking there, as we've known, you know, for the past
21 couple of years, and we are trying to get them to stop
22 parking there.
23 I did not know that he was going to be
24 booting their trucks there and asked him if he could
25 stop it, and he said he would stop it. He does have a

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1 contract. Well, actually, he volunteered to stop it,
2 I should say, first of all, before I ever really -- I
3 never asked him. He voluntarily said, "No, we'll stop
4 it now." I said, "Great."
5 But he does have a contract with the towing
6 company, and evidently he's got a 30-day out. And he
7 says he's going to write a letter giving, you know,
8 30-day notice. He volunteered to do that.
9 But he did say that the trucking -- you
10 know, evidently some of the trucks have run over some
11 of the signs that are out there, some of the no-
12 parking signs as well. But it does, you know, tear up
13 the asphalt a pretty good bit with it, so, you know,
14 it was a problem, and we have -- you know, actually at
15 some degree, it's his request, you know, to have the
16 trucks, you know, not park there continually, so he
17 addressed it. I think it was just a little too much
18 right now.
19 And so the situation basically, as I under-
20 stand it, it's going to be handled when he sends the
21 letter. There will be a 30-day period now based on
22 the contract, to stop the towing, and after that, I
23 think the situation should be finished.
24 On a bright note, talking with Elmer today,
25 I talked to him probably around 4:00, and I said, you

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1 know, "Have you noticed anything's happened in the
2 parking lot the last couple days?", and he said he's
3 had less trucks there in the last couple days than he
4 has in the last, you know, three or four months. He
5 hasn't been a tenant there for that long with it.
6 So it seems like the booting did work. Is
7 it too aggressive? You know, that's, you know, for --
8 you know, open for debate with that.
9 I have numerous times stopped by trucks seen
10 parking there and asked them to please move. And you
11 get varying responses from, "Absolutely no way. It's
12 public parking," to "Sure. We'll move on down the
13 line," you know, with it, so --
14 COUNCILMEMBER PITTMAN: So you're saying
15 they're going to void the contract after 30 days?
16 They're going to be issuing a letter?
17 MR. CUSHMAN: Correct, correct. You know,
18 he volunteered to do that, and I'll follow up with
19 him. I don't have the power to tell him to do that,
20 but, you know, he did volunteer to do that.
21 And Elmer said, well, the guy, you know, he
22 doesn't want to cause any problems with either the
23 city or the trucking companies, although we do want
24 the trucks not to park there as much as they are
25 parking there. And it seems like, based on what he

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1 says for the last three days, that they've, you know,
2 greatly reduced this.
3 COUNCILMEMBER BATES: As far as overnight
4 parking or parking during the day?
5 MR. CUSHMAN: Both.
6 COUNCILMEMBER BATES: But from an overnight
7 parking standpoint, boot 'em, tow 'em, get rid of 'em.
8 That's -- you know, that's not -- I don't think that's
9 appropriate anywhere except for a designated, you
10 know, space for truckers to park and rest.
11 Murray, what can we do to regulate those
12 types of businesses -- specifically, the booters, the
13 towers -- to make sure that they are complying with
14 state law and to put some regulatory controls?
15 Because when I first heard about this, it sounded to
16 me like, you know, somebody out in the street found
17 themselves a street corner and put up some signs and
18 were making some quick cash.
19 ATTORNEY WEED: Well, the government's got a
20 lot of leeway. The first thing would be to, you know,
21 I think make sure that the property owners are aware
22 that they have to put up the signage in accordance
23 with the state law.
24 After they've done that, then to a certain
25 degree the burden shifts to the truckers to make sure

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that they aren't parking their trucks there.
Bearing in mind the very proactive approach that the Council in the past has taken, I think it would be appropriate at your next meeting with the, you know, propane and the petroleum-gas industries that you bring this up with that council and try to get them to communicate to their drivers and the haulers about what's going on. I think that would be an appropriate thing to do, too, although it's not legally required.
And then with regard to what the government would need to do with regard to setting rates and setting different standards, you have to pretty much decide, you know, what rates you want to set. We'd have to compare them to the Public Service Commission rates to make sure they're not unreasonable. If there's any particular public health/safety/welfare permitting such as if you are going to be towing a HAZMAT vehicle, you've got to provide a -- you know, be prepared to provide a HAZMAT certification. You know, that type of thing, that would be appropriate.
So the next step really is -- the first thing I'd recommend you do is have a meeting with the petroleum and the propane industry, and in the

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meantime, I'll sit down with the Chief. We'll talk about the statute and its subparts. And then we need to find a way to communicate with the property owners, that if they want to pursue this and that they certainly have the right to, make sure they put up the signs appropriately.
COUNCILMEMBER PITTMAN: I'm pretty sure that the tank farms are very much aware, because there was an e-mail sent out to all of them, and they have been made aware of that.
COUNCILMEMBER FLEMING: I would -- and e-mails are excellent, but I'd like to see a hard copy letter from the City or some type of notification from us indicating that this is -- this could possibly happen if they don't comply.
COUNCILMEMBER PITTMAN: Well, the contract is going to be void in 30 days, possibly.
MR. CUSHMAN: This specific one, right, is going to be void.
We do have -- we do have lots of signage up, saying, you know, about parking with that.
But also I do want to give kind of a thank-you to the Quality of Life. They've been involved with this and been very helpful with this. You know, Rosemary in particular, you know, she'll contact me

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and say, "Hey, you know, there's an issue going on over here particularly with, you know, cars for sale." We had a big problem with that about eight months ago particularly down in Northwoods Shopping Center, and we worked hand-in-hand a lot. We were towing an awful lot of cars with that, an awful lot of cars, trying to get that situation, you know, taken care of. And they, through -- and I guess they worked with the police department, and they were very, very helpful with that. And I think that, you know, maybe we could engage this more from that standpoint as well for the truck parking.
Again, it is a problem, you know, booting at this point from the point of, you know, going to Burger King. It can be maybe excessive. I don't know. It depends if this e-mail that's now being circulated -- if that works, I think that's great. And based on what Elmer said, in the last three days, he's seen less than -- you know, than he has in the past, which is good news. So it sounds like, you know, it seems to be working.
COUNCILMEMBER BATES: Could you guys talk to Burger King about subletting part of your parking if that's a -- I mean, because I know that they don't have sufficient parking for the tankers, and we've got

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a bunch of tankers that are coming through either starting their shift or ending their shift that, you know, might be hungry, and that's a great place for them to stop.
Could you talk with them about, you know, coming up with an agreement to add to their parking?
MR. CUSHMAN: I think we could. There'd have to be in agreement that they, you know, would maintain the parking lot, and that would be the issue. And again, you know, some of that's a trash issue but also the degradation of the asphalt and particularly running over signs and things.
And yes, to answer you question I guess in a broad sense, I think that certainly could be -- something could possibly be worked out. I had talked with Burger King -- this was about a year or year-and-a-half ago -- about their parking there and to see if they could, you know, ask the trucks to, you know, park someplace else, you know, with that. That's a possibility.
COUNCILMEMBER PITTMAN: Actually, that's a really good idea, because at Perimeter Mall, Macy's takes responsibility for the lower parking lot because they do come in there to eat at the various restaurants, and they have allowed them to park there

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1 only. It's only designated for a particular area.
2 They are not allowed to park overnight. If they do
3 and they are there over a certain period of time, they
4 are ticketed. And then after they are ticketed, then
5 they are towed. They don't boot. They have -- nobody
6 boots, so, and that's actually a very good idea.
7 COUNCILMEMBER ROCHE: I assume they don't
8 fit through the drive-through.
9 MR. CUSHMAN: Yeah. No, no, not at all.
10 COUNCILMEMBER ROCHE: Well, my question is
11 this: Do we have an ordinance that would prevent
12 this? I mean it would -- if they called the cops
13 because there's a -- well, the police department.
14 ATTORNEY WEED: To my knowledge, we
15 currently don't have an ordinance that would prevent
16 it, and frankly, I think it's preempted. So I don't
17 think we could write an ordinance that would prevent
18 it, because it is private parking. It's private
19 property.
20 MR. CUSHMAN: We'd run into legal issues or
21 liability issues if we did allow them to park there
22 and they go across. And if something happens, then
23 there's an entanglement of who's at fault.
24 COUNCILMEMBER BATES: Murray, the statute
25 that regulates parking and standing on private

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1 property --
2 ATTORNEY WEED: Correct. That's the one I
3 just referred to.
4 COUNCILMEMBER BATES: So if they haven't
5 posted the parking, could they simply call P.D. and
6 have the person who's parking illegally be issued a
7 ticket under that code versus the booting?
8 ATTORNEY WEED: There is another private
9 parking statute. I would --
10 My off-the-cuff opinion would be I lean
11 towards no, but I will check into it further.
12 I think 44-1-13 is pretty clear about how
13 you handle it statutorily, you know, the limitation of
14 governmental powers, and if it's a private parking
15 lot, what can be done.
16 So I'm leaning towards no. I mean I'll look
17 into it a little further.
18 COUNCILMEMBER BATES: Back on regulating the
19 bonding company, could you require the bonding -- or
20 the booting company to be bonded and insured?
21 ATTORNEY WEED: My opinion on that would be
22 yes. I think 44-1-13 is pretty broad with regard to
23 the powers of the local government. As long as they
24 meet the traditional standards of, you know,
25 reasonableness and objectiveness and there's a public

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1 health/safety/welfare purpose, I think that would be
2 fine.
3 COUNCILMEMBER BATES: Thank you.
4 COUNCILMEMBER PITTMAN: So could we do an
5 ordinance banning booting unless, say, 24 hours --
6 it's there for 24 hours?
7 ATTORNEY WEED: I don't think we have -- I
8 think it's preempted by state law, and I wouldn't
9 advise doing that.
10 COUNCILMEMBER BATES: Well, I wouldn't be in
11 favor of that. I think the business owners should
12 have that flexibility to be allowed --
13 COUNCILMEMBER ALEXANDER: When overnight.
14 COUNCILMEMBER BATES: -- to do that.
15 ATTORNEY WEED: I think it's -- I think it's
16 pretty much covered.
17 I mean the historical background of this is
18 that, you know, the two private property interests --
19 the private property of the person who owns the land
20 and the private-property interest of the owner of the
21 vehicle -- and in the common law, essentially if you
22 took someone's private property and hence the vehicle,
23 that person would have the right of a conversion
24 action against you unless there was some sort of
25 statute that governed it, and that's why the

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1 legislature got around to adopting a statute.
2 COUNCILMEMBER FLEMING: You made the comment
3 that on the sign it had to reflect a City-approved
4 towing company?
5 ATTORNEY WEED: Well, yes. It has to
6 reflect which towing company, which lot the vehicle
7 would be towed to, so that if you're the person who
8 has your vehicle in tow, you know where to go to get
9 it back.
10 And then there's another part of the statute
11 in a slightly different location that says, you know,
12 that the government has the right to have some
13 regulation with regard to what would be an approved
14 towing company, such as if it's a HAZMAT vehicle,
15 requiring a HAZMAT certification for the towing
16 entity.
17 COUNCILMEMBER PITTMAN: And the amount is
18 supposed to be posted on there.
19 ATTORNEY WEED: Correct.
20 COUNCILMEMBER PITTMAN: So basically you're
21 saying that this is what he told you: that they were
22 going to void the contract, they're going to send a
23 letter after 30 days. And you're going to try to
24 possibly address it in other ways? Is that --
25 MR. CUSHMAN: Correct.

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COUNCILMEMBER PITTMAN: Okay.
MR. CUSHMAN: Well, as far as, yeah, addressing the parking, right.
And you know, I guess -- I mean it sounds like this e-mail -- I have not seen this e-mail that goes around --
COUNCILMEMBER PITTMAN: I'll be glad to forward it to you.
MR. CUSHMAN: -- so having that --
But you know, I'd like to talk to the present companies in general, you know, to Brian's point, if there's a happy medium and we can all communicate, and then, you know, these things can work out.
So you know, it was a problem, it got addressed and then, you know, now it seems to not be a problem. So I think it's all good.
COUNCILMEMBER PITTMAN: Thank you.
MR. CUSHMAN: Thank y'all.
COUNCILMEMBER ALEXANDER: Captain Atkinson, are they still being booted today -- tonight?
ACTING CHIEF ATKINSON: Yes.
COUNCILMEMBER ALEXANDER: So they're still being -- they're still --
ACTING CHIEF ATKINSON: As far as I'm aware.

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I think there was a couple booted during the daytime today.
COUNCILMEMBER ALEXANDER: Again for the Burger King lunch run or --
ACTING CHIEF ATKINSON: I don't know. I haven't seen these.
COUNCILMEMBER ALEXANDER: Okay.
MAYOR JENKINS: Are you Stephen? Sir, did you sign up?
UNIDENTIFIED SPEAKER: No, sir, I did not.
MAYOR JENKINS: Somebody by the name of Stephen signed up.
MR. HARPER: I'm here.
MAYOR JENKINS: Who are you, sir?
MR. HARPER: I'm with Georgia Parking Enforcement. I have a contract with the Asian Square.
MAYOR JENKINS: Okay. Come on up to the microphone. Did you want to comment on that item?
MR. HARPER: Oh, yes, sir, if you don't mind. How y'all doing?
I'm with Georgia Parking Enforcement. My name is Stephen Harper.
ATTORNEY WEED: Mr. Harper, I ordinarily don't do this, but this is being taken down for the record. You clearly have certain rights with regard

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to self-incrimination. If you make statements at this hearing that are taken down, there is a remote possibility that they may be used against you in some further proceeding, and I feel duty bound to tell you that. And having said that, you may act in accordance with your will.
MR. HARPER: Oh, yes. That's no problem.
I have a contract with the Asian Square. We haven't enforced that contract yet. I've been out there a few days giving people warnings about what's going on.
We are a enforcement company and we do that with booting or towing.
And the booting issue, first of all, there seems to be a little bit of confusion on the statute from what I believe. 44-1-13, that is specifically for towing. That's a towing regulation for towing. Georgia doesn't have a regulation for booting.
Now, you do have cities like the city of Atlanta, Hapeville, Riverdale, all these different cities have ordinances for booting, and the ordinances have certain guidelines, and, you know, you post your signs and whatever they require in the ordinance.
As far as a Georgia regulation, there is not a Georgia regulation on booting. When we're speaking

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of the Georgia Code 44-1-13, that is specifically for towing, and when you boot a vehicle, that is not towing.
One reason why we go to the booting issue is, for one, it's economics. Right now, the economy's bad, and when you go in there and you boot a vehicle, you know, you think $500 is a lot for an 18-wheeler, but if the 18-wheeler gets towed, the Georgia statute on 44-1-13, it's $650 to get it out of impound, plus you're stranded, plus you have to have a driver's license, registration, proof of all the stuff. Most of these truck drivers don't even have that when they get impounded, and that's just -- I just wanted to kind of, you know, draw that to y'all's attention.
The booting is very effective when you have parking out of control. We have a contract in Savannah at a Home Depot, and it's overnight parking. The signs have been posted for years. They keep parking there and parking there; it doesn't matter what you do. We booted 55 18-wheelers in about an hour. After we booted those 55 18-wheelers, they never parked there again. And you know, they come in and they take advantage of private property and they use it for their personal monetary gain. They go in overnight, and it costs a lot of money to fix the

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1 parking lots plus the liability factor at issue here.
2 Booting is very, very effective if it's done the right
3 way.
4 Now, when I post my properties, if there's a
5 city that doesn't have a regulation, I do post it
6 according to the regulations that we do work with the
7 cities that do have regulations. That's the only
8 guideline that I have to go by. And we do post it
9 that way, like the city of Hapeville.
10 But in general, I just wanted to make the
11 comment about the 44-1-13 because it does not regulate
12 booting. That is specifically for towing.
13 MAYOR JENKINS: Thank you.
14 COUNCILMEMBER BATES: Thank you. We're
15 about ready to regulate it.
16 MR. HARPER: Thank you, sir.
17 COUNCILMEMBER ROCHE: And I think it would
18 be good to look at some of the ordinances from
19 Hapeville and from other cities that regulate it.
20 COUNCILMEMBER PITTMAN: Does Hapeville have
21 a no-booting ordinance?
22 COUNCILMEMBER ALEXANDER: No. They have --
23 ATTORNEY WEED: No. They have a booting
24 regulatory ordinance.
25 COUNCILMEMBER PITTMAN: Okay.

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1 MAYOR JENKINS: Stuart, did you sign up?
2 MR. ANDERSON: Not for this, I don't think.
3 MAYOR JENKINS: Did anybody else sign up on
4 this item? I can't read your writing.
5 COUNCILMEMBER ALEXANDER: Mr. Weed, I have
6 some additional questions for you if I may.
7 We ran into an issue regarding limousine and
8 taxi services being regulated by the PSC, thus, we
9 were not allowed to collect occupational tax from
10 those establishments.
11 Does the same apply to these booting and
12 towing companies?
13 ATTORNEY WEED: I believe the same would
14 apply to a towing company.
15 Whether it would apply to a booting company
16 if that's their exclusive function, I don't know the
17 answer to that question. I don't believe -- to my
18 knowledge, the PSC isn't regulating booting alone.
19 I'd have to find out.
20 COUNCILMEMBER ALEXANDER: Because these
21 people are generating revenue in our municipality.
22 ATTORNEY WEED: You know, I would agree that
23 it's not -- if they're not otherwise exempt, then
24 they, you know, are required to pay taxes pursuant to
25 the --

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1 COUNCILMEMBER ALEXANDER: Okay. I'd like --
2 ATTORNEY WEED: -- Title 48.
3 COUNCILMEMBER ALEXANDER: -- for you to
4 research that further, and also if we can regulate
5 booting to the extent.
6 I understand everyone's concerns, and I have
7 issues with overnight parking also. But for the
8 greater good, I have an issue with an explosive tanker
9 truck full of gasoline being immobilized next to a
10 restaurant where people are dining at. I mean that is
11 ridiculous when a person's only in there 10 minutes.
12 You're putting at risk tens of thousands of people for
13 you to make 500 bucks.
14 Furthermore, I have concerns with two
15 different truck drivers being charged two different
16 amounts, because, to me, you're getting extremely
17 close to violation to the Hobbs Act, which is a
18 federal law regarding interstate commerce, disrupting
19 the transportation of interstate commerce by way of
20 extortion. I don't understand the difference between
21 you were charging one truck 500 bucks and the other
22 truck $1,100. And if you're charging him the $640
23 tow-truck fee, then he's not going to need a tow truck
24 if he pays you $500 to get the boot removed. So I've
25 got a little -- I've got some issues there with the

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1 lack of regulatory and the lack of -- seems maybe some
2 discriminatory charges going on there.
3 I appreciate Mr. Cushman and Mr. Shinn and
4 Mr. Pineda, I believe, working with us, but we defi-
5 nitely need to go ahead and get some regulation on the
6 books for this.
7 You know, we're not trying to stop anybody's
8 right to free enterprise, but you've got to look at
9 the bigger picture and the public safety issues that
10 are extremely relevant to our municipality,
11 considering all the tanker trucks that go on our
12 streets every day. I think we have a little bit of a
13 different situation than some of the other munici-
14 palities do.
15 So I would like for you to, if you can,
16 research about the occupational tax thing, what
17 licensing we can require, and if there is no regu-
18 lation restrictions on this booting thing, let's --
19 let's get some on the books.
20 ATTORNEY WEED: The only thing I would add
21 is that the general rule of law is -- you know, bear
22 in mind this is private property. It's one private
23 property owner acting against another private property
24 owner. And the theory of conversion applies, which
25 means that these booting companies, if all they're

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1 doing is booting, yeah, they're taking their chances,
2 because the case law and the common law is pretty
3 clear that there's no -- unless there is a statute
4 that provides it, there's no automatic, you know, lien
5 that you get. In other words, there's no automatic
6 right that the towing -- that the booting company has
7 to collect the money, and therefore a conversion could
8 take place, although if the Council wants to pursue a
9 formal ordinance on booting, there are certain private
10 property rights that these vehicle owners also have
11 the right to pursue on their own initiative. I just
12 want to make you aware of that.
13 COUNCILMEMBER PITTMAN: Did you say that the
14 towing or the 44-1-13, they had to notify the city if
15 they were going to be towing or booting, is that
16 correct, or is that something we have to put in place?
17 ATTORNEY WEED: It's already --
18 COUNCILMEMBER PITTMAN: Register themselves.
19 ATTORNEY WEED: It's already -- yeah, it's
20 already there.
21 COUNCILMEMBER PITTMAN: So they were --
22 ATTORNEY WEED: State law.
23 COUNCILMEMBER PITTMAN: -- supposed to
24 register with us?
25 ATTORNEY WEED: With regard to the signage,

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1 with regard to the towing, it is absolutely clear.
2 That was already -- you know, that's the statute.
3 Without the local government doing anything in
4 addition, they were supposed to, you know, properly
5 put up the signs. The signs were supposed to say
6 certain things.
7 If that's been done, I don't know. If it
8 hasn't been done, I don't know either. I haven't been
9 out in the field to find out.
10 COUNCILMEMBER ROCHE: But if it hasn't been
11 done, does that mean that they would have to refund
12 the money back to the people who were booted?
13 ATTORNEY WEED: If I represented the vehicle
14 owners, I would sue them for conversion.
15 COUNCILMEMBER PITTMAN: And Captain, either
16 captain, do you know if the signs -- did you say they
17 did not? They just basically say no trucks? What
18 does the sign say?
19 ACTING CHIEF ATKINSON: Well, there's one
20 sign there that addresses towing and there's one sign
21 there that addresses booting, and the sign -- the
22 booting talks about Axis Impound, phone number and the
23 one that I saw had a $500 maximum on it and did not
24 have acceptable forms of payment.
25 MAYOR JENKINS: Scott, do you know if the

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1 signs are legal conforming signs according to our sign
2 ordinance?
3 MR. HAEBERLIN: I have no idea, sir. I've
4 not been on that property.
5 I have seen the tanker trucks parked there
6 repeatedly. There's is the same problem across the
7 street at K-Mart, so it's pretty much a city-wide
8 problem.
9 COUNCILMEMBER PITTMAN: And I agree the
10 overnight's ridiculous, I mean that's -- you know,
11 but issues with going in for two minutes.
12 So I agree with Ms. Alexander. I think the
13 risk of tankers sitting there far outweighs them
14 tearing up the parking lot.
15 But I do appreciate -- I again, I agree that
16 -- I appreciate y'all working with us.
17 COUNCILMEMBER ROCHE: I guess I might feel
18 differently if I had to pay to fix the parking lot.
19 So it's not as simple as that, I don't think, but I
20 definitely think that we need to do some kind of
21 regulating on the booting people.
22 COUNCILMEMBER PITTMAN: Absolutely.
23 MAYOR JENKINS: Okay. Murray, do you have
24 any suggestions how we go about this?
25 ATTORNEY WEED: Well, with regard to -- I

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1 think the law is, you know, absolutely clear with
2 regard to the towing aspect of it, and I think I've
3 given my best advice with regard to what we do to help
4 that particular community comply with that law.
5 And with regard to booting, I have read the
6 Hapeville ordinance. If the Council -- I get the
7 message that the majority of you would like me to
8 pursue some drafts with regard to that. I'm certainly
9 happy to do that, and I'll, you know, try to have that
10 ready for you at your next meeting.
11 MAYOR JENKINS: Do I need a motion on that
12 and get it going?
13 ATTORNEY WEED: No, sir. I mean I think --
14 unless, you know, I see enough nods, and I think I've
15 got a clear direction of which way to head.
16 MAYOR JENKINS: Anymore discussion from the
17 Council?
18 COUNCILMEMBER BATES: No, sir.
19 MAYOR JENKINS: Okay. Thank you, Chief.
20 Thank you, Stephen, I believe it is.
21 Donna, item number 6.
22 COUNCILMEMBER PITTMAN: Yes. I just want to
23 talk a little bit about employee recognition.
24 I feel that employee recognition is very
25 important. We have great employees in our city, and

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as a council, we need to embrace and encourage employee recognition, to say thank you for your service or a job well done. This will encourage actions and thinking that we believe in our employees. People who feel appreciated are more positive about themselves and their jobs and their ability to contribute, and I have some ideas and I'd like to get some input from the Council as well.

I think it would be just really nice, Mayor, at the next department head meeting to encourage our department heads to randomly give an encouraging note or letter to the various employees.

Today, ironically enough, I received a phone call from a couple citizens talking about Ms. Stephens and Ramon from the recreation department and how they had went over and beyond their call of duty to assist and to help. And so that would be a prime example for the Mayor or even the Council members to send a thank-you letter. And I thought that it would be a really good idea to possibly recognize in our newsletter, each month profile a different employee, and maybe start with them since we did get some phone calls and just tell a little bit about their employment.

We have some employees that have been here a very long time and we have some employees that have

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been here for a very short time. And I think that it would be really good if we could honor them possibly with a lapel pin or a plaque, a gift card or maybe even the afternoon off on their anniversary date -- and I was thinking one-year, five-year, ten-year -- and just help build some morale within the city.

And we've had a lot of changes over the last few months and years, that I think somehow the morale has suffered. And I just think that would be really important if we as the Council, Mayor, and department heads could start recognizing employees and make them feel good about theirselves. I think you will find that you will get more positive attitudes and more accomplished if we could possibly do that.

And I would like to get some input from the Council on ideas on what they might think as far as recognizing -- I think one year is a milestone. I think we certainly need to recognize one year and then go from there: one year, five year, ten year.

COUNCILMEMBER FLEMING: I think that's an excellent idea and do it every five years stretching out for as long as we've got the employees, also possibly their birthday, and we gather up everybody on whatever month their birthday is and have them at the senior luncheon maybe and recognize them at the senior

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luncheon.

COUNCILMEMBER PITTMAN: That's another really good idea.

I mean everybody likes to be appreciated even if it's just something small. Again, if the department heads sent a thank-you letter, a letter from the Mayor or whatever and, you know, on their anniversary date, have their picture out here telling how long they have been employed here. And I think maybe this month -- I've already talked to Lynn -- maybe profile Ms. Stephens and Ramon in the newsletter.

I find that people are more productive if they're appreciated and not always beat down. Let's appreciate them a little bit.

And I can try to get this in the works and get with the Mayor and see how we can go about doing this if the Council's okay with that.

Maria, I know you do something at your -- what exactly do you do?

COUNCILMEMBER ALEXANDER: We do one and then five years, and we actually have a catalog where the employee chooses an award out of the -- There are certain -- you know, pages one through so-and-so is one year and like that, and then the company purchases

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the selection, their gift that they want. And we do occasionally -- for milestones like retire-ments and 25 years, we have a cookout and cake and things like that.

I've noticed one of the other things that Chamblee does is they do do a spotlight on employees in their newsletter, and I think that's nice because, you know, not everybody in the city knows Carol and Ramon. I wish they did.

COUNCILMEMBER PITTMAN: Exactly.

COUNCILMEMBER ALEXANDER: But I think that's a good idea also.

COUNCILMEMBER BATES: Would it be feasible for department heads to submit to the Mayor their suggested employee for that month and let the Mayor pick an employee of the month to be featured?

COUNCILMEMBER PITTMAN: Sure, absolutely, if the Mayor's okay with that.

MAYOR JENKINS: Yes.

COUNCILMEMBER BATES: We get to pick City Hall, though.

COUNCILMEMBER PITTMAN: You what?

COUNCILMEMBER BATES: We get to pick City Hall.

I'm in favor of that. I would like to

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1 recognize those employees who do hard work for the
2 city but don't get that recognition. And you know,
3 we've got a lot of them in the city. So to spotlight
4 them in the newsletter I think is a tremendous idea.
5 COUNCILMEMBER ROCHE: So we're talking about
6 based on longevity and --
7 COUNCILMEMBER PITTMAN: Both, yes.
8 COUNCILMEMBER ROCHE: That's fine.
9 COUNCILMEMBER PITTMAN: And that's it.
10 Thank you.
11 MAYOR JENKINS: Okay. Thank you.
12 Pam, number 7.
13 COUNCILMEMBER FLEMING: Yes, sir. This is a
14 follow-up from our December meeting.
15 I had requested a forum for the business
16 concerns and issues that we have in the city, and I
17 don't believe Mr. Bates was available for that
18 meeting, and of course Ms. Pachuta's on board now.
19 And we had tentatively scheduled it for
20 January the 12th. I have contacted City Hall, and the
21 Civic Center is available for that date if that date
22 is available or accepted by the Council.
23 And Mayor, did you not suggest 6 o'clock
24 rather than 6:30?
25 MAYOR JENKINS: Yes.

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1 COUNCILMEMBER FLEMING: Okay. So January
2 12th at 6 o'clock for the business forum for concerns
3 and issues.
4 COUNCILMEMBER PACHUTA: Do you have a
5 format? I mean is it going to be people are going to
6 have to speak with a limited amount of time or --
7 MAYOR JENKINS: Yeah, we'll set that. We'll
8 just have to look at that.
9 COUNCILMEMBER FLEMING: What we did -- and I
10 would suggest that we do the same format -- is that
11 based on the total number of people that signed up to
12 physically speak, and if we set ourselves a three-hour
13 period, which the Mayor and I have spoken on, then we
14 can divide the number of minutes by the number of
15 people that have signed up.
16 There will also be available a sheet that if
17 you so chose, whether it be a resident that may be
18 having issues with permitting or whatever or if some
19 of the businesses did not wish to speak but wished to
20 hand-write or submit in writing their concerns, that
21 will also be available.
22 COUNCILMEMBER BATES: Is this going to be
23 facilitated by an independent third party or is it
24 just going to be us?
25 COUNCILMEMBER FLEMING: I asked the Mayor if

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1 that was needed, and he felt that it would not
2 necessarily need a moderator.
3 MAYOR JENKINS: I don't see a reason for it,
4 but I mean if the Council decides that, then that's
5 fine.
6 COUNCILMEMBER ROCHE: Yeah. Well, I mean I
7 guess my vision was that this would be basically a
8 special-called meeting just basically on one topic
9 where everyone, as Councilwoman Fleming said, would be
10 able to come in and voice their concerns and then the
11 Council could even talk about it, make motions or
12 whatever if we needed, we felt it was warranted based
13 on what we heard.
14 COUNCILMEMBER BATES: I would really not be
15 inclined on doing that because my guess is emotions
16 will be a little elevated on perhaps both sides
17 depending on what the topics are. I would not be
18 inclined on having us making motions on the spot,
19 reactionary motions. That would not be my preference.
20 COUNCILMEMBER ROCHE: So you're saying we
21 would listen to what everyone had to say but we
22 weren't going to do anything about it.
23 COUNCILMEMBER PACHUTA: Not at that meeting.
24 I mean I think it would have to be unanimous consent
25 because I mean you're putting out what would be on the

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1 agenda. We might make a motion about something. So,
2 you know, even to vote on anything, I think it would
3 have to be unanimous to even bring it up, possibly.
4 COUNCILMEMBER BATES: If this is a forum for
5 them, for the business community -- which I absolutely
6 support -- to make suggestions on how we can operate
7 better, to share their frustrations, things like that,
8 I think this is a -- not to coin a term that's been
9 used in the past, but a listening tour for us to
10 engage the business community in a very meaningful
11 experience and let them share with us what their
12 frustrations are and suggestions on how they think the
13 city might improve.
14 For us to try to react on the spot and make
15 motions based upon limited information or not fully
16 vetting out what the concerns are or what the ramifi-
17 cations are of a motion, I don't think is a very
18 appropriate thing for us to do.
19 I'm in favor of providing a forum for the
20 discussion to take place and taking that information
21 and making adjustments, you know, in subsequent days
22 but not that night.
23 COUNCILMEMBER ROCHE: So we don't have any
24 mechanism to make sure that the people that do come
25 out and say something can expect a change or making

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1 adjustments?
2 COUNCILMEMBER BATES: Well, if the
3 adjustments aren't warranted, then correct.
4 COUNCILMEMBER PACHUTA: But I think the
5 point is to get the business concerns, and then that's
6 the information that we can use at a future date or a
7 future meeting, you know, after we take those, you
8 know, items into consideration and do some research
9 and move forward from there.
10 COUNCILMEMBER FLEMING: I have been involved
11 in the last two years when issues have been brought up
12 and we have made motions to move forward on an issue
13 and we're still waiting on some things.
14 And I don't want this to be -- you know, I
15 don't want it to fall through the cracks and say,
16 "Okay, we've given them their three hours of their
17 concerns and their issues," and then the Council,
18 though we have an open ear at that moment, that we
19 walk away from here and not do anything about it,
20 whether it be acknowledgment to each and every one of
21 them or to address each and every issue that comes out
22 of it.
23 Now, it doesn't necessarily have to be
24 motions and voting that evening. However, I think
25 every single one of those issues should be written

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1 down and addressed, and if they're warranted, yes,
2 absolutely, measures taken to correct the issue.
3 COUNCILMEMBER BATES: I would imagine that
4 there are going to be a number of items brought up
5 that we will want to address. The practicality of
6 addressing them and the long-term/short-term impacts
7 of addressing those are going to need to be fully
8 vetted by our staff and by our attorney.
9 I don't think making knee-jerk-responsive
10 motions based upon comments that are -- no offense,
11 but are going to be relatively one-sided is the
12 appropriate thing to do. I want to make sure that we
13 fully understand both sides of the issue, and this is
14 a great forum for us to fully get an understanding of
15 what the business community is concerned about.
16 So I hear you, I think we will need to take
17 appropriate steps down the road, but to make motions
18 that night, I think it would be a bad precedent, bad
19 position.
20 ATTORNEY WEED: With regard to the legal
21 procedure, I concur with Councilman Pachuta's
22 assessment. Essentially if you did -- you could
23 legally have -- Anything you put on the agenda for a
24 special-called meeting in the notice, you can deal
25 with.

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1 When you actually get there, if something
2 came up and someone wanted to make a motion, they
3 could certainly do so, but it would have to pass by
4 unanimous vote, not by majority.
5 COUNCILMEMBER BATES: Here's my other
6 concern with that. If Joe Smith gets up there and
7 makes a comment the first time, and we want to address
8 that, we're going to spend -- you know, we're at 55
9 minutes on two agenda items -- we're going to spend an
10 enormous amount of time debating the pros and cons of
11 that particular element and take away time from the
12 business community members to have their say and give
13 them their opportunity.
14 So yes, I agree that we'll need to make some
15 adjustments.
16 COUNCILMEMBER PITTMAN: And I think -- and I
17 appreciate what you're saying, because there has been
18 some things that have fallen through the cracks.
19 But I think as Council we need to make it
20 our responsibility if it's important enough, that we
21 need to make sure that does not happen.
22 And I agree that I don't think that would be
23 the appropriate forum to do that.
24 COUNCILMEMBER ROCHE: Well, I guess the way
25 I saw it, there would be a period of time in which,

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1 you know, people could come, citizens, businesses,
2 positive, negative, good and bad. I'm not going in
3 with any kind of prejudices on this. And then once
4 all that is completed, if there's something that's
5 just obvious that needs to be taken care of or dealt
6 with or whatever, then at that point after everyone's
7 had a chance to say what they have to say, we bring it
8 up to the table and we can deliberate, and if we feel
9 it necessary to take an action, we could take an
10 action. If it's clear that an action needs to be
11 taken, I don't know why we should say, "Okay, fine.
12 Thanks very much," but we're not going to anything
13 even though it may be very obvious that something
14 needs to be done.
15 COUNCILMEMBER BATES: And there will be a
16 Council meeting in six days, and if the deadline for
17 the agenda is two days after the meeting --
18 COUNCILMEMBER ROCHE: Well, how about if as
19 we go through and people make their comments we
20 identify specific items that need to be addressed, on
21 the spot, and get them on a punch list on the spot and
22 basically make a commitment that these things will be
23 addressed and responded to within a certain period of
24 time.
25 COUNCILMEMBER BATES: I think there's an

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appropriate opportunity for those items to be put on the next agenda.

COUNCILMEMBER FLEMING: But you don't -- you don't agree to a punch list of things that were discussed --

COUNCILMEMBER BATES: I think that --

COUNCILMEMBER FLEMING: -- that will be --

COUNCILMEMBER BATES: -- there are --

COUNCILMEMBER FLEMING: -- addressed in an appropriate period of time?

COUNCILMEMBER BATES: I think there are going to be a number of items addressed that need to be thoroughly vetted by the staff and our attorney.

COUNCILMEMBER FLEMING: And by us.

COUNCILMEMBER BATES: And by us, absolutely. So to say --

COUNCILMEMBER FLEMING: So all I'm trying to do is get a January 12th, 6:00 p.m., confirmation of this forum. Is it agreed upon or no?

COUNCILMEMBER BATES: Well, yes, based upon the -- based upon how it's going to be run. Are we going to be sitting there making comments?

COUNCILMEMBER FLEMING: I've already made that comment, that motions would not be convenient or apropos for that meeting.

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COUNCILMEMBER BATES: I'm perfectly fine with the January 12th.

COUNCILMEMBER FLEMING: But we definitely do need to have --

MAYOR JENKINS: Yes. That's what you wanted: January the 12th if everybody agrees to the forum.

COUNCILMEMBER FLEMING: At 6:00 p.m. at the Civic Center.

COUNCILMEMBER BATES: Yes.

MAYOR JENKINS: Yes.

COUNCILMEMBER FLEMING: Wonderful. January 12th, 6:00 p.m. at the Civic Center.

COUNCILMEMBER ROCHE: And I'll second that.

MAYOR JENKINS: And no voting.

COUNCILMEMBER BATES: What was that, Mr. Roche?

COUNCILMEMBER ROCHE: I said I will second that.

I guess we can just on our own put together a little punch list or something, so --

MAYOR JENKINS: Do we need a motion on that?

MR. ANDERSON: I might be signed up on this.

MAYOR JENKINS: I got nobody signed up for that.

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COUNCILMEMBER FLEMING: Mr. Mayor, Terri asked if -- she noticed it was on the agenda and she wanted to know whether she needed to attend.

MAYOR JENKINS: I say no.

What does the Council say? We have a -- they'll have a camera on. We'll have two cameras. Would that be enough?

COUNCILMEMBER ROCHE: Well, we're not going to be making any motions, and obviously we need the camera.

COUNCILMEMBER FLEMING: As long as the camera is available, that would be fine.

MAYOR JENKINS: Not the court recorder.

COUNCILMEMBER FLEMING: Terri, thank you very much for asking. We will not need you on the 12th.

ATTORNEY WEED: In accordance with the Open Meetings law, you'll still have to have minutes, but you'd have to have that any time you have a quorum, anyway.

MAYOR JENKINS: Okay. I asked a question. Do we need a motion on that or not?

COUNCILMEMBER FLEMING: I'd like to make a motion to have a special-called meeting on January the 12th, 6:00 p.m., at the Civic Center to address

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business concerns and issues.

COUNCILMEMBER ROCHE: And I'll second that.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

ASSISTANT CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

ASSISTANT CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

ASSISTANT CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

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MAYOR JENKINS: Thank you.
Bonita Hoffmeister. You have five minutes, ma'am.
MS. HOFFMEISTER: Thank you. Bonita Hoffmeister, 3938 Spanish Oak Drive.
On November the 17th, I was awoken by leaf blowers at about 6 o'clock in the morning. One neighbor to the one side and the other side were busy blowing their leaves that early in the morning. When I was going to work at about 15 till 8:00, they were still out there blowing their leaves.
That day, I received a warning because my leaves were still on my yard. It had been less than a week since my yard had been raked.
This is the second time I have been before the City Council discussing selective enforcement of our ordinances. Every house on my street was as much in violation as I was. There are only two or three others that were given a warning instead of all of them.
I am respectfully submitting and requesting that whoever made this call be removed from the people that the Quality of Life respond to. This was definitely a situation where one of the neighbors had taken it upon themselves to call Quality of Life and

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harass the neighbors.
This is not the first time this individual has done this on my street. This is the first time it has happened to me. And as I said, this is the second time within two years I've been in front of the City Council to tell you that our Quality of Life, although I support it, is being used to harass neighbors, one neighbor against the other one. This is a violation of civil law, civil liberties; this is a federal offense.
These are the tickets that were issued that day and pictures of the yard and my neighborhood (presenting). It's not all of the yards. It's simply the Spanglers', my yard, the yard across the street, Susan Fraysse's, which is always in bad shape. I mean it really is. It's always in violation.
Like I said, there's about 20 homes. Every single one of them, with exception of the three who were up very early in the morning before I even woke up, yard was clean. Almost all of them have their yards raked once a week.
And I request that you remove this person who made these complaints on the 17th from the list of people who complain and are responded to. Our Quality of Life should be familiar with our neighborhoods and

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know which homes are the problems and which are not.
Any questions?
COUNCILMEMBER FLEMING: I have a question for Chief Atkinson.
I mean is that -- the Quality of Life calls, are those recorded or --
ACTING CHIEF ATKINSON: No, ma'am.
COUNCILMEMBER FLEMING: They're not recorded?
ACTING CHIEF ATKINSON: No, ma'am.
COUNCILMEMBER FLEMING: Do you know the number from which they come from, the phone number from which they come from?
ACTING CHIEF ATKINSON: It's a tip line.
Are you referring to the originating call --
COUNCILMEMBER FLEMING: Yes.
ACTING CHIEF ATKINSON: -- that came to the police department?
COUNCILMEMBER FLEMING: In other words, you know, because I don't believe Ms. Hoffmeister is the first one that I have heard, because actually two years ago when I was campaigning, I was hearing a great number of complaints about selective or neighbors retaliating against another by picking up the phone and calling QOL and saying so forth and so

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on. So I'm wondering if there is a way that if this is being abused, how can we stop it?
ACTING CHIEF ATKINSON: This call came in and a message of left, and when the Quality of Life came in and heard the message, that's how this all initiated.
MS. HOFFMEISTER: May I ask why the Quality officer did not issue a citation to every single home on the street since all but the three were in violation? I mean if the officer is out there and my yard, that has been gone for less than a week before it was raked, was given a warning, why wasn't everybody else on the street -- and for that matter, everybody else in the whole neighborhood, the whole city?
I mean you cannot go to somebody's house and selectively enforce your ordinances, especially when it's so visibly blatant that's what you're doing.
MAYOR JENKINS: Thank you, Bonita.
COUNCILMEMBER FLEMING: Is there a way to identify the people that call in, generally identify who they are?
ACTING CHIEF ATKINSON: I believe on this particular call, they did.
COUNCILMEMBER FLEMING: They did not?

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ACTING CHIEF ATKINSON: They did.
COUNCILMEMBER FLEMING: I would hope that our neighborhoods would be proactive, and instead of retaliating and picking up the phone for Quality of Life, that they would just knock on the door of their neighbor and say, "How about cleaning up your yard as well as mine?"
ACTING CHIEF ATKINSON: Well, ma'am, I agree. I would hope that we would not use the police department to get back at somebody.
COUNCILMEMBER FLEMING: Exactly.
ACTING CHIEF ATKINSON: And I can tell you that if we find out that that's going on, then we'll stop it. We won't allow that to happen.
COUNCILMEMBER FLEMING: I appreciate that. Thank you very much.
COUNCILMEMBER ROCHE: Yeah. I'm wracking my brains. I know I had a conversation with someone -- I guess it was about a year ago -- where they had set up something similar to this code enforcement and they actually tracked who made complaints, if a certain person -- you know, if they identified someone who was really going, you know, a high rate, then they would actually ban that person for a particular period of time or whatever. I don't remember exactly how they

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handled it, but they had worked out a way to deal with this type of situation. Because I could just decide I'm mad at everybody --
COUNCILMEMBER ALEXANDER: Think that would be illegal.
COUNCILMEMBER ROCHE: -- and call on everybody on the street.
COUNCILMEMBER PITTMAN: Yeah.
ATTORNEY WEED: Well, as a city attorney, I'm never going to advise this council nor any other council that I work for to pick and choose, you know, which calls that they respond to.
If there are abuses, Ms. Hoffmeister and anyone else, if she feels aggrieved, has the ability to pursue a legal action. If she believes the city's been a party to some sort of selective or wrongful prosecution, she has the ability as a citizen to do something about it, and I invite her to do so.
MAYOR JENKINS: I had a couple sign-ups. Let's hear from them and see what they have to say.
Ms. Fraysse?
MS. FRAYSSE: I'm Susan Fraysse. I live at 3971 Spanish Oak Drive. And I defend my yard and I invite people to come and look and see. I do a pretty good job. I'm out there with my leaf mulcher. I'm

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mulching up those leaves. I have wonderful, glorious trees. I have a hundred-year-old white oak in my front yard and the roots go all under my property and I've got many others in the yard. That's why I live in Doraville. But it does put a burden on all of us that have trees to take care of the leaves.
I will say also that I've lived in my home for 23 years. In that time, I've gotten three warnings, no citations. As soon as I get a warning -- once it was about a satellite dish, and we know that's been worked out. Once was about tall weeds coming up through my English ivy, and I got -- it was like six or seven tall weeds, but they were very tall (gesturing), and I said, "Fine, okay. I'll take them out," and I did.
And on the 18th, the day after Bonita's difficult time with warnings, I got a warning, and it says, "Please rake the leaves in the front yard," and that day, I did, and that was it. I mean that's -- that's all that goes on. So I don't think it is quite as serious a problem.
There are issues with topography. We've got hills, we've got houses, we've got fences, we've got shrubbery. The leaves can look worse in some yards or can remain --

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I think the thing that Quality of Life is working on is when leaf piles stay on the lawn so that it kills the grass. That's an issue, so thanks.
COUNCILMEMBER BATES: So Ms. Fraysse, you did receive a warning?
MS. FRAYSSE: A warning. I've not had a citation. A warning just tells you to take care of an issue.
COUNCILMEMBER BATES: And on the top of it, does it say, "City of Doraville, Official Notice of Ordinance/Code Violation?"
MS. FRAYSSE: Right. But it says at the bottom, this is not a citation. There's some semantics and there's some differences.
I've worked with these ordinance things -- you know, when I went through the citizens police academy, I went around and I did a ride-through with someone who was -- and so I know a lot about the form and how it's used.
We use it in the neighborhood organization, the Oakcliff neighbors group. We really work on trying to make sure that people are aware of the ordinances and that they're doing a good job of taking care of things.
I do want to also make one other statement.

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1 I have never in the 23 years -- in case it seems like
2 I was being pointed out as maybe the person who was
3 calling or trying to get the Quality of Life to come
4 and enforce unequally, I have never, ever called about
5 leaves. I call once a year about issues that seem to
6 be related to safety or gross violations that have to
7 do with health.
8 But I invite you to come and monitor my yard
9 and help me keep it clean.
10 MAYOR JENKINS: Stuart?
11 MR. ANDERSON: Stuart Anderson.
12 I certainly agree with nonselective enforce-
13 ment except for where it comes to Ms. Fraysse.
14 - - -
15 (Laughter)
16 - - -
17 MR. ANDERSON: We have an ordinance that
18 says that you can't have anything above a certain
19 height, ten inches or something, within 150 feet of a
20 building. I don't think we have anything that
21 addresses leaves. We have grass heights and planting
22 heights and things.
23 I also will re-ask the question that's been
24 discussed about keeping track of who calls or how many
25 calls from a certain number, that's sort of thing. If

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1 that's some sort of going into people's rights,
2 privacy rights, I'm not sure about that. But if you
3 have somebody that's using the Quality of Life or the
4 police department for purposes of that nature, that's
5 inappropriate, and keeping track of phone numbers and
6 complaints is the only thing I can think of is the way
7 to stop it. Thank you,
8 MAYOR JENKINS: Thank you, Stuart.
9 Okay. Anymore discussion at the table?
10 MR. ANDERSON: I'll give the rest of my
11 time.
12 MAYOR JENKINS: Excuse me, ma'am.
13 COUNCILMEMBER PITTMAN: He gave her the rest
14 of his time.
15 MS. CRAWFORD: I'm sorry. I was a little
16 late coming in so I didn't get to sign up.
17 But I'd just like to -- on my street, you
18 can't even see whether people have leaves in their
19 yards because you can't see their yards because
20 there's so many enormous vehicles and children running
21 in between them.
22 And I'm just thinking, leaves? Who decides
23 what's enforced and what isn't? Is it up to us to
24 call things in? because I've never done that. I don't
25 like tattling. But is that the way it must be done or

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1 is it not the Quality of Life people going around and
2 seeing violations or possibly, in the case of my
3 street, safety hazards for the children running in
4 between these enormous things that are, you know, very
5 unsafe?
6 So is it up to me to report things or does
7 the Quality of Life staff drive around?
8 COUNCILMEMBER PITTMAN: I would think it
9 would be both. I think that they do drive around, but
10 they can't -- there's only two of them and they can't
11 be everywhere all the time. So if you see something
12 that truly is something that they need to check on --
13 Obviously, when they get a call, they do
14 have to act on it and they will go out. But often-
15 times, I would think that, you know, we have to be the
16 eyes too if we see something, but you know, if it
17 becomes neighbor against neighbor --
18 And I think the tip line is, you know, to
19 keep -- sometimes if you see something, your neighbor
20 has got junk piled up all over the carport, whatever,
21 you certainly wouldn't want -- you're tired of looking
22 at it, but I personally wouldn't want my neighbor to
23 know I called and complained about it. So that would
24 be the purpose for that, you know.
25 But I think that, you know, if you see some-

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1 thing, you should call if it's, you know, legit, but
2 not because you're angry at your neighbor.
3 MS. CRAWFORD: Oh, no. I mean leaves fall.
4 COUNCILMEMBER PITTMAN: Right.
5 MS. CRAWFORD: It happens.
6 COUNCILMEMBER FLEMING: But I think there
7 should be priority setting, you know, for Quality of
8 Life. I mean are we more interested in whose home has
9 more leaves or are we concerned about the number of
10 vehicles that are residing at -- I mean we've already
11 passed an ordinance about the number of occupants in a
12 home. And if you know you've got 10 cars that are
13 always there at that specific home and it's a two-
14 bedroom house, then obviously that should have been
15 addressed.
16 COUNCILMEMBER PITTMAN: That's true, and I
17 would hope that it will. But would you want your call
18 ignored if you were the one calling in saying, you
19 know, whatever? I don't know anything about the
20 leaves. I certainly don't know anything about that.
21 But just in general, if you made a phone call.
22 When you say priorities, I mean should a
23 phone call from a citizen not be a priority as well?
24 COUNCILMEMBER FLEMING: Oh, absolutely --
25 COUNCILMEMBER ROCHE: It seems like --

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COUNCILMEMBER FLEMING: -- but --
COUNCILMEMBER ROCHE: Sorry.
COUNCILMEMBER FLEMING: Go ahead.
COUNCILMEMBER ROCHE: It just seems -- I mean my memory is a little vague, but if I remember correctly, this was brought up originally by Jason Anavitarte and Marlene, and I thought the original idea was to find a way to go and shut down some of these rooming houses that are going on all over town.
And I haven't see a whole lot of change in that, frankly. I haven't seen that we've shut down any rooming houses in a couple years.
I guess if it snows Thursday, I mean do we have to -- I guess the snow will cover up the leaves, so I don't know. But it does seem that when you have safety hazards like that that are clear and they're obvious -- And I mean I could probably drive all the way on every street in town in about two or three hours if it took that long to notice those types of things. Where there are clearly issues going on with too many people living in a house, too many people parking there, or like you say, kids darting out from between cars or safety issues, I would think that that would be a priority first other than leaves.
I mean I have leaves on my lawn, you know.

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I'd better run home and blow them off, I guess.
MAYOR JENKINS: The Quality of Life are working on rooming houses constantly and all these other ordinances. It's hard to determine the rooming house, if you're not aware of that, when everybody's got the same name.
But I'm just holding up for the Quality of Life. I think they do a wonderful job. And I don't know how this came about of picking on one person, but I don't believe that's their intention of doing that.
Anymore comments on this item?
- - -
(No response)
- - -
MAYOR JENKINS: Okay. Mr. Deane Stokes.
MR. STOKES: I'd like to show these two pictures of my facility at Doraville Square.
First, just a mention of the Quality of Life. You call over there, and they say, "Do you have a complaint? You don't need to give your name." I kind of think it kind of invites a situation that is unfortunate. I don't know how to rectify that. But when they say you can make a complaint and you don't have to give your name, it kind of opens the door. I think we need to think about twice about how that

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notification should take place.
I'm here to talk about a citation that I got for a pad to put under my dumpster -- Deane Stokes, I'm sorry -- at 5859 New Peachtree Road. I put the pad in, and some months later, I got another citation saying I had to house that dumpster.
Well, let me first say that -- and that's why I wanted to get the building's pictures up there. Our building's 45 years old, well maintained, always clean, always in good repair.
The dumpster is 800 feet back from the road. You can't even notice it if you drive by because there's foliage behind it and the dumpter's green and you wouldn't notice it. It services some -- more than 20 people, 23 different tenants right now. And it's serviced over -- it's picked up over six days a week. In other words, six days. It's picked up six days a week.
The dumpster people need a little wiggle room because sometimes some semis come back to service the tenants in the rear of that facility, and so they've got some room to wiggle now. If that dumpster was housed, they wouldn't have that. It would be rigid.
Okay. This is not new construction. I can

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understand new construction, if you would make certain requirements and they can plan for it in the beginning.
It doesn't service just one single tenant. It's not on the road. It's back from the road. And it would be a deterrent to the efficiency of our office/warehouse park, and so I would respectfully request that either a variance and if the variance was granted -- I don't know whether that's appropriate -- there'd be no fee attached because I'm grandfathered, I've been there so long, or perhaps a waiver of this requirement because it would be a hazard -- not a hazard -- it would be bad for me as an owner, for the tenants in the building, for the people that service the building, the waste management people, and I believe for the city of Doraville.
Thank you.
COUNCILMEMBER FLEMING: I want to comment about this particular item. I personally do not feel that we should be enforcing ordinances of any kind that we have drafts of ordinances in the works. If we are enforcing previous ordinances now and getting ready to change the same specific title ordinance, then they're not going to be in compliance with the new ordinance.

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So as far as I'm concerned, since we have a dumpster ordinance that has been rewritten and is still pending, that we should not be enforcing our present dumpster ordinance.

COUNCILMEMBER BATES: Mr. Weed, do you have a copy of the existing dumpster ordinance?

ATTORNEY WEED: I do. I've been handed the original one. It was 05-33. The numbers are a little different. Would you -- do you want to --

COUNCILMEMBER BATES: The screening requirements specifically.

ATTORNEY WEED: Sure. I'm happy to just read those.

COUNCILMEMBER BATES: And this was adopted in 2005; is that correct?

ATTORNEY WEED: Correct. It was adopted by Ordinance 2005-33 on October the 17th, 2005, and there was a sunset provision if you will where the ordinance would not be enforced until April the 1st of 2006, so there was built into it a time frame to help compliance.

And you had asked about the screening --

COUNCILMEMBER BATES: Yes.

ATTORNEY WEED: -- requirements? If you'll give me just one moment.

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COUNCILMEMBER BATES: Could we take a brief break while Mr. Weed --

MAYOR JENKINS: Yeah, let's take a 10-minute break.

- - -

(Brief recess)

- - -

MAYOR JENKINS: Meeting come to order.

Murray, you want to do some research?

ATTORNEY WEED: With regard to what, Mr. Mayor? My memory is Mr. Stokes finished speaking, and I don't know if we were moving on to another --

COUNCILMEMBER ALEXANDER: The screening-of-the-dumpster ordinance?

ATTORNEY WEED: Oh, yes. Thank you.

15-82, (reading) The dumpster shall be screened from the public view of any public right-of-way and any abutting properties by (i) planting materials, (ii) a fence or wall of a height not less than six feet tall and not more than eight feet, or (iii) the building or buildings which are serviced by the dumpster or a combination of these.

COUNCILMEMBER BATES: So based upon that and the photographs that Mr. Stokes presented, you can see the dumpster from New Peachtree Road, it's not

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screened by planting material, a fence or another building, so that's why he received a citation.

ATTORNEY WEED: I would assume so.

COUNCILMEMBER ROCHE: But as Councilwoman Fleming mentioned, we do have a draft, a new draft on the table. So if we have Mr. Stokes comply with this ordinance, then, for all we know, next month we may have the other, different ordinance, and whatever he does to comply with this ordinance may not comply with the new ordinance. Maybe we say it's got to be orange and then it's green or whatever.

ATTORNEY WEED: There is always that possibility. All I can tell you is that the effective date was April 1 of 2006, so, and it was adopted almost a year before that.

And that's always the risk people run. Whenever you have a police-powers ordinance, that's constantly the risk: that you have complied with a previous ordinance and that the law changes and you have to comply with something else.

COUNCILMEMBER ROCHE: I mean it seems like -- and I'm just idly thinking. I mean the distance from the right-of-way might have something -- you know, some kind of factor we can think about later because -- or even today. I mean, it would be one

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thing if he put it right there on the street, but I mean when I saw the picture, it's way, way down. You know, maybe it's visible if you really look.

COUNCILMEMBER FLEMING: Again, my point was I don't think we should be enforcing the present ordinances when we have drafts of ordinances to be reviewed and adopted, because of the possible changes of the new ordinances that we are in the draft form.

COUNCILMEMBER PACHUTA: I'm not sure I'm comfortable with just holding ordinances indefinitely, you know, pending potential new ones I haven't looked at the details. I don't know.

COUNCILMEMBER ALEXANDER: Because we have a pending alcohol ordinance, I'm not going to not enforce the alcohol ordinance because we have one that's being reviewed.

COUNCILMEMBER PACHUTA: I mean at this point, there's already a citation issued, correct?

ATTORNEY WEED: That's my understanding.

MR. STOKES: I haven't been able to hear the conversation going on here. You've been talking too low. And in fact I gave up two minutes when I was up there earlier. Is it possible to go up and address that for those two minutes I sat down?

MAYOR JENKINS: Yes, sir, come on up.

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Council, should he be complying with the ordinance or not? Can the Council give me some guidance on that?

MR. STOKES: Deane Stokes again.

MAYOR JENKINS: Just wait a minute.

COUNCILMEMBER PACHUTA: I think the citation's already issued, so it's a matter for the court.

MR. STOKES: Jamey Brown said, "Don't pay any attention to the citation. Just come back over to the City." He said the City would take care of it. He said -- he says, "You need a variance. I think you should get a variance."

I explained it to him. The thing is 800 feet back from the road. It's not visible unless somebody's really staring at it because there's green behind it. It's going to be -- it's going to hamper my tenants, 20 tenants that go, that use it daily, and it's just going to be a hindrance not only to me but to my tenants, to the waste management panel. Like I say, semis sometimes come back there.

And I can see new construction or maybe one that's on the street or a food dealer or something like that, but to paint us all with the same brush is wrong.

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COUNCILMEMBER FLEMING: Mr. Weed, since this is a building code and a City Code of Ordinance variance request, do you not have to go through the zoning and planning requirements?

ATTORNEY WEED: That is correct. However, in my opinion, there is no variance procedure that'll be applicable to this ordinance. Doesn't exist.

MR. STOKES: Then I would request that this requirement be waived in certain cases.

I drove all around Doraville. I've seen dumpsters that are on pavement everywhere, no housing. And here I got one, and buildings that are well maintained. It's 800 feet back. You can hardly see it unless you strain. There's good reason not to have it and yet I'm required to put this housing in there. It's not right.

ATTORNEY WEED: With regard to the law, if the Council chose to take any action to make this ordinance not applicable to Mr. Stokes, the only thing you can do is simply delete the ordinance, and then I would advise Code Enforcement to, you know, nolle pros or not prosecute the citation. Other than that, you have no legal remedy to deal with this matter procedurally other than simply deleting the ordinance. That's all you can do.

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COUNCILMEMBER BATES: When we were dealing with the proposed dumpster ordinance a few months ago, there was debate between Mr. Haeberlin and yourself regarding the enforceability of the existing. Could you refresh --

ATTORNEY WEED: I was correct and Mr. Haeberlin was wrong.

COUNCILMEMBER BATES: And your position was that the ordinance on the books now is enforceable or not enforceable? to refresh my memory.

ATTORNEY WEED: It's my position that the ordinance on the books now is enforceable.

I don't believe it's the best ordinance regarding dumpster enclosures that has ever been written and I believe that Mr. Haeberlin and my redraft of it is better than this ordinance.

However, the ordinance is what the ordinance is until the Council elects to change it.

COUNCILMEMBER BATES: And there are no options in the existing ordinance for extenuating circumstances based upon location, site conditions; that is, it is either you comply with these three screening issues or you lose.

ATTORNEY WEED: That is correct.

COUNCILMEMBER BATES: In the proposed draft

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of the new dumpster ordinance, there are provisions for site conditions in that draft; is that correct?

ATTORNEY WEED: I believe so. It's obviously been months since we've dealt with that, but that's my memory.

COUNCILMEMBER ROCHE: If we're going to put this back on the next agenda, I would be willing to support a motion to delete the current ordinance and at the same time put it on the next agenda so we can take it up again and do it right.

COUNCILMEMBER PITTMAN: Captain Atkinson had something to say.

ACTING CHIEF ATKINSON: Can I ask when the citation was written? because I don't know.

Mr. Stokes?

MR. STOKES: Hold on. I'll look in my file.

COUNCILMEMBER ROCHE: While we're getting that information, just a general observation or maybe even a question.

I know that before, I had been stopped and not given a ticket by an officer even though maybe I had actually committed the offense. I don't know if anyone's ever been let go for running a stop sign or speeding or whatever.

I guess the point I'm getting at is the

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1 thing that doesn't seem to be happening is we don't
2 have a mechanism so that the enforcement officers,
3 whether it's Code Enforcement or City Hall or
4 whatever, can apply some kind of sensible discretion
5 to a particular situation.
6 I'm trying to understand why that's
7 different for laws like speeding and stop signs and
8 red lights versus things like this situation here with
9 a City ordinance.
10 ATTORNEY WEED: It isn't different,
11 actually. I mean the field officer, when it's a
12 police-powers ordinance, the field officer always has
13 discretion as to whether to cite or not, respond or
14 not.
15 In other words, the field officer can let a
16 hundred speeders go by, and the 101st speeder, the
17 field officer can pull over. Obviously, what they
18 can't do is pull them over because they're black or
19 because they've got a rainbow sticker on the back of
20 their car or because they have gray hair.
21 What they can do of course is they could
22 simply -- you know, enforcement's almost always
23 discretionary. So that would be applicable in this
24 case, too.
25 However, once the citation's been issued,

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1 it's issued.
2 MAYOR JENKINS: What is the date, sir?
3 MR. STOKES: November 1st, 2009.
4 MAYOR JENKINS: Is that a ticket or a
5 citation -- or a warning?
6 MR. STOKES: Uniform traffic citation.
7 MS. FRAYSSE: Look at the bottom.
8 MAYOR JENKINS: That's a ticket.
9 Did you get a warning before that?
10 MR. STOKES: No.
11 MAYOR JENKINS: They always give a warning
12 before they give a citation.
13 MR. STOKES: If they gave a warning, I
14 didn't get it.
15 UNIDENTIFIED SPEAKER: Yes, you did.
16 MAYOR JENKINS: Am I correct on that, Jamey?
17 CAPTAIN BROWN: Normally, yes, sir, we
18 always give a warning.
19 UNIDENTIFIED SPEAKER: You got a warning
20 while we were in Florida. You got a citation. And we
21 said we weren't in Georgia, and they said that you
22 would be put in jail if you didn't follow the
23 citation. I said, "Well, are you going to come to
24 Florida? because we're not coming home right now.
25 We'll see you when we get back."

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1 MAYOR JENKINS: Is that what you wanted,
2 Chief?
3 ACTING CHIEF ATKINSON: Yes, sir. I just
4 wanted to know if that was about the time of the
5 rewrite or whatever.
6 MAYOR JENKINS: Well, what happened to the
7 rewrite? Why did we not follow through on it?
8 COUNCILMEMBER BATES: I can tell you, sir,
9 we had concerns on the Council about whether that
10 applied to existing --
11 COUNCILMEMBER FLEMING: Exactly.
12 COUNCILMEMBER BATES: -- or new, and I'm of
13 the opinion -- and I may be standing on a pedestal all
14 by myself, but the dumpster rewrite needs to apply to
15 new, and we need to address this catastrophe of an
16 existing ordinance.
17 So that's why we didn't move forward is that
18 we didn't split out the new construction from existing
19 dumpster enclosures.
20 COUNCILMEMBER ROCHE: I make a motion that
21 we delete this current catastrophe of a dumpster
22 ordinance and put the new dumpster ordinance back on
23 the next agenda.
24 COUNCILMEMBER PACHUTA: I'm not comfortable
25 just deleting an ordinance because, you know, some

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1 potential citations out there, and it's been in effect
2 since 2006. You know, we're not exactly sure how the
3 new ordinance is going to read, but I'm just not
4 comfortable just deleting it.
5 COUNCILMEMBER PITTMAN: And I agree, but I
6 do think it needs to go on the next agenda to address,
7 for sure.
8 COUNCILMEMBER ROCHE: Well, I don't think
9 this is necessarily because of one specific citation.
10 I think that as we discussed before, the reasons that
11 we wanted to rewrite it was because the current
12 ordinance is, to use Councilman Bates' words, a
13 catastrophe. And I don't want to visit this catas-
14 trophe on anyone else if we can possibly help it until
15 we can get the catastrophe straightened out.
16 MAYOR JENKINS: Do I get a second?
17 COUNCILMEMBER FLEMING: Second.
18 ATTORNEY WEED: I'm looking up something
19 procedurally just to make sure.
20 And bear in mind that by -- you know, the
21 act of deletion is essentially an act of adopting an
22 ordinance, which you can do. You're going to have to
23 waive first reading in order to do that, however.
24 COUNCILMEMBER ALEXANDER: And how do we
25 address all these people that in similar situation

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have received citations and warnings and they have complied with the ordinance?

ATTORNEY WEED: Then, they just complied and their life is not fair. That's life.

MAYOR JENKINS: Could you just -- we'll just table this one and look at the other one the next meeting rather than delete it?

COUNCILMEMBER ROCHE: Well, I have a -- you know, I think the only thing I need to do is to make this the first reading of an ordinance to delete this ordinance, to reword the --

ATTORNEY WEED: Yeah. I would make -- I'd make two motions: one to waive first reading of an ordinance to delete the existing dumpster-enclosure ordinance, get a motion and second on that; and then if that passes, then make the motion to delete.

COUNCILMEMBER ROCHE: Yeah. I mean it just -- first of all, I withdraw the original motion.

It just concerns me that we have this ordinance out there that obviously needs work, and I think that -- I understand that, you know, other people may have complied with the ordinance or whatever, but I don't know that we want to continue to have an ordinance that, again -- I keep using the word "catastrophe," but I think we need to fix it. And in

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the meantime, I don't think we should do anymore damage than necessary.

So I would make a motion to waive the first reading for an ordinance to delete the current ordinance regarding dumpsters, and I don't know the number -- the ordinance number.

ATTORNEY WEED: It would be Section 15 -- just say Section 15-81 et. seq., which --

COUNCILMEMBER ROCHE: 15-81.

ATTORNEY WEED: -- means everything thereafter.

MAYOR JENKINS: Do I get a second?

COUNCILMEMBER FLEMING: Second.

MAYOR JENKINS: Discussion?

COUNCILMEMBER PACHUTA: Does that mean if we delete the ordinance, anyone doing construction right now and putting in a dumpster could do whatever they wanted?

ATTORNEY WEED: That is correct.

COUNCILMEMBER PACHUTA: So --

ATTORNEY WEED: With regard to they have to comply with the relevant building codes --

COUNCILMEMBER PACHUTA: Building codes but --

ATTORNEY WEED: -- that remain in effect,

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there would be no --

COUNCILMEMBER PACHUTA: But other restrictions in the dumpster ordinance would not apply.

ATTORNEY WEED: That is correct.

COUNCILMEMBER PACHUTA: And then potentially if the new ordinance we pass only applies to new construction, then whatever got built in that interim --

ATTORNEY WEED: That is correct.

COUNCILMEMBER PACHUTA: -- would stand.

ATTORNEY WEED: Would be whatever it was.

COUNCILMEMBER BATES: Well, while it is, in my words, a catastrophe, it's a catastrophe based upon a couple of things: one, it doesn't provide any provisions for site conditions or issues to allow some changes or options aside from those three. I actually hadn't thought about it but I concur with Ms. Pachuta. I don't think deleting it is the right answer at this time.

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

- - -

MAYOR JENKINS: I got a sign-up on this one,

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and we went through with it. Do we need to do that after we've already got a motion, Murray?

ATTORNEY WEED: Well, ordinarily, Mr. Mayor, what you do is you hear from the public before you bring these things to --

MAYOR JENKINS: Yes, I understand that --

ATTORNEY WEED: -- a final vote.

MAYOR JENKINS: -- but I didn't think it was going to go to a motion. That's what I'm saying.

ATTORNEY WEED: I'd advise you to go ahead and listen to the public comment on it from people who signed up. That's what you ordinarily do.

MAYOR JENKINS: Stuart Anderson.

MR. ANDERSON: Thank you. Stuart Anderson.

I've brought this issue up before, and I'll start with this. We consistently are changing, taking our zoning ordinances and putting them under police powers, which is in itself okay, but it removes the capability of citizens to go through the variance process.

Mr. Stokes' building there has been there for 40-some years, whatever. I certainly agree with any new ordinance is for new construction.

He was asking for a variance based on the fact that he was grandfathered in or a pre-existing

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1 nonconforming use. You have discussion here of
2 consideration, of common-sense consideration, which is
3 not in the current ordinance.
4 I think that the ordinance should be
5 suspended. I think certainly Mr. Stokes should be
6 granted relief from this citation under pre-existing
7 nonconforming, period.
8 But as much as that, I object to taking this
9 dumpster thing -- this is, in my opinion, zoning.
10 It's land use. It's building a structure. It's rules
11 for building that structure and governing the building
12 and maintenance of that structure. These are no
13 different than maintaining residence buildings or
14 commercial buildings. It's a structure and it should
15 be under zoning. Continuing taking things out of
16 zoning so that the citizens don't' have a variance
17 consideration or capability is I think not a moral
18 stand. Thank you.
19 And by the way, since my time isn't up,
20 another variance or anomaly in this ordinance was
21 grease traps that were passed and then were unen-
22 forceable and a bunch of people were forced to put
23 grease traps under these pads. We need to think about
24 these things before we pass them, a little bit.
25 Unintended consequences are unintended consequences,

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1 but costing people a bunch of money, they certainly
2 have recourse to come back after us, period.
3 Thank you.
4 MAYOR JENKINS: Thank you.
5 Anymore discussion at the table?
6 COUNCILMEMBER ROCHE: Other than, you know,
7 if there's --
8 MAYOR JENKINS: Excuse me?
9 COUNCILMEMBER ROCHE: Apparently there's no
10 other legal way to do something about this other than
11 to delete the ordinance. So that's the motion I make.
12 ACTING CHIEF ATKINSON: Mayor, I'd just like
13 to make a comment because Mr. Stokes' citation has
14 already been made a warning so there is no citation.
15 Captain Brown made it a warning because he felt like
16 Mr. Stokes had a particular issue and he advised
17 Mr. Stokes to come before y'all, so that's basically
18 why we're here today. So you know --
19 COUNCILMEMBER ROCHE: So there's no citation
20 at the moment?
21 UNIDENTIFIED SPEAKER: Excuse me. Yes,
22 there is.
23 ACTING CHIEF ATKINSON: Well, I believe
24 Mr. Stokes stood before you and said it's been made a
25 -- Jamey Brown told him not to worry about it.

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1 CAPTAIN BROWN: It was reduced to a warning.
2 UNIDENTIFIED SPEAKER: (Overspeaking)
3 CAPTAIN BROWN: When Mr. Stokes came in to
4 speak with me --
5 What was it, I guess a month ago maybe?
6 MR. STOKES: Little over a month.
7 CAPTAIN BROWN: -- I knew he had a
8 particular problem and issue. I also knew the
9 ordinance was under revision and I felt like he should
10 be given the benefit of the doubt and let him come
11 before the Council and you guys make the decision. So
12 I reduced it to a warning at that time, and I
13 explained that --
14 MR. STOKES: Right.
15 CAPTAIN BROWN: -- to Mr. Stokes. So
16 there's no -- there's no ticket outstanding at this
17 time.
18 COUNCILMEMBER BATES: So the citation that
19 they're referencing is not really a citation. It's
20 been --
21 CAPTAIN BROWN: It hasn't been for over a
22 month. I spoke with him then and told him that it was
23 a warning and not to worry about coming to court or
24 anything for that citation.
25 COUNCILMEMBER BATES: There's no court date,

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1 there's no fine --
2 CAPTAIN BROWN: No.
3 COUNCILMEMBER BATES: -- there's no jail
4 time?
5 CAPTAIN BROWN: None.
6 MAYOR JENKINS: Okay. Thank you.
7 COUNCILMEMBER ROCHE: Then I withdraw my
8 motion, then.
9 What can I say? You know, I'm operating on
10 faulty information there.
11 COUNCILMEMBER FLEMING: Well, then, I'd like
12 to make a motion to delay enforcement of pre-existing
13 dumpsters within the city based on our current code.
14 ATTORNEY WEED: It would be my opinion that
15 the Council doesn't have legal authority to do that.
16 COUNCILMEMBER ROCHE: Well, if nothing else,
17 I think that management understands the Council's
18 thinking at the moment on this.
19 ATTORNEY WEED: I think clearly those who do
20 have the authority recognize your position, and I will
21 leave it at that.
22 COUNCILMEMBER ROCHE: Okay. I'm fine.
23 Sorry for that. I thought he had a citation. Never
24 mind.
25 MAYOR JENKINS: Pam?

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MR. STOKES: I stated when I was up there that when I went to see Jamey Brown, that he said don't worry about it.
COUNCILMEMBER ROCHE: Yeah.
COUNCILMEMBER BATES: Don't worry about it.
COUNCILMEMBER ROCHE: But I thought there was a citation, too. That's what was confusing. Sorry.
UNIDENTIFIED SPEAKER: There was a citation and it's right here.
COUNCILMEMBER ROCHE: But it's not a citation anymore.
MAYOR JENKINS: If this goes any further, I'm going to cut it off now.
Pam, are you going to make a motion?
COUNCILMEMBER FLEMING: I remove my motion.
MAYOR JENKINS: Thank you.
The next item on the agenda is Murray Weed.
ATTORNEY WEED: Mr. Mayor and members of the Council, this is the second appearance of this ordinance before you. It deals with the existing Chapter 10 ordinance on cleanliness of property.
The only change in the ordinance from what's already in the code book is that the current ordinance simply says that the chief of police or their designee

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with 10 days notice could essentially go onto private property and have city forces clean up the property as deemed relevant. I've added in a procedural due process requirement in order to give the individual citizen a hearing and to have an order to allow the clean-up of the property where the citizen has failed to clean it up themselves.
The origin of this is this has been a recurring issue with Code Enforcement and the police department, and they asked me to look into it and make some recommendations.
MAYOR JENKINS: We have two sign-ups on this one.
Stuart Anderson?
MR. ANDERSON: I'll pass.
MAYOR JENKINS: Bonita Hoffmeister.
MS. HOFFMEISTER: Here again I'm requesting that the City put in place a means of monitoring calls when it comes to nuisance ordinances, complaints. Like we have a woman who keeps complaining about dogs barking in our neighborhood so we have a cop out there walking up and down the street when there's no dog barking out.
We do have neighborhoods, we do have business people who will use our laws to pursue

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grudges against their neighbors for either economic or emotional gain. I do hope at some point in time the City puts in place a way to monitor complaints.
Thank you.
MAYOR JENKINS: Bring it up to the table. Any comments at the table?
COUNCILMEMBER FLEMING: Yes. I had a couple of questions.
First of all, what's the fine originally?
ATTORNEY WEED: I believe the fine, quote/unquote, is the general fine that's in 1-12, which would be up to $1,000.
COUNCILMEMBER FLEMING: So if you don't have a clean property, the fine is up to $1,000.
ATTORNEY WEED: Yes, ma'am.
COUNCILMEMBER FLEMING: Plus the assessment of lien for the cost of the work done by the City, and this lien or the cost factor is undetermined.
ATTORNEY WEED: Yes, ma'am.
COUNCILMEMBER FLEMING: And I really do feel that we're leaving that open for subjection, and we should put, for instance, $150 minimum plus $75.00 per hour per person.
And I think instead of going out for a contracted service, I think that the public works

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department should be doing -- we should have them do the clean-up rather than employing a contractor.
COUNCILMEMBER ALEXANDER: Is this ordinance the one that was used to assist in the demolishing of the burnt house on English Oak?
ATTORNEY WEED: I believe so.
COUNCILMEMBER ALEXANDER: And the public works department could not have done that work.
ATTORNEY WEED: There will be occasions -- for example, an asbestos building that might not be a problem until the asbestos is disturbed, I don't think our personnel are capable of handling that type of event. If it occurred, we'd have to contract it out. And that's no negative reflection on our personnel. That's a specialized thing that has to be done by people who know what they're doing.
COUNCILMEMBER FLEMING: Well, based on 10-43 that you've listed here, it seems cosmetic cleaning rather than, for instance, demolishing.
ATTORNEY WEED: Well, the purpose of it would be to deal with weeds, non-ornamental grasses, waste paper, trash or other rubbish of every sort, and so that's very expansive.
There are a variety of ways of attacking nuisance properties. There's the state law Title 41

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which we've adopted into our code. There's the general public nuisance provisions also found in Title 41, and this is one of the original nuisance ordinances that we had on the books that predated those statutes, so -- and the way the definitions are crafted, it's very expansive. You can always narrow it, but it's pretty expansive right now.

COUNCILMEMBER BATES: What are the pros and cons of doing what Ms. Fleming has suggested, putting in a dollar amount, an hourly charge?

ATTORNEY WEED: Well, my opinion is it's probably legal.

However, I think the -- what I recommend is simply do -- you know, if you wanted to set a mandatory minimum, which would be I would set it at the lowest hourly rate of the lowest paid public works, you know, employee competent to, you know, be on the butt end of a shovel. So whatever that rate is is probably the minimal I would set it at. I feel pretty confident that it won't take very long at all, you know, that those numbers are going to rack up. And every time that we've ever utilized this code or anything like it, it doesn't take long at all for two or three hours of work to be involved.

And also, you know, bear in mind that these

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ordinances are not enforced willy-nilly. Usually the police department has -- they'd give multiple warnings, they'd try to work with the people. It's always cheaper to do that, anyway, and it's only in the most extreme cases that these things are actually utilized.

So the answer to our question, is there anything illegal about doing what Councilman Fleming has recommended? My opinion is no, there's nothing illegal about doing it. Can you do it? Yes.

COUNCILMEMBER BATES: I guess I concur with her concern that it creates a subjectivity in that property A has been a pain in the rear end of the City and so the cost is going to be X, whereas property B is, you know, a really nice person and very --

ATTORNEY WEED: Well, I hope the police department and the powers that be aren't doing that. If they are, then I'd recommend to you that you discipline the appropriate personnel who are.

COUNCILMEMBER BATES: The question is who sets that amount?

ATTORNEY WEED: The judge.

You know, please bear in mind that in order to do the cleaning, the judge is going to have to have a hearing, at which time the person may be represented

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by a lawyer, at which time the City will put forward evidence, and if the person absolutely refuses to clean the property -- If they showed up the day of the hearing and cleaned the property, more likely than not our current solicitor would probably dismiss the charges.

So what I'm saying would be the judge will ultimately be issuing the authority to go onto the property to begin with, and property A will almost never be exactly like property B when this ordinance is utilized.

COUNCILMEMBER FLEMING: Yeah. But how is he going to know how much it's going to cost to clean it if it's not cleaned yet?

ATTORNEY WEED: He won't. That's part of the point. Is it subjective? Yes, because no one knows how much it'll actually cost. And even if you billed at $75 an hour, that's a sliding scale. It will never cost -- more likely than not, it will never cost the exact same amount twice even if you billed at whatever scale you billed at.

COUNCILMEMBER BATES: But does the judge stipulate who cleans?

ATTORNEY WEED: Currently no. That would be determined by -- after the judge makes a ruling that

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the cleaning is required, the City would, you know, select that person through whatever means you choose. In other words, if you wanted the public works department to do it, they could. That would be fine. If you needed to have someone and contract it out, that would be fine too under this particular ordinance.

With regard to the other ordinances, meaning the other Title 41 ordinances that are adopted by state law, that we've adopted locally, the provisions are a little different. This is just one tool in the tool box.

And by the way, that's what you're doing now. I mean that's currently what's in effect.

The Council adopts a resolution after the cleaning is done, which becomes a lien on the property.

COUNCILMEMBER FLEMING: Is the fine also attached to the lien?

ATTORNEY WEED: No. Ordinarily a criminal penalty is separate from the lien. The lien is designed to deal with, you know, the actual real cost of cleaning.

COUNCILMEMBER FLEMING: Thank you.

The other question I had was listed in here,

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1 last known post office address if it is a nonresident,
2 and I wanted to ask about that.
3 ATTORNEY WEED: That's currently what's in
4 your code.
5 COUNCILMEMBER FLEMING: What if they don't
6 have a post office box?
7 ATTORNEY WEED: Then, they don't have a post
8 office box.
9 COUNCILMEMBER FLEMING: So we don't send
10 them a letter?
11 ATTORNEY WEED: Let me check the notice
12 provisions. Let's see.
13 Notice to cut the weeds, et cetera, if they
14 refuse to cut them --
15 COUNCILMEMBER FLEMING: It says, where such
16 person is a nonresident of the city, such notice shall
17 be mailed to the last known post office address.
18 ATTORNEY WEED: But also 10-42 (B) also
19 provides -- you know, there's a large list of ways to
20 perfect service. The first one of course would be
21 that notice shall be served personally or by certified
22 mail with return receipt requested on any owner,
23 tenant, et cetera, et cetera.
24 The second sentence in descending order of
25 how you go about doing it would be: where such person

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1 is a nonresident, such notice shall be mailed to the
2 last known post office address. In the event such
3 owner, tenant, or agent of the party in control of the
4 property is not known, it will be sufficient to serve
5 notice by posting the same on the front of the
6 courthouse door and at two other public places in the
7 city. So in other words, you try the best notice
8 first in descending order of your ability to locate
9 the person.
10 COUNCILMEMBER ALEXANDER: But post office
11 address is street address also. It's not a P.O. box.
12 ATTORNEY WEED: Well, right now it says post
13 office address. I mean it could be --
14 COUNCILMEMBER ALEXANDER: A street address.
15 ATTORNEY WEED: It could be a street
16 address. It could be a post office box.
17 But bear in mind, these are, once again, in
18 descending order. If you can locate the human being,
19 the first and best notice would be to hand notice to
20 the person, which we'd always attempt to do, because I
21 don't want to end up going to court and I'm sure the
22 solicitor doesn't want to end up going to court -- the
23 first thing the judge is going to ask me would be,
24 "Mr. Weed, what notice did you give to this person?"
25 So I'd better have a darn good answer when that

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1 question comes. I've done hundreds of these hearings,
2 and the judges always ask me that.
3 COUNCILMEMBER BATES: Back on the money
4 side, could we also put in there "and associated
5 costs," you know, if we have to contract out with an
6 asbestos removal company?
7 ATTORNEY WEED: I think that's already
8 covered now.
9 COUNCILMEMBER BATES: Okay.
10 ATTORNEY WEED: But if you wanted to add
11 more language, we could.
12 COUNCILMEMBER ROCHE: Is there a bidding
13 process now?
14 ATTORNEY WEED: My opinion would be it's not
15 covered by this ordinance but it doesn't have to be,
16 because, clearly, that's already provided. 2-90 would
17 require some form of bidding process, and this
18 ordinance wouldn't waive that at all.
19 COUNCILMEMBER ROCHE: Okay.
20 COUNCILMEMBER BATES: Make a motion to
21 adopt.
22 COUNCILMEMBER PACHUTA: Second.
23 MAYOR JENKINS: We don't have to waive first
24 reading on it?
25 ATTORNEY WEED: No, sir. This has been well

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1 read.
2 MAYOR JENKINS: I got a motion and a second.
3 Anymore discussion?
4 - - -
5 (No response)
6 - - -
7 MAYOR JENKINS: Call the roll, please.
8 ASSISTANT CLERK BRYANT: Councilmember
9 Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 ASSISTANT CLERK BRYANT: Councilmember
12 Bates?
13 COUNCILMEMBER BATES: Yes.
14 ASSISTANT CLERK BRYANT: Councilmember
15 Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 ASSISTANT CLERK BRYANT: Councilmember
18 Pachuta?
19 COUNCILMEMBER PACHUTA: Yes.
20 ASSISTANT CLERK BRYANT: Councilmember
21 Pittman?
22 COUNCILMEMBER PITTMAN: Yes.
23 ASSISTANT CLERK BRYANT: Councilmember
24 Roche?
25 COUNCILMEMBER ROCHE: Yes.

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MAYOR JENKINS: Our meeting time is over. Do we want to adjourn or are we going to extend the meeting?

COUNCILMEMBER BATES: Mayor, I'll make a motion to extend to address Item No. 11.

COUNCILMEMBER ROCHE: Second.

MAYOR JENKINS: Okay. Anymore discussion?

COUNCILMEMBER FLEMING: Yeah. If we're just going to take to 11, why don't we go through the whole thing?

MS. HOFFMEISTER: Or at least to 12.

COUNCILMEMBER FLEMING: Why are we picking and choosing here?

COUNCILMEMBER BATES: Well, because the individual in question is here. The other agenda items I don't see impacting a citizen or business owner who's here.

COUNCILMEMBER ROCHE: Well, the other thing is that Item 11, all we could do today is begin the process which may take six to eight weeks with advertising and everything,assuming we pass it, and the sooner we get that in the pipeline, the better.

MS. HOFFMEISTER: We have people in the audience concerning number 17 and 18.

COUNCILMEMBER BATES: If there's a

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discussion to rescind the ordinance for down the road to not stop at 9 o'clock and, you know, plug through the agendas as long as they may be until the wee hours of the morning, then I think we can discuss that at a later time, but the ordinance -- the rules on the books today says we stop at 9 o'clock.

COUNCILMEMBER FLEMING: Well, I think your Item No. 16 will accomplish that. Shall we move that one up first?

COUNCILMEMBER BATES: Well, I think 16 is going to take some time.

COUNCILMEMBER FLEMING: It's a new year. I'm ready for something new.

COUNCILMEMBER BATES: So I will stand by my motion to extend the meeting for Agenda Item 11.

MAYOR JENKINS: Anymore discussion?

COUNCILMEMBER ROCHE: And I'll second that. And I'll say that, by the way, the new -- that thing has got like a laser beam on it, and it's giving me a huge headache so I'm in a mean and grouchy mood instead of my usual wonderful --

But anyway, I'll stand by my second,

MAYOR JENKINS: Anymore discussion?

- - -

(No response)

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- - -

MAYOR JENKINS: Call the roll.

ASSISTANT CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

ASSISTANT CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

ASSISTANT CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: No.

ASSISTANT CLERK BRYANT: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MAYOR JENKINS: Motion carried.

COUNCILMEMBER ROCHE: Thank you, Mr. Bates.

On November 9th, we had a special-called meeting, and the purpose of the special-called meeting -- I think I made the motion to have that meeting. I

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forget. But anyway, the idea was to put some sort of holding-pattern zoning on the GM property, just kind of a protective thing until we found out what's going to happen there.

One of the items -- there was actually -- (counting) one, two, three -- four items on that agenda for rezoning, and the first item was on 2849 [sic] Peachtree Road.

Is that the one I got?

COUNCILMEMBER FLEMING: 5849.

MAYOR JENKINS: 58.

COUNCILMEMBER PITTMAN: 58.

COUNCILMEMBER ROCHE: Oh, I'm sorry. 58, yeah. See, I can't read because that dang thing's got spots in my eyes.

Anyway, when we rezoned it from M-2 to M-1, we also rezoned three other properties, and the other three properties I think were part of the parcel for what we think of as the GM property.

I don't really think that the 5849 parcel was -- And I mean I've reviewed the transcript. I was asking you at the time, why are we doing this particular one? And the long and short of it is that I believe we've made that rezoning in error, and so I would like to make a motion that we begin the process

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of a City-initiated rezoning for 5849 Peachtree Road from M-2 -- sorry -- from M-1 back to M-2 with the provision -- condition that we do not have any adult entertainment.

COUNCILMEMBER PACHUTA: So you wanted it back to heavy industrial.

MAYOR JENKINS: You want it back to M-2?

COUNCILMEMBER ALEXANDER: No.

COUNCILMEMBER BATES: Mr. Hoath is back there shaking his head.

COUNCILMEMBER ROCHE: Did I get it wrong?

MR. HOATH: We've discussed --

MAYOR JENKINS: Yeah.

MR. HOATH: -- taking it from M-1 conditional to a new M-1 conditional with just a different set of conditions but not taking it back to heavy industrial.

COUNCILMEMBER ROCHE: Okay. What were the new conditions? Sorry I misunderstood.

I withdraw the motion until we get it straightened out.

MR. HOATH: Hi. Michael Hoath.

What we had discussed was to start the process where the City Council would support the rezoning process of our property. It would be a

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collaborative effort that would involve the City staff, City Planning Commission, community involvement and discussion and dialogue, and the initial platform was to take from the current zoning classification of M-1 with a very limited number of allowable uses to M-1 with the initial discussion being that adult entertainment would be the proposed prohibited use, open to additional conditions through the process.

COUNCILMEMBER BATES: I will -- very briefly, I'll support this to start that process, and I think there's going to be plenty of opportunity with the Planning Commission and with the public hearing to go through the usages that are allowed presently in the M-1. Not a big fan of some of the things that are in there. I know Ms. Alexander has a couple of specifics. But I do think there's opportunity for us to have, as you indicated, collaborative effort on it.

So I'll second the motion.

Or I'll make the motion.

Mr. Roche, did you withdraw the motion?

COUNCILMEMBER ROCHE: I withdrew it.

I'll second the motion.

COUNCILMEMBER BATES: I'll make the motion to begin a City-initiated rezoning for 5849 Peachtree Road.

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COUNCILMEMBER ROCHE: I'll second.

MAYOR JENKINS: Michael has already spoken. Susan, do you want to speak on that?

MS. FRAYSSE: I was at the November 9th Planning --

MAYOR JENKINS: No. 10 [sic], City-initiated rezoning?

MS. FRAYSSE: Right.

And I was at, you know, the called Council meeting when you-all addressed this the first time.

It's 5.6 acres at 5849. It was rezoned from M-2 to M-1 with limitations. At that time, there were three businesses there. One was Atlanta Limousine, another was Interface Signs, and maybe an old Jim Ellis Collision Shop that had allowed its license to expire.

I was at that meeting and also at the Planning Commission meeting before, thinking of this as one of the parcels that should be looked at as a group with the other GM parcels.

So I don't want to start chipping away and allowing development there. You know, an old sign shop, a limousine shop, the collision, that was included because of Mr. Roche's concerns that we were going to be removing the value of that property for

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those businesses that were there. But I like it as a placeholder. I would like to keep it, you know, and we could -- if we initiate the rezoning, there would be time for discussion of this, and the planner would probably weigh in on that. But I'm liking having a placeholder for all four of those properties so that we can do the best we can possibly do with that GM site.

MAYOR JENKINS: Mr. O'Connor?

MR. O'CONNOR: I wasn't going to say anything pro or con about this. We've been here for almost two hours and have gone through about three or four agenda items, and when I had seen the agenda being published, I saw No. 11, and I'm saying to myself, what's it doing here on the first or third Monday when it's really a zoning issue that you guys have to hear sometimes the fourth and if there's a fifth Monday, you're hearing it?

And my suggestion would be to take those type rezoning matters, you know, out of the agenda and put them on -- you know, just your regular agenda, and it might enable us to get through. I mean this is the first item on new business. But that was the reason that I came up here to talk.

I like the idea, you know, if you want to

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1 bring it back to the Planning Commission, you want to
2 get it involved, that's fine.
3 COUNCILMEMBER BATES: You're getting it.
4 COUNCILMEMBER ROCHE: That's what we're
5 trying to do.
6 MAYOR JENKINS: Thank you.
7 Stuart Anderson?
8 MR. ANDERSON: Stuart Anderson.
9 I certainly agree with changing the
10 conditions on the current M-1 and M-2. We shouldn't
11 be having this discussion. If we did these things
12 correctly in the first place, we wouldn't be having
13 these discussions. We wouldn't have a room full of
14 businessmen that are worried about the things in C-1
15 and C-2. We have O&I-O/W that had been critiqued and
16 has many flaws, 13 by my count, and nothing's been
17 done.
18 We're going back after these things. They
19 should have been done in the first place. M-1/M-2
20 should have been changed in the first place. We don't
21 need much M-1/M-2 except in areas like Mr. Hoath's.
22 We certainly don't need it in the center of the resi-
23 dential districts, the tank farm, so to speak.
24 Our zoning is -- I'm sorry, but it's not
25 been well orchestrated, and this is a further example

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1 of it, what's going on tonight, and the time we've
2 spent and the time we're going to spend on C-1/C-2 and
3 M-1/M-2, and O/W. We need to think about what we're
4 doing before we pass these things.
5 Thank you.
6 MAYOR JENKINS: Thank you, Stuart.
7 COUNCILMEMBER PACHUTA: Murray, this was a
8 City-initiated rezoning originally. So I guess
9 because I'm coming in on the middle of it, I would
10 guess ordinarily the procedure would then be if the
11 property owner wanted to rezone the property from
12 whatever was decided in November and wanted the
13 restrictions. I'm wondering why we're doing City-
14 initiated again.
15 COUNCILMEMBER ROCHE: Well, I feel --
16 COUNCILMEMBER FLEMING: Because it was City-
17 initiated to begin with --
18 COUNCILMEMBER ROCHE: Right.
19 COUNCILMEMBER FLEMING: -- and we didn't
20 notify the owners.
21 COUNCILMEMBER PACHUTA: Well, I assume we
22 followed the state law as far as notification.
23 COUNCILMEMBER FLEMING: We gave --
24 COUNCILMEMBER PACHUTA: Okay.
25 COUNCILMEMBER FLEMING: -- no right to speak

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1 on the --
2 COUNCILMEMBER PACHUTA: Well --
3 COUNCILMEMBER FLEMING: -- the extenuating
4 circumstances of the restrictions.
5 COUNCILMEMBER PACHUTA: Well, that's why I
6 disagree with you, because he did have the right to
7 come to the public hearing.
8 And I'm not saying that I'm necessarily
9 opposed to doing City-initiated. I'm just trying to
10 understand.
11 Do we have a specific of what we're even
12 seeking up here, I mean, to change it to?
13 COUNCILMEMBER BATES: Yeah. From my
14 perspective, it's broadening the use that is allowable
15 on that property. I think that we had an opportunity
16 to make a change from heavy industrial zoning and put
17 a placeholder on that property. In retrospect, I
18 think we limited the usage on that property beyond
19 what was appropriate.
20 MR. HOATH: I'd like to take the rest of my
21 time and maybe address some of your comments if that's
22 allowable.
23 MAYOR JENKINS: Go ahead.
24 MR. HOATH: And again, I think what we're --
25 what I am supportive of and what I was encouraged by

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1 was when, in my conversations with some of the
2 individual Council members, that the idea came up for
3 the City to initiate a process by which we -- and
4 evaluate what the proper zoning classification and
5 what the proper zoning conditions are, and in that
6 process we have a fair and metered and open dialogue
7 that involves the community involvement, the property
8 owners, the City planning department, the City
9 planning staff and the Council itself.
10 And I'm not here to argue or debate whether
11 procedure was followed or not. We understand the
12 rezoning took place. But that's what we look forward
13 to is an open and collaborative dialogue.
14 We're flexible on what the use is and what
15 the future zoning is. I think our contention is is
16 that the zoning that did take place is a little bit
17 onerous and limiting and prohibitive in advance of the
18 revitalization of what we all anticipate and look
19 forward to with the redevelopment of the GM parcel.
20 So hopefully, that addresses your comments.
21 MAYOR JENKINS: We have a motion and a
22 second, I believe. Is that correct?
23 Call the roll.
24 ASSISTANT CLERK BRYANT: Councilmember
25 Alexander?

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COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Chuck, do you have anything you need to refer to --
ACTING CHIEF ATKINSON: Yes, sir, I have two items --
MAYOR JENKINS: -- before we adjourn?
ACTING CHIEF ATKINSON: -- that I need to discuss.
As some of you are aware, we lost Officer Morrow, one of our Quality of Life officers. She has

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been deployed to the Middle East for the war on terrorism.
I'm asking if it is okay for us to hire a part-time employee to come in and help out with the Quality of Life. Officer Martin, there's no way she'll be able to keep up with everything that needs to be done.
We have spoken with someone who is more than willing to do it on a part-time basis, would not need benefits. So I'm just wanting to know if you-all would give us approval to go in that route.
MAYOR JENKINS: Do you have any kind of salary range?
ACTING CHIEF ATKINSON: No, sir. I was hoping that we might be able to give a little bit more salary. This gentleman that we're interested in is well educated and has, from what I understand, the highest certifications in code enforcement. So you know, I was thinking since we weren't going to be giving benefits, so to speak --
MAYOR JENKINS: With no benefits, you can work that out.
COUNCILMEMBER ROCHE: Well, from a budget standpoint --
MAYOR JENKINS: According to your budget,

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yes.
COUNCILMEMBER ROCHE: -- we don't pay -- we're not paying the person -- we only pay the difference between what the military pay is versus what she would be making now.
ACTING CHIEF ATKINSON: Right. She makes more in the military, I believe.
COUNCILMEMBER ROCHE: Right. So it's not like we're incurring additional costs.
ACTING CHIEF ATKINSON: Right.
COUNCILMEMBER ROCHE: I'd be happy to make a motion to allow the police department to hire a part-time code enforcement person.
MAYOR JENKINS: Second?
COUNCILMEMBER PITTMAN: Second.
ATTORNEY WEED: Hold that thought. You need to modify the agenda to add this as an additional item, technically, and then the Council can make its motion.
COUNCILMEMBER ROCHE: I'll withdraw my motion again. I'll get it right sometime.
I'd like to make a motion to add the personnel issue to the agenda of hiring a part-time code enforcement person to fill in while our current code enforcement person is deployed overseas.

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COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Okay. Call the roll.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Okay. Now you can make the motion.
COUNCILMEMBER ROCHE: And I'd like to make a motion to allow the police department to hire a part-time code enforcement officer to fill in while Officer

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1 Morrow is deployed overseas.
2 COUNCILMEMBER PITTMAN: Second.
3 MAYOR JENKINS: Call the roll.
4 ASSISTANT CLERK BRYANT: Councilmember
5 Alexander?
6 COUNCILMEMBER ALEXANDER: Yes.
7 ASSISTANT CLERK BRYANT: Councilmember
8 Bates?
9 COUNCILMEMBER BATES: Yes.
10 ASSISTANT CLERK BRYANT: Councilmember
11 Fleming?
12 COUNCILMEMBER FLEMING: Yes.
13 ASSISTANT CLERK BRYANT: Councilmember
14 Pachuta?
15 COUNCILMEMBER PACHUTA: Yes.
16 ASSISTANT CLERK BRYANT: Councilmember
17 Pittman?
18 COUNCILMEMBER PITTMAN: Yes.
19 ASSISTANT CLERK BRYANT: Councilmember
20 Roche?
21 COUNCILMEMBER ROCHE: Yes.
22 ATTORNEY WEED: And if you'd make one more
23 motion. I don't think it would be relevant to part-
24 time employees, but to any extent that the hiring
25 freeze if relevant to part-time employees, which, by

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1 the way, I don't think it is, if you'd make a motion
2 to waive.
3 MAYOR JENKINS: We don't have to waive it
4 because it's replacing someone. It's not a new
5 position.
6 ATTORNEY WEED: Mr. Mayor, I don't disagree
7 with you.
8 MAYOR JENKINS: Oh, okay.
9 ATTORNEY WEED: But just for safety's sake
10 so it doesn't rear its head in the future, I'd like
11 you to do that.
12 MAYOR JENKINS: Make a motion to -- what was
13 the motion?
14 ATTORNEY WEED: To whatever degree the
15 hiring freeze is relevant to part-time positions, you
16 would waive that for purposes of this particular
17 position.
18 COUNCILMEMBER ROCHE: I make a motion to
19 waive the hiring freeze to whatever it may --
20 ATTORNEY WEED: For the replacement of a
21 part-time --
22 COUNCILMEMBER ROCHE: What he just said.
23 ATTORNEY WEED: For the initiation of a
24 part-time code enforcement position.
25 COUNCILMEMBER PITTMAN: Second.

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1 MAYOR JENKINS: Call the roll.
2 ASSISTANT CLERK BRYANT: Councilmember
3 Alexander?
4 COUNCILMEMBER ALEXANDER: Yes.
5 ASSISTANT CLERK BRYANT: Councilmember
6 Bates?
7 COUNCILMEMBER BATES: Yes.
8 ASSISTANT CLERK BRYANT: Councilmember
9 Fleming?
10 COUNCILMEMBER FLEMING: Yes.
11 ASSISTANT CLERK BRYANT: Councilmember
12 Pachuta?
13 COUNCILMEMBER PACHUTA: Yes.
14 ASSISTANT CLERK BRYANT: Councilmember
15 Pittman?
16 COUNCILMEMBER PITTMAN: Yes.
17 ASSISTANT CLERK BRYANT: Councilmember
18 Roche?
19 COUNCILMEMBER ROCHE: Yes.
20 MAYOR JENKINS: Did you have something else,
21 Chuck?
22 ACTING CHIEF ATKINSON: Yes, I had one more
23 thing, and I don't know if a motion needs to be made.
24 Our audio logger at the police department is
25 what records our 911 and our officer radio traffic.

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1 It is outdated and it is not working properly all the
2 time and it has become cost-effective to replace it.
3 A little background, we had this logger at
4 the old police department when we were up here. So
5 we've had it for many years, and you can't upgrade it.
6 There's no possible way to upgrade it.
7 And what I would like to do is purchase a
8 new one, and I have quotes here, five quotes from four
9 different companies, and I would like to make a
10 purchase using the grant funds that we were awarded by
11 the federal government, and I will allow you, if you'd
12 like to look at these (presenting).
13 MAYOR JENKINS: In other words, won't
14 anything come out of your budget or the City; is that
15 correct?
16 ACTING CHIEF ATKINSON: No, sir.
17 MAYOR JENKINS: Murray?
18 ATTORNEY WEED: So this is not -- this is
19 not currently a budgeted item.
20 MAYOR JENKINS: No.
21 ATTORNEY WEED: I think you've got to comply
22 with 2-90. You could elect -- you could make a
23 decision that this a sole-source -- treat it as a
24 sole-source bid -- you've got that authority under
25 2-90 -- and then pick one of those companies to buy

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1 the thing from.
2 Other than that, you'd have to put it out
3 for RFP and/or bid. So those would be your options.
4 COUNCILMEMBER ROCHE: I prefer the RFP
5 process.
6 COUNCILMEMBER ALEXANDER: But he's already
7 gotten five bids.
8 ATTORNEY WEED: Yes. However, he hasn't
9 complied with 2-90, which has got some very fine
10 points of law.
11 COUNCILMEMBER ALEXANDER: Does 2-90 address
12 expenditure of grant funds?
13 ATTORNEY WEED: Yes. It deals with anything
14 -- you know, anything that the City buys.
15 If the police department were using drug-
16 seized asset-forfeiture moneys, arguably this
17 procedure would not be required; however, that's not
18 the case here.
19 COUNCILMEMBER PITTMAN: Do we have to do
20 that?
21 ATTORNEY WEED: Well, you -- yes, you have
22 to follow 2-90 --
23 COUNCILMEMBER PITTMAN: That's not what I'm
24 saying.
25 ATTORNEY WEED: -- but you could simply

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1 decide this is a sole-source item --
2 COUNCILMEMBER PITTMAN: That's what I'm
3 saying, yeah.
4 ATTORNEY WEED: -- and approve it tonight,
5 and you've got that authority.
6 COUNCILMEMBER FLEMING: Well, it can't very
7 well be a sole-source item when he's got five quotes.
8 ATTORNEY WEED: Well, there's no definition
9 of what constitute a sole-source item. Council has
10 never decided to deal with that issue.
11 It just says -- what it says is, you know,
12 purchases from a single-source vendor without a
13 definition of what constitutes a single-source vendor.
14 The last time you used this, I believe, was to
15 contract for the services of MIS Consulting and you
16 decided that that was a sole-source vendor.
17 Until you have a definition of it, I'm just
18 giving you options. It would be legal in my opinion
19 under 2-90, Subsection A -- pardon me -- at Subsection
20 B(4) to declare this is a single-source vendor and
21 approve it tonight; otherwise, you have to do RFP or
22 bids.
23 COUNCILMEMBER ROCHE: Actually as far as MIS
24 Consulting was concerned, we did put out RFPs and we
25 weren't too happy with the results, and the RFPs

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1 themselves weren't very well put together, so a motion
2 was made to continue using MIS Consulting until such
3 time as we could get a good RFP back out there --
4 COUNCILMEMBER BATES: Well, technically --
5 COUNCILMEMBER ROCHE: -- and that's not --
6 COUNCILMEMBER BATES: -- that's not correct,
7 but I don't want to go there.
8 Regarding this, what was your selection
9 process for obtaining the quotes? Whom did you --
10 ACTING CHIEF ATKINSON: Captain Brinkley.
11 We started just to be able to fix the system
12 that we have, but it's not feasible to do that
13 anymore.
14 COUNCILMEMBER BATES: Are there other
15 companies that provide this equipment or is this about
16 the limit?
17 ACTING CHIEF ATKINSON: Captain Brinkley, is
18 there more companies that do this?
19 CAPTAIN BRINKLEY: Yes. Yes, there is.
20 COUNCILMEMBER PACHUTA: Is there -- because
21 I don't have the financial ordinance/policy. Is there
22 also an exception or anything for like if time is of
23 the essence or something like that?
24 ATTORNEY WEED: Well, there would be if
25 there's -- it's in 2-90 -- if there's some form of

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1 emergency. However, you'd have to -- you know, you
2 have to pretty much state what the emergency is and
3 then you have to get back around to doing -- you know,
4 validating the emergency.
5 I mean as far as compliance with the law, my
6 best opinion is it you want to make a decision on this
7 tonight, do it under 2-90 Subsection B(4); just
8 approve it.
9 The other thing would be, let's talk about
10 the grant for a moment. Are we buying this from a
11 state or federal agency?
12 ACTING CHIEF ATKINSON: (Shakes head
13 negatively)
14 ATTORNEY WEED: I guess not.
15 Are we buying this under state or federal
16 contract by any chance?
17 ACTING CHIEF ATKINSON: No.
18 ATTORNEY WEED: Okay. Well, that's what
19 you've got.
20 ACTING CHIEF ATKINSON: Well, I feel like we
21 are in an emergency situation right now due to the
22 fact that I don't know how much longer our system is
23 going to go, that we're going to be able to maintain
24 that system, and then we're going to be having some
25 things that aren't being recorded.

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So you know, that is an emergency to me, because I feel like we need to have our regular traffic recorded, and we don't know -- if it stops, we don't know when it stops.

COUNCILMEMBER ALEXANDER: Is there a chance that a 911 call is not being recorded?

ACTING CHIEF ATKINSON: Certainly.

COUNCILMEMBER ALEXANDER: What is the time frame, if we were to make approval tonight, for one of these systems to be implemented?

CAPTAIN BRINKLEY: It will still take some time. It's not something that can happen overnight. But the longer we take to start the process, the longer it's going to take after this point.

ACTING CHIEF ATKINSON: The one company has a tech that is local, that can come out and get started. However, like I say, it's going to take time.

COUNCILMEMBER ALEXANDER: And you have preferences on all these?

ACTING CHIEF ATKINSON: The one by Edge One Solutions, it's the $16,386 quote. That's the company that the tech is local, and they have allowed -- we will have recording in two spots. So if something -- if we're recording at the police department, if some-

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thing happens to that device there, we'll have it also recorded somewhere else, so we'll have it in two different locations.

MAYOR JENKINS: It'll have a backup system.

COUNCILMEMBER ALEXANDER: So you have --

ACTING CHIEF ATKINSON: Yes, sir.

COUNCILMEMBER ALEXANDER: -- a redundant, redundant system.

Considering 911 is the emergency lifeline and that we are taking the risk of some 911 calls not being recorded, in my opinion, I do consider that an emergency issue.

ATTORNEY WEED: Well, here's how it works: 2-90, Subsection A: "If the Mayor deems it appropriate and necessary to open bids or RFPs because the property or service required is deemed to be an emergency purchase which should be expedited, a particular bid or RFP may be opened prior to any regular or special meeting provided the same is opened in the presence of at least two City Council members. Reasonable effort shall be made to notify all the other Council members of the intent to open such bids."

Therefore, Mr. Mayor, you can decide that this is an emergency situation. You clearly have two

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other Council members present here. If you elect to do so, I think that's legally valid under 2-90 Subsection A.

COUNCILMEMBER ROCHE: But they were not sealed bids.

ATTORNEY WEED: What it says is to open bids or RFPs. It doesn't necessarily say that they would have to be sealed bids. It could be sealed bids or RFPs, either one. They wouldn't have to be sealed RFPs per se.

So Mr. Mayor, you can either declare an emergency and make this purchase in front of two Councilmembers; we can do traditional RFPs and bids; they can choose to purchase it out of drug-seized asset-forfeiture moneys and this discussion becomes moot, or you can decide that under 2-90 B(4) that you have a single-source vendor here. That would be appropriate. And without further definition of single-source vendor, you have every legal right to proceed underneath that theory of law.

MAYOR JENKINS: Chuck, are you going to take the low bid or are you going to --

You're sticking with the sixteen and I notice that's not the low bid.

ACTING CHIEF ATKINSON: Right. That's

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because it records in two separate places.

MAYOR JENKINS: It's not backup system rather than just one system.

ACTING CHIEF ATKINSON: Yes. Yes, sir.

That company also gave us a quote that only records in one spot, which is not the low bid but it's right below. It's twelve nine thirty-six.

MAYOR JENKINS: Yeah, but you want the sixteen.

ACTING CHIEF ATKINSON: Well, it allows us to record in two separate places so we have a backup.

MAYOR JENKINS: Okay. I'll declare it an emergency under those circumstances of the 911 system, and I'll ask for a motion on it.

COUNCILMEMBER FLEMING: Mr. Mayor, I'd like -- if you don't mind, I would like for the companies and the amounts to be in the record --

MAYOR JENKINS: Yes.

COUNCILMEMBER FLEMING: -- and then Chief Atkinson to indicate the one that he wishes to use and the reason for it.

MAYOR JENKINS: Okay.

COUNCILMEMBER ALEXANDER: Edge One Solutions, the redundant backup system, $16,386.

Edge One, the single reporting device

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1 system, $12,936.
2 Clear Voice Networks?
3 COUNCILMEMBER BATES: $14,146.
4 COUNCILMEMBER ALEXANDER: Milner Voice and
5 Data, $18,190.
6 Public Sector Technologies, $12,347.
7 MAYOR JENKINS: That's five of them;
8 correct?
9 COUNCILMEMBER ALEXANDER: Yes, sir.
10 MAYOR JENKINS: Okay. Which one do you
11 choose, Chuck?
12 ACTING CHIEF ATKINSON: I would like the
13 Edge One Solutions, $16,386. It allows us to record
14 in two separate places to have a backup as well as the
15 company has their systems in major police departments
16 throughout the nation, NYPD, LAPD, Houston PD,
17 Baltimore PD, Philadelphia PD, Atlanta PD; Dekalb
18 County, Cobb County, Fulton County, Gwinnett County,
19 Clayton County, Henry County; Cincinnati PD, Boston
20 PD. I would like to use them, and their tech support
21 is local.
22 MAYOR JENKINS: All right. Do I get a
23 motion on that?
24 ATTORNEY WEED: With regard to the procedure
25 on this, this is my advice to Council. The Mayor

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1 clearly has the authority to declare this an
2 emergency. He's done so. He's done so in front of
3 two Council members.
4 I think technically the Mayor could simply
5 pick one of these groups and just report it to the
6 Council later, which he wouldn't technically have to
7 because you're all here.
8 The other thing, though, if the Mayor wants
9 the Council to vote on this, then I think you need to
10 technically amend the agenda to add this as an item
11 back to the main agenda and then vote on it. We've
12 got to close those loops.
13 Or the Mayor can just say: Pick one. You
14 declare an emergency. He's already done that. If he
15 picks one, that's the end of this item.
16 MAYOR JENKINS: We read it into the record.
17 Let's go ahead and let the Chief pick the one that he
18 wants and move on.
19 ATTORNEY WEED: Well, I think that -- that
20 does it, Mr. Mayor. You have that authority to do
21 that in my opinion because you did it in front of two
22 Councilmembers.
23 COUNCILMEMBER FLEMING: The only comment I
24 wish to make on that particular issue is that it needs
25 to be indicated that it is coming out of his grant

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1 funds.
2 MAYOR JENKINS: Yes.
3 COUNCILMEMBER PITTMAN: He said that at the
4 beginning.
5 MAYOR JENKINS: Okay. Do I get a motion to
6 adjourn?
7 COUNCILMEMBER ROCHE: Any citizen comments?
8 MAYOR JENKINS: What? We cut it off at No.
9 11 and added that one.
10 Citizens comments, three minutes, please.
11 ATTORNEY WEED: Technically, you need to
12 amend the agenda if you're going to proceed with that.
13 Your motion -- and I'm not trying to be difficult --
14 MAYOR JENKINS: We closed the meeting --
15 ATTORNEY WEED: -- but you made a motion to
16 limit it to one item.
17 MAYOR JENKINS: -- after Item No. 11 and we
18 should adjourn.
19 ATTORNEY WEED: Yes, sir. Technically,
20 that's the case.
21 COUNCILMEMBER ROCHE: I'd like to make a
22 motion that we extend the meeting until after citizen
23 comments.
24 MAYOR JENKINS: Second?
25 COUNCILMEMBER ALEXANDER: Second.

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1 MAYOR JENKINS: Call the roll, please.
2 ASSISTANT CLERK BRYANT: Councilmember
3 Alexander?
4 COUNCILMEMBER ALEXANDER: Yes.
5 ASSISTANT CLERK BRYANT: Councilmember
6 Bates?
7 COUNCILMEMBER BATES: Yes.
8 ASSISTANT CLERK BRYANT: Councilmember
9 Fleming?
10 COUNCILMEMBER FLEMING: Yes.
11 ASSISTANT CLERK BRYANT: Councilmember
12 Pachuta?
13 COUNCILMEMBER PACHUTA: Yes.
14 ASSISTANT CLERK BRYANT: Councilmember
15 Pittman?
16 COUNCILMEMBER PITTMAN: Yes.
17 ASSISTANT CLERK BRYANT: Councilmember
18 Roche?
19 COUNCILMEMBER ROCHE: Yes.
20 MAYOR JENKINS: Come on up and state your
21 name, please, ma'am.
22 MS. CUNNINGHAM: Good evening. My name is
23 Brittany Cunningham. I am the principal at Sequoyah
24 Middle School, and on behalf of our students, staff
25 and faculty members, I would like to read this letter.

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1 It is addressed to Mayor Jenkins, City of Doraville
2 Councilmembers, and Doraville citizens and businesses.
3 (Reading) On behalf of Sequoyah Middle
4 School, I would like to thank each of you for your
5 generous gift of $1,500 to the school and its students
6 and staff. This large donation especially in these
7 times is one that is very much needed and will be used
8 to support the school and its students in our drive
9 towards becoming a Georgia School of Excellence. We
10 are proud at Sequoyah Middle to be formally recognized
11 as a Title I School of Excellence in making AYP for
12 four consecutive years and look forward to continuing
13 to do that for the years to come.
14 I would also like to make it known that
15 Sequoyah Middle also recognizes its importance in
16 contributing to making Doraville a vibrant and
17 attractive city for its citizens and businesses as
18 well as one in which new citizens and businesses would
19 seek to locate. We believe that it's through our
20 drive towards academic excellence that we can create
21 future educated citizens as well as make a contri-
22 bution back to Doraville even if only in this small
23 way.
24 In closing, Sequoyah Middle School hopes to
25 continue to build upon its relationship with the city

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1 of Doraville, its citizens and its business community.
2 Since 2005, our school motto has been Your
3 Neighborhood School, and it is through this model that
4 we remind ourselves each day of our part in making
5 Sequoyah Middle School an integral part of a
6 successful community and a place in which students,
7 parents and all the citizens of Doraville can be
8 proud.
9 As community members, you are always welcome
10 as friends of Sequoyah, and we look forward to future
11 support. Thank you.
12 COUNCILMEMBER FLEMING: Thank you.
13 - - -
14 (Applause)
15 - - -
16 MAYOR JENKINS: Do you want to give me a
17 copy of that?
18 MS. CUNNINGHAM: Yes.
19 MAYOR JENKINS: Thank you.
20 All right. Next?
21 MS. CALVERT: I've listened to a lot of
22 people for about two or three months, and the one
23 thing that they are griping about is they want ramps
24 for the people who need ramps. To get in and our of
25 their homes, to go to the doctors, for wheelchairs or

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1 walking or even just getting out to sit in the front
2 yard, they need these ramps.
3 I would like to see Doraville be friendlier
4 with all these people and not have the fees put on
5 them to make these ramps. I think it would also be
6 nice if they could be made somehow to be taken away if
7 other parties want to buy that home. Should something
8 happen to these people, the relatives will be able to
9 remove them and not have them as a permanent
10 structure.
11 But they do need the ramps, and I would like
12 to see us waive the fees on these people because a lot
13 of them can't afford it and they really need to be
14 able to get out of their homes.
15 MAYOR JENKINS: Thank you.
16 COUNCILMEMBER FLEMING: Thank you, Ginny.
17 - - -
18 (Applause)
19 - - -
20 MS. HOFFMEISTER: Bonita Hoffmeister.
21 Earlier, I'm afraid I gave the impression I
22 was implying that Susan Fraysse had turned us in.
23 Believe me, I know it was not Susan Fraysse and I
24 apologize for leaving that impression.
25 MS. FRAYSSE: Apology accepted. Thank you.

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1 MAYOR JENKINS: Come on up, Stuart.
2 MR. ANDERSON: Stuart Anderson. Regarding
3 the earlier item about the January 12th symposium or
4 group from the businesses being able to make
5 statements, something you almost got to that you
6 didn't quite get to: divide the time up amongst the
7 speakers from the business community, et cetera, et
8 cetera.
9 And then there was discussion of about back
10 and forth. If you make a simple format wherein after
11 a speaker speaks, the City Council has a brief but set
12 amount of time to ask a question of the speaker and so
13 that the City Council doesn't go and on and waste
14 their time, that that allows a back and forth and it
15 allows questioning from the City Council in a
16 controlled manner. And so if you just set up a forum
17 that way so that there is a back and forth but a
18 limited one.
19 Thank you.
20 MAYOR JENKINS: Next?
21 MR. HART: Tom Hart.
22 One thing that's concerned me over the last
23 week or so is the weather, and I just want to know
24 what the City's doing about some elderly citizens and
25 some people that live in the city, because of the

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1 temperature, whether everybody's being taken care of
2 as far as, you know, being able to heat their homes
3 and, you know, services during this period of time.
4 I mean there's people, I'm sure, that have
5 got broken water pipes and other issues, what the City
6 is doing about that situation. Do they have a way of
7 communicating with these people to get them some help?
8 MAYOR JENKINS: Yes, we give them help.
9 COUNCILMEMBER PITTMAN: Well, I know, Bobby,
10 Mr. Pittman from public works, does check on them. He
11 has a whole list of senior citizens he just takes upon
12 himself to check on quite often.
13 But it might be a good idea if we citizens
14 and us knew of anyone that we could all check on them
15 ourselves. If you've got neighbors and elderly
16 neighbors, that might be a great idea.
17 MR. HART: And with the current economy and
18 the weather and everything, you know, some people need
19 some help. Thank you.
20 MAYOR JENKINS: Thank you.
21 MS. FENG: I'm Charlene Feng and I just want
22 to say something. Congratulation for new Council
23 person, and for year 2008 and year 2009/2010, the
24 difference is we have more female Council on the seat,
25 and I encourage you guys all work together and make

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1 Doraville better.
2 - - -
3 (Applause)
4 - - -
5 MAYOR JENKINS: Charlene, say Happy New Year
6 in Chinese.
7 MS. FENG: (Complying)
8 MAYOR JENKINS: Next?
9 MR. FLOYD: I'd actually like to address
10 this to Mr. Hart and the City Council. James Floyd.
11 The neighborhood watch does address with the
12 block captains and we do have a list of people that
13 also get contacted by our block captains. They are
14 periodically contacted. And if you know anybody
15 that's not being contacted, please, Mr. Hart, let us
16 know, or anybody else for that matter, please, just so
17 that we do make sure everybody gets contacted if
18 needed.
19 MAYOR JENKINS: We also do this through our
20 senior citizen luncheon, too.
21 Thank you, sir.
22 Anybody else?
23 MS. JOHNSON: I have a question. I'm Janice
24 Johnson.
25 In the newsletter, it said that the City of

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1 Doraville is giving the senior luncheon on January the
2 13th. Does that mean we don't bring food?
3 MS. CALVERT: You've got to be kidding.
4 MAYOR JENKINS: Got to be a misprint, but
5 I'll check on that tomorrow.
6 Anybody else?
7 MS. FLEMING: I have something. Tomorrow
8 evening at 6:30 at Dekalb Manual Maloof Auditorium the
9 Dekalb Planning Commission will be hearing a special
10 land use permit for Raventon 2009 which is located on
11 Tilly Mill Road, the old Friday's Plaza. And it's
12 just that little triangle that Dekalb owns, and
13 Doraville owns the rest of it as soon as you come out
14 of the parking lot. That special land use permit is
15 for extended pouring hours until 4:00 a.m.
16 I believe there's a petition out there on
17 the table -- there may have been one that was
18 circulated -- that I urge, if you're not able to
19 attend, please sign the petition. I will be taking
20 those down there tomorrow evening.
21 And if you are able to attend, it's at 6:30,
22 and please wear red so that we can have a coalition
23 going down, and I appreciate all of your support.
24 MAYOR JENKINS: Thank you.
25 Motion?

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1 COUNCILMEMBER BATES: Motion to adjourn.
2 MAYOR JENKINS: Second?
3 COUNCILMEMBER ALEXANDER: Second.
4 MAYOR JENKINS: Call the roll.
5 ASSISTANT CLERK BRYANT: Councilmember
6 Alexander?
7 COUNCILMEMBER ALEXANDER: Yes.
8 ASSISTANT CLERK BRYANT: Councilmember
9 Bates?
10 COUNCILMEMBER BATES: Yes.
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13 COUNCILMEMBER FLEMING: Yes.
14 ASSISTANT CLERK BRYANT: Councilmember
15 Pachuta?
16 COUNCILMEMBER PACHUTA: Yes.
17 ASSISTANT CLERK BRYANT: Councilmember
18 Pittman?
19 COUNCILMEMBER PITTMAN: Yes.
20 ASSISTANT CLERK BRYANT: Councilmember
21 Roche?
22 COUNCILMEMBER ROCHE: Yes.
23 - - -
24 (Meeting adjourned at 9:50 p.m.)
25 -o0o-

C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 13th day of January 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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