In The Matter Of:

City of Doraville

State of Georgia

Doraville City Council Meeting

January 19, 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 19, 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. 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. I'd like to have a motion to approve the minutes for 1/4/2010.

COUNCILMEMBER PITTMAN: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER PACHUTA: 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: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Here. Yes. Sorry.

MAYOR JENKINS: Appreciate everybody coming out tonight. Got a good crowd.

And we're going to start out on my part of the agenda, which would be booting, and I want to turn that over to Murray Weed.

Page 5

ATTORNEY WEED: Mr. Mayor and members of the Council, based upon your last meeting, my office was instructed to prepare a draft ordinance with regard to the subject of vehicle impound devices also known as booting mechanisms.

I have done so. I forwarded that draft ordinance to your attention last week, I believe, and I'm available to answer any particular questions you have with regard to the same.

This will be the first reading for that ordinance, and if you intend to adopt it tonight, you would need to waive first reading.

MAYOR JENKINS: Okay. Any questions from the table on the booting?

COUNCILMEMBER ALEXANDER: The information you found out today regard us being allowed to collect occupational tax, is that addressed in this draft or does it need to be added?

ATTORNEY WEED: No, I don't believe it needs to be added. I believe that is part of the permitting process, and I think that they have to supply evidence that they have paid occupation tax or they were otherwise exempt. I believe that's already in there. But even if it's not, that would be the general rule of law, anyway. They'd be treated just like any other

Page 6

business.

COUNCILMEMBER ALEXANDER: And I would like Council's feedback on page 3, item number (iv) under Section (2) as far as the time.

COUNCILMEMBER ROCHE: Yeah. I actually spoke to a business owner today who was saying that the way they do it in other places is they'll put a sticker on the vehicle with the date and time, and then you have to wait a certain length of time. He was suggesting four hours, so --

Is he here tonight?

ATTORNEY WEED: Councilman Alexander, in reference to your last question, if you'll look at page 4 of 10, Section 6-902, Section (a), in the second line, that's where I mentioned occupation tax. I thought that was in there, but either way, it will be covered by state law.

COUNCILMEMBER ALEXANDER: I had mentioned earlier about the -- suggested the four hours.

ATTORNEY WEED: I certainly have no legal objection to that at all. I mean that's just a matter of it's a Council decision on what you believe is fundamentally fair.

The only thing I would add would be obviously you've got to weigh the rights of the -- Who

Page 7

is the quote/quote victim in the situation generally? In one sense, it is the property owner upon whose property the truck is parked which might be damaging the asphalt, et cetera. On the other side, there might be a second potential victim, which is a person who, because of inadequate notice or signage, parks there maybe to take a deep breath or to look at their GPS to see, you know, where they're going, because they're lost, and suddenly they find themselves booted before they can get off the property or before they knew what happened. So obviously it's the Council's realm to decide, you know, what is fair with regard to that type of decision-making.

I put in 10 minutes. Four hours would be legal, 10 minutes would be legal or something in between in my opinion would be legal.

COUNCILMEMBER BATES: And I'm actually leaning in the in-between at the --

COUNCILMEMBER PACHUTA: Yeah; I am too.

COUNCILMEMBER BATES: -- two-hour mark. Most of the places where this is an issue, those people will be in and out in substantially less time than that. I'm hopeful this will help them enforce overnight or extended parking issues. So I actually would be in favor of a two-hour period.

Page 8

COUNCILMEMBER FLEMING: Well, if they happened to be shopping in Asian Square -- and we did hear that the present company addressed this at last Council, that he does have a contract at Asian Square -- it could feasibly be an automobile that is shopping there for two hours.

COUNCILMEMBER BATES: Well, this would address --

COUNCILMEMBER FLEMING: So --

COUNCILMEMBER BATES: -- illegal parking, correct, or --

COUNCILMEMBER FLEMING: Well, how would we know?

COUNCILMEMBER BATES: That they were illegally parked?

COUNCILMEMBER FLEMING: Exactly.

COUNCILMEMBER BATES: Taking up more than one space, parked not in designated lines.

ATTORNEY WEED: I think if I understand part of Councilman Fleming's point, a perfectly legitimate concern would be, you know, legal parking can easily become illegal parking too, meaning that if you park in a space legally but you did so overnight, arguably -- or if you did so after the owner of the business asked you to leave, then that could constitute a

Page 9

1 trespass.
2 So an act when it initiates at first might
3 be legal, might become legal eventually -- illegal
4 eventually, so -- if that's helpful.
5 COUNCILMEMBER PACHUTA: In the towing
6 statutes, the state towing statutes, are there any
7 time frames, like you can't tow a car until a certain
8 amount of time has lapsed or --
9 ATTORNEY WEED: I believe that there are.
10 I photocopied a number of those statutes.
11 Unfortunately, I didn't bring the towing statutes with
12 me tonight -- I did the last time we met -- because I
13 thought we were beyond that, frankly, but that's okay.
14 I do have some of them here. Let me see if
15 I can find that while you discuss other parts of the
16 ordinance. I believe I can tell you.
17 MAYOR JENKINS: Anybody else?
18 COUNCILMEMBER FLEMING: Oh, yes, sir. I
19 have plenty of things.
20 On page 3, item number (2) and it's number
21 (ii), we've listed the maximum fee would only be
22 $50.00. And I've supplied for Council and for our
23 attorney this evening the Georgia Public Service
24 Commission maximum rates or actually rates and charges
25 for nonconsensual towing. And I think that based on

Page 10

1 the nonconsensual towing permits or charges, that we
2 should mirror our booting fees applicable to the
3 nonconsensual towing charges, and the reason being is
4 that a private property owner could feasibly have that
5 vehicle towed and they would have to be paying these
6 fees.
7 COUNCILMEMBER BATES: The fees on the sheet
8 that you're providing?
9 COUNCILMEMBER FLEMING: Yes.
10 COUNCILMEMBER BATES: Mr. Weed, correct me
11 if I'm wrong, but the fee that you're referencing in
12 the ordinance is only to remove a boot. If the
13 vehicle is towed, there's an additional fee that would
14 be levied by the towing company based upon the PSC; is
15 that correct?
16 ATTORNEY WEED: Yes, sir.
17 COUNCILMEMBER BATES: So the $50.00 is only
18 a boot removal fee.
19 ATTORNEY WEED: Yes, sir. But it's my
20 opinion you can set it at whatever you want to. I
21 mean if you've got the right to regulate it, you've
22 got the right to set it at whatever reasonable amount
23 you deem is appropriate.
24 COUNCILMEMBER FLEMING: But personally, I'm
25 not sure whether -- And I believe the gentleman's

Page 11

1 coming in right now. But can that vehicle be towed if
2 the boot were on the vehicle?
3 COUNCILMEMBER BATES: Yes.
4 COUNCILMEMBER PACHUTA: If you refuse to pay
5 the fee to boot, they usually will tow it. If you
6 refuse to pay the fee to boot -- to remove the boot,
7 they'll usually go ahead and tow it a lot of times.
8 COUNCILMEMBER FLEMING: They would have to
9 physically get it on a towing truck rather than
10 pulling it; correct?
11 COUNCILMEMBER ALEXANDER: No.
12 COUNCILMEMBER FLEMING: Well, if the boot
13 was on the back wheel --
14 COUNCILMEMBER ALEXANDER: When they tow,
15 they pick the vehicle up.
16 COUNCILMEMBER FLEMING: Okay. From the
17 front end; correct?
18 COUNCILMEMBER ALEXANDER: Uh-huh.
19 COUNCILMEMBER FLEMING: But if the boot's on
20 the rear end --
21 COUNCILMEMBER ALEXANDER: Most of the time
22 they boot the front because it's a double-axle
23 trailer.
24 COUNCILMEMBER FLEMING: Okay.
25 ATTORNEY WEED: Council, I don't have a

Page 12

1 definitive answer to your question because I don't
2 have the entirety of the code sections with me. But
3 looking at 44-1-13, the time periods -- the only time
4 periods that are mentioned in that section with regard
5 to towing deal with storage fees are not to be charged
6 for the first 24-hour period after a vehicle is towed
7 and that period begins at the time the vehicles are
8 removed from the property, and no such fees shall be
9 allowed for removal and storage of vehicles removed by
10 towing and storage firms that are found to be in
11 violation of this code section.
12 So with regard to the sections I have,
13 that's all I can elucidate right now. There may be
14 other code sections but I don't have them available.
15 COUNCILMEMBER FLEMING: I'm just making
16 comment that if the towing companies are authorized by
17 the GPS to charge these amounts, I feel that a booting
18 company should also be allowed to charge these
19 amounts. Okay.
20 Also, the other comment, in light of we do
21 have towing companies operating in the city of
22 Doraville, their services are being utilized in the
23 city of Doraville but they do not have a location in
24 the city of Doraville nor do they have an occupational
25 tax permit. So I don't think it would be right to

Page 13

1 require a booting company to have an occupational tax
2 permit for within the city if we're not requiring that
3 of towing companies.
4 ATTORNEY WEED: And that's up to the Council
5 to decide.
6 The only thing I would add to that is that
7 towing companies are regulated by the Public Service
8 Commission and therefore there's an odd provision. I
9 guess the towing companies have good lobbyists. But
10 there's an exemption for them in the occupation tax
11 law in Title 48.
12 For a booting company or, in my opinion, a
13 towing company that engages in booting, we're not
14 regulating towing. I think that's preempted. But we
15 clearly are regulating -- other than the parts that
16 the state law allows us to regulate on towing -- but
17 we clearly are able to regulate booting.
18 So my opinion is, you know, can you charge
19 them occupation tax? I believe that you can. Should
20 you do that? That's obviously up to the Council.
21 COUNCILMEMBER PACHUTA: And I'm of the
22 opinion -- I mean they're booting in Doraville. I
23 mean a hundred percent of that income is coming in
24 Doraville, and they should be paying occupational tax.
25 COUNCILMEMBER BATES: Mr. Weed, if we were

Page 14

1 to make an adjustment to this on the time reference,
2 would we need to make a motion to modify and then a
3 motion to waive first reading or a motion to waive
4 first reading? Does it matter?
5 ATTORNEY WEED: I think legally you could do
6 it either way. I mean as long as you -- I think the
7 main thing is that as long as everybody agrees upon
8 the final version of the ordinance and that's what
9 matters. The case law indicates that the tie goes to
10 the runner -- in this case, the government. So if you
11 had consent on what you intend to adopt, it won't
12 matter which way you go about it.
13 COUNCILMEMBER ROCHE: I had a question about
14 this in a different way, and I don't know if people
15 have signed up to talk about this.
16 MAYOR JENKINS: I have some people, yes.
17 COUNCILMEMBER ROCHE: Well, we keep talking
18 about illegal parking. I guess it boils down to can
19 the City impose -- you know, write a parking ticket
20 for something on private property?
21 ATTORNEY WEED: No, sir. In my opinion,
22 they can't.
23 Where we can and do get involved would be if
24 there's a state law that kind of governs an area and
25 gives some authority. The state did that in Title 44

Page 15

1 with regard to tow companies by allowing us to, you
2 know, require signage, et cetera, and to enforce that.
3 And since the state's been silent so far on booting,
4 Atlanta, Savannah, Hapeville, and there are other
5 cities that are in that business now. And until the
6 state tells us we can't, my opinion is we can.
7 COUNCILMEMBER ROCHE: Didn't we pass an
8 ordinance recently that prohibits for-sale cars to be
9 on public -- private property?
10 ATTORNEY WEED: I believe it was in '09, but
11 yes, sir, I think that is accurate.
12 COUNCILMEMBER ROCHE: Isn't that a parking
13 issue on private property?
14 ATTORNEY WEED: Arguably, yeah. I mean it
15 could be, possibly.
16 But I think the real question is what are
17 you trying to regulate and the question of whether you
18 have the authority to regulate it or not.
19 My opinion is in that situation, you know,
20 the zoning code and other regulatory code, you've got
21 the right to essentially help control commerce for the
22 protection of the health, safety and welfare of the
23 public. So it's my opinion you've got the authority
24 to regulate, you know, that type of commerce.
25 COUNCILMEMBER ROCHE: But I mean if you have

Page 16

1 five trucks parked in someone's parking lot so that
2 cars can't get in and shop there, then wouldn't that
3 be basically the same thing? I mean we're talking
4 about parking vehicles on private property and being
5 able to do something legally about it.
6 I'm not sure I understand. I don't know why
7 that would come under a zoning thing. I mean if I
8 have a store and suddenly these trucks keep parking in
9 my parking lot and that means that my regular business
10 people, my regular customers can't come and go as they
11 need to, then wouldn't the City be able to do an
12 ordinance about that just like if my parking lot
13 happened to be full of cars that happen to have for-
14 sale signs in the windows?
15 ATTORNEY WEED: Well, I hate to give you a
16 legal answer, but the question would be: It depends.
17 And really, literally, it does depend.
18 I mean these things are all based upon, you
19 know, what powers does the local government have to
20 regulate, and the local governments are given by the
21 state of Georgia, powers that are called police
22 powers. Police powers apply in both the zoning
23 context and the non-zoning regulatory context; it
24 applies to both. So we have the right to set up how
25 fast you can go in a street. We've got the right to

Page 17

1 control in part how many people live in your house by
2 virtue of the fact that we can control how much living
3 space every individual is entitled to.
4 So I guess the question is, do I believe
5 that we have the authority right now to regulate
6 booting? My opinion is -- my legal opinion is yes, we
7 do.
8 COUNCILMEMBER ROCHE: But we do not have the
9 legal right to, if someone's parked overnight, a truck
10 is parked overnight on a parking lot that happens to
11 be private property, da-da-da, and a Doraville police
12 officer rides by and then three hours later sees that
13 same truck still parked there, there's no way in the
14 world that that police officer could write a ticket
15 for parking or for some violation of the city code.
16 ATTORNEY WEED: My opinion right now is no.
17 I don't know that our authority would go that far.
18 I suppose it might be possible to draft an
19 ordinance, for example, in the zoning code that had a
20 mandatory setback and that setback could be so many
21 feet from the building; therefore, the vehicle would
22 have to be within let's say, you know, six feet of the
23 building or eight feet or whatever the magic number
24 would be. Therefore, if it wasn't parked that close
25 to the building, if it was anywhere other than that,

Page 18

1 would you have the power as a government to issue a
2 citation for that offense? My opinion would be yes,
3 you would.
4 So once again, I won't say it would be
5 completely impossible to do that. With enough time,
6 energy and effort, I could probably come up with some
7 halfway viable legal way that I could go to court with
8 a straight face and not get laughed out of court.
9 But as a general rule, you know, the
10 government's ability to regulate private property is
11 generally the format of a zoning ordinance.
12 COUNCILMEMBER PITTMAN: So even if they
13 parked in the fire lane or blocked a fire hydrant,
14 couldn't they write a ticket, I would think?
15 ATTORNEY WEED: Well, it all depends upon
16 the code. Title 40 is the motor vehicle code and
17 Title 16 is the criminal code. If the state has
18 issued some sort of law in Title 40, which is the
19 motor vehicle code, about illegal parking, then, sure,
20 they could. And in fact I think they do, and I think
21 it's in Title 40 of the motor vehicle code. And in
22 fact Title 40 of the motor vehicle code says that
23 local governments are authorized to adopt Title 40 as
24 local ordinances; therefore, you can essentially have
25 a double whammy: the State Patrol could write the

Page 19

1 citations and so could the local government.
2 So once again, it all literally is very,
3 very dependent upon the individual fact situation and
4 whether or not there's authority underneath that fact
5 situation as far as the power to write the ordinance.
6 COUNCILMEMBER ROCHE: I'm just trying to
7 find a way to solve the problem, frankly, without
8 having to go through all the stuff of having booting.
9 And if there's a better way to do it that,
10 you know, the Doraville police -- like I said, right
11 now the property owner basically gets to keep an eye
12 on their property 24/7. Well, if they happen to be on
13 Buford Highway, you know, we have patrols going up and
14 down all the time. I'm not saying that that would be
15 a high priority for the police.
16 I'm just saying that there may be a better,
17 simpler way, I would think, to deal with this than to
18 have towing and booting and all these, you know,
19 atomic-bomb type reactions. Because at the same time,
20 I mean believe me, if I had to pay to have my parking
21 lot fixed all the time, I would certainly be
22 interested in finding a way to solve this problem too.
23 I'm just not sure that booting would be --
24 Is booting the only way? To me, that would be a last
25 resort. If there's another way that the City of

Page 20

1 Doraville could find to solve this problem through an
2 ordinance or whatever, I would think that we'd want to
3 explore that before we leap to booting people.
4 ATTORNEY WEED: And bear in mind, I'm not
5 leaping either. I --
6 COUNCILMEMBER ROCHE: Oh, I understand.
7 ATTORNEY WEED: -- did this at the request
8 of Council, so I know that you're directing this
9 towards them and not me.
10 COUNCILMEMBER ROCHE: Right.
11 ATTORNEY WEED: But the answer to your
12 question would be, in my opinion, I know of no code
13 section in Title 40, the motor vehicle code, that
14 would already go ahead and cover this with regard to
15 private property.
16 I'm happy to continue to look for such a
17 thing. I do agree with you that I don't believe in
18 writing laws that are covered by something else. I
19 mean I don't want to reinvent the wheel --
20 COUNCILMEMBER ROCHE: Of course not.
21 ATTORNEY WEED: -- and I don't think anybody
22 else does, either. So I have to keep looking.
23 But I also think the City of Atlanta would
24 have found that and probably the City of Savannah. I
25 don't know if the City of Hapeville would have, but I

Page 21

1 think the City of Atlanta or City of Savannah would,
2 too, but I'm not going to take what their lawyers did
3 and thank God but I'm happy to look for it on my own.
4 MAYOR JENKINS: Okay, Murray. Thank you.
5 We need to get these people that signed up,
6 then I think we need to move forward with this one.
7 If we need another ordinance or whatever, I think
8 Murray can certainly research it.
9 Stephen Harper. I'm going to allow two
10 minutes on comments, and you have to come to the
11 microphone.
12 MR. HARPER: How y'all doing?
13 I am CEO of Georgia Parking Enforcement,
14 Incorporated, and a few things I want to touch on is
15 the fact of the license and the fees.
16 I'm licensed in another county where I
17 operate out of. I pay my occupational tax. I have
18 160-some contracts throughout Georgia and I operate
19 through McDonough, where we're located.
20 The booting fee. I don't know where y'all
21 came up with the $50.00. If you're trying to compare
22 that with the city of Atlanta, you have to compare it
23 with the amount of volume that they have. City of
24 Atlanta, we do 300 boots a month -- I mean a week.
25 Here you're not going to do 300 boots a week. It's

Page 22

1 just not here.
2 $50.00 for a booting fee, we can't work with
3 that. We can't provide the service because there's
4 not enough booting here to support $50.00, to support
5 it.
6 The city of Hapeville, they have between a
7 hundred and five hundred dollars, which allows us to
8 operate with the least amount of volume that they
9 have. I mean if we were doing 300 boots here, there'd
10 be enough money to have $50.00 a boot.
11 Actually, the City of Atlanta has raised it
12 to seventy-five for cars.
13 And I'm just -- I don't agree with the
14 $50.00 because it has to be operational. We have to
15 be able to operate as a business and provide the
16 service for these people.
17 And far as the towing, it should be within
18 line of towing because booting is a sense of towing.
19 The only difference is you're immobilized on the lot
20 instead of being towed off. And you know, people
21 complain about $500 for an 18-wheeler, but $500 is a
22 lot cheaper than $650 and it's a lot safer because
23 you're not towing the 18-wheeler, you know, with fuel
24 and everything going to the impound.
25 But I would ask y'all to reconsider these

Page 23

1 fees, because if you come up with an ordinance for
2 $50.00, we will not be able to provide the service for
3 the contract that we have in the area. It's just not
4 operable, and we can't do that.
5 Other than that, that's about all I have to
6 say.
7 MAYOR JENKINS: Thank you.
8 MR. LEE: Good evening. I'm Anthony Lee.
9 I'm one of the owners of Axis Impound.
10 I got in touch with Mr. Weed, and he'd sent
11 me over a copy of this ordinance. This -- I just got
12 a bunch of questions about this.
13 When in fact if you guys want to regulate
14 it, is the police department ready to go? Are the
15 forms ready? Can we go and get licensed at this time?
16 I mean if we can go and get licensed, I don't have a
17 problem with that. But are the police ready? Is the
18 City ready?
19 I mean this is nothing new under the sun.
20 This is pretty much basic stuff that the City of
21 Atlanta has done. So for us to fall in line with the
22 ordinance for the City of Hapeville won't be a
23 problem. I don't have a problem with any of this
24 whatsoever.
25 But the $50.00 fee, we can't do that. We

Page 24

1 can't offer your business owners service at $50.00. I
2 mean you-all have gone out of your way to contact
3 these petroleum companies, sent them e-mails to let
4 them know not to park on other people's private
5 property because you didn't want to deal with the
6 problem and you knew that you could stop it. So you
7 obviously know that there's a problem? Okay?
8 And we get results. You-all know we get
9 results because you-all called and let them know that
10 we were operating.
11 So to lower our fee down to $50.00 from what
12 we normally charge, what's the point? I mean what
13 point are you trying to make? That the petroleum
14 companies have the right to park wherever they want
15 and that we have to give them 10 minutes? Ten
16 minutes, what you're doing is you're basically making
17 every business in Doraville a drive-through for these
18 trucking companies.
19 Now, I spent $2,000 last week helping out
20 some of the properties that we're contracted with fix
21 the potholes in their properties. And we've agreed
22 not to be booting on these properties until an
23 ordinance is passed.
24 You know, these trucks are coming in and out
25 of there all day, all night with no enforcement. You

Page 25

1 know what's happened? They've already broken up the
2 pavement. I've got to redo the potholes because
3 they've already broken up.
4 Are you-all going to let this continue to
5 happen? I mean we're doing what we can for the
6 property owners. Y'all need to help out too.
7 MAYOR JENKINS: Thank you.
8 COUNCILMEMBER ROCHE: Excuse me. Could I
9 ask a quick question? What is your fee for booting a
10 car?
11 MR. LEE: For a car, it's five -- or one
12 hundred.
13 COUNCILMEMBER ROCHE: And for a truck?
14 MR. LEE: Five hundred.
15 COUNCILMEMBER ROCHE: $500.00.
16 MR. LEE: It depends on what type of truck
17 it is. If it's like -- if it's a semi tractor-
18 trailer, it's $500. If it's like a box car or a
19 delivery truck, $200.
20 COUNCILMEMBER ROCHE: Thank you.
21 MR. LEE: It just depends on the vehicle
22 itself.
23 COUNCILMEMBER ROCHE: Thank you.
24 MAYOR JENKINS: Is that Susan Crawford?
25 MS. CRAWFORD: Susan Crawford from Oakcliff.

Page 26

1 I tend to agree with the last speaker. I'm
2 not quite sure why you're getting -- we are getting
3 involved in this, but if we are trying to protect the
4 businesses, we don't want 18-wheelers breaking up the
5 pavement and we don't want trucks filled with gasoline
6 parking in the middle of the city. I mean they don't
7 go to Elan's for lunch. They don't go into downtown
8 Norcross to look at their GPSs.
9 I think maybe we need to make it clear so
10 that people know what they're getting into if they
11 park there, but I think that if you make it incon-
12 venient or expensive, then it's less likely to happen
13 in the future.
14 You either want to deter it or you don't.
15 MAYOR JENKINS: Stuart Anderson.
16 MR. ANDERSON: Stuart Anderson.
17 I apologize to the people, business people
18 trying to keep their parking lots, and I approve it at
19 a hundred percent. It's a difficult situation.
20 I guess what I'm complaining about is the
21 agenda itself. Right now as we speak, Dunwoody is
22 having a special-called meeting for themselves,
23 certainly, but with Doraville issues. The Class B air
24 space which is not on our agenda, they are having a
25 special-called meeting to discuss that and the danger

Page 27

1 that it is to their city and the danger that it is to
2 our city. It's not on our agenda. The SLUP is being
3 discussed by them as we speak in a special-called
4 meeting.
5 The booting is an absolute relevant thing.
6 It needs to be done, needs to be discussed, needs to
7 be handled, but until it's fully developed, the front
8 of the agenda is not the time for it. These items
9 like the Class B air space and the SLUP, the threats
10 that both of those things present to us are
11 priorities, and that's my objection. The booting is
12 fine, the discussion, but not in this order.
13 Thank you.
14 MAYOR JENKINS: Okay. Bring it back up to
15 the table.
16 COUNCILMEMBER BATES: Captain, I have a
17 question for you, sir, if I may.
18 MAYOR JENKINS: Okay.
19 COUNCILMEMBER BATES: I've heard rumors of
20 two particular booting incidents. If you could please
21 share or confirm those for me, that a Dekalb County
22 school bus was booted as well as a landscape supply
23 company for one of the businesses in the city of
24 Doraville was booted while the driver was in the truck
25 with the vehicle running. Are those both accurate?

Page 28

1 ACTING CHIEF ATKINSON: Yes, that's my
2 understanding. And I was not here when the school bus
3 was booted. It occurred last week, and I was out of
4 town, but I did get a call and a message saying that a
5 Dekalb County school bus was booted in the parking lot
6 of Butler Tire.
7 COUNCILMEMBER FLEMING: Was that from a
8 police officer?
9 ACTING CHIEF ATKINSON: I got the pass-on,
10 yes, from --
11 COUNCILMEMBER FLEMING: I'm sorry?
12 ACTING CHIEF ATKINSON: I got the pass-on,
13 yes, from one of our police officers.
14 COUNCILMEMBER FLEMING: So one of our police
15 officers notified you that they saw the booting of
16 that?
17 ACTING CHIEF ATKINSON: Yes, ma'am.
18 COUNCILMEMBER FLEMING: Okay.
19 ACTING CHIEF ATKINSON: And the other issue,
20 I received a call from the Mayor, who had a gentleman
21 in his office. I believe this driver pulled into
22 K-Mart and, if I remember correctly, was sitting in
23 his car or in his truck, trying to find out what time
24 the landscape supply company opened, and while he was
25 sitting in the car or while he was sitting in the

Page 29

1 truck, he was booted.
2 And the gentleman was quite upset about the
3 fee, as it was told to me. Now, I have not spoke to
4 the owner of the company about it and I don't know his
5 side of the story. I just know what was told to me
6 over the phone.
7 COUNCILMEMBER ROCHE: What was that fee?
8 ACTING CHIEF ATKINSON: I believe that fee
9 was $1,100, because from what the gentleman told us
10 that was here, the fee was $500. Obviously, he didn't
11 have transportation so he had to walk to an ATM. And
12 I don't know how long that took, but when he got back,
13 his fee was $1,100 at that time.
14 The gentleman is here, the owner of that
15 company, so I mean he might be able to shed more light
16 on that.
17 COUNCILMEMBER BATES: Of the landscape
18 company?
19 ACTING CHIEF ATKINSON: No.
20 COUNCILMEMBER BATES: Oh, the towing
21 company?
22 ACTING CHIEF ATKINSON: The booting company,
23 yes.
24 MAYOR JENKINS: It's the gentleman in the
25 back.

Page 30

1 Can you answer that, sir?
2 MR. LEE: Yes. The vehicle was booted.
3 COUNCILMEMBER PITTMAN: Could you stand up,
4 please.
5 ATTORNEY WEED: Could you please stand up
6 and come to the microphone.
7 MR. LEE: Yeah. As far as the landscape
8 rig, he pulled in. I'm not exactly sure of the date.
9 But it was like at 3 o'clock in the morning, the rig
10 pulled in. At 9 o'clock, he woke and found his
11 vehicle booted. Okay. We then notified him to let
12 him know it was $500 to have the boot removed. He
13 said, "I'm not paying it."
14 He got inside someone else's car, left the
15 property. At that point in time, we didn't know if he
16 was coming back or what. We're not going to allow the
17 cars to sit on the property if they have boots on
18 them. If they leave the property and they just --
19 they don't say anything, that rig has got to go. It's
20 not about -- it's not about the rig.
21 It's about the weight of the rig sitting on
22 the property, breaking up the pavement. And sitting
23 there for five/six/seven hours is not working. It's
24 just not working.
25 COUNCILMEMBER PITTMAN: Was he sitting there

Page 31

1 for five or six hours?
2 MR. LEE: Yes, ma'am.
3 COUNCILMEMBER ALEXANDER: What about all the
4 tree-trimming trucks that are parked at K-Mart? Why
5 aren't those --
6 MR. LEE: Those are actually contracted out
7 with the K-Mart. They have authorization to park on
8 that property.
9 COUNCILMEMBER ALEXANDER: And their weight's
10 not tearing up the parking lot?
11 MR. LEE: Not as much as the -- as the big
12 rigs.
13 COUNCILMEMBER PITTMAN: And the school bus,
14 was that your company?
15 MR. LEE: That was my company as well.
16 COUNCILMEMBER PITTMAN: And you did that
17 because?
18 MR. LEE: Because he parked the vehicle and
19 left the vehicle and went to the Burger King.
20 You've got to understand, these people --
21 MAYOR JENKINS: How long was he gone?
22 MR. LEE: Maybe 15 minutes. But you have to
23 understand --
24 COUNCILMEMBER ROCHE: And how much did it
25 cost --

Page 32

1 MR. LEE: -- it's not about the --
2 COUNCILMEMBER ROCHE: -- the school bus?
3 How much did it cost the county?
4 MR. LEE: Zero. I had an order and I
5 released it free of charge.
6 You all need to understand I'm not a tyrant.
7 Okay? I'm trying to watch out for the business
8 owners. That's what we do.
9 This is nothing personal. We just want to
10 clear out the problem, and it can be cleared out.
11 It's going to have a momentary sting --
12 MAYOR JENKINS: Okay.
13 MR. LEE: -- but let the sting be done.
14 COUNCILMEMBER PITTMAN: And I'm not familiar
15 with the City sending e-mails out to any of the tank
16 farms. I do believe it was the other way around:
17 they e-mailed us. I'm not familiar with that.
18 MAYOR JENKINS: Thank you.
19 COUNCILMEMBER FLEMING: Ms. Pittman, I
20 believe that you told us at the last Council meeting
21 that you were the one that sent out the e-mail.
22 COUNCILMEMBER PITTMAN: Absolutely not. I
23 sent you the e-mail that they sent to us. I did not
24 send the e-mail.
25 MR. LEE: I believe I have it on recording,

Page 33

you saying that you sent them an e-mail.
COUNCILMEMBER PITTMAN: No. They sent me an e-mail.
MR. LEE: Okay. I'm not here to argue. I'm just saying.
COUNCILMEMBER PITTMAN: They sent me an e-mail and I sent it to you.
MAYOR JENKINS: Okay. We're at the table.
COUNCILMEMBER FLEMING: Yes, sir. I have a comment.
The city of Danbury, Connecticut, has a vehicle booting program. They contract out the service for delinquent obligations and parking tickets, various fines, past due and delinquent taxes that are owed to them. They booted 68 vehicles and were able to collect $16,000 in obligations owing them.
In the city of San Francisco, they also use a -- contract a booting system to also do the same. And their fee, the boot removal fee is $245, but they too also have to pay their past due and delinquent fines and so forth.
So I want Council to realize that cities also are utilizing this type of business to increase or to collect their revenue. So once we put this

Page 34

whatever, if we make a decision on this ordinance, that it will affect us as well if we ever choose to do that, to collect our past-due revenue.
MAYOR JENKINS: Anybody else?
- - -
(No response)
- - -
MAYOR JENKINS: Do I have a motion that we waive first reading?
COUNCILMEMBER PITTMAN: I'm happy with this except for the time. Could we maybe amend it, change the time limit from two hours to one hour or --
COUNCILMEMBER PACHUTA: I'm fine with an hour.
ATTORNEY WEED: It doesn't matter to me which order you do it in but you need to do it in some order. In other words --
MAYOR JENKINS: A motion?
ATTORNEY WEED: -- if you would want to make the suggested change in the ordinance and then waive first reading or you waive first reading, then do it and then vote it finally.
COUNCILMEMBER ROCHE: I think two hours is better.
MAYOR JENKINS: Do we need to make a motion

Page 35

on the changes in the ordinance?
ATTORNEY WEED: Yes, sir.
COUNCILMEMBER PITTMAN: Should we waive the first reading first?
ATTORNEY WEED: Well, it doesn't matter. First reading first is fine and then you can make the changes.
MAYOR JENKINS: Okay. Do I get a motion that we waive the first reading?
COUNCILMEMBER PITTMAN: So moved.
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: No.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.

Page 36

ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: All right. Now we get --
COUNCILMEMBER BATES: It failed, sir.
MAYOR JENKINS: Excuse me?
COUNCILMEMBER BATES: It failed. You've got to have unanimous to waive first reading.
MAYOR JENKINS: Okay. So this item is dead.
COUNCILMEMBER BATES: Until next week -- the next meeting.
MAYOR JENKINS: Until the next meeting. Thank you.
COUNCILMEMBER ALEXANDER: So Ms. Bryant, if you could make a note that this needs to carry over to the next agenda, please.
COUNCILMEMBER PITTMAN: And can we get that change for the next agenda or can we not do that for the one hours or two hours?
ATTORNEY WEED: You could go ahead and make the motion about the concept of whatever it is you'd like. That way, you might save time at the next

Page 37

1 meeting.
2 MAYOR JENKINS: Do I get a motion?
3 COUNCILMEMBER PITTMAN: Do we get one or two
4 hours?
5 COUNCILMEMBER ROCHE: Two.
6 COUNCILMEMBER PITTMAN: I'm fine with two.
7 MAYOR JENKINS: Okay. Do I get a second?
8 COUNCILMEMBER PITTMAN: Well, was it a
9 motion?
10 Would you want --
11 COUNCILMEMBER BATES: Go ahead.
12 COUNCILMEMBER PITTMAN: I make a motion to
13 change that to -- change -- what's the terminology? --
14 change the --
15 COUNCILMEMBER FLEMING: To amend the time
16 from 10 minutes.
17 COUNCILMEMBER PITTMAN: To two hours. To
18 two hours.
19 MAYOR JENKINS: Okay. Do I get a second on
20 that?
21 COUNCILMEMBER BATES: Second.
22 MAYOR JENKINS: Okay. Call the roll,
23 please.
24 ASSISTANT CLERK BRYANT: Councilmember
25 Alexander?

Page 38

1 COUNCILMEMBER ALEXANDER: Yes.
2 ASSISTANT CLERK BRYANT: Councilmember
3 Bates?
4 COUNCILMEMBER BATES: Yes.
5 ASSISTANT CLERK BRYANT: Councilmember
6 Fleming?
7 COUNCILMEMBER FLEMING: Yes.
8 ASSISTANT CLERK BRYANT: Councilmember
9 Pachuta?
10 COUNCILMEMBER PACHUTA: Yes.
11 ASSISTANT CLERK BRYANT: Councilmember
12 Pittman?
13 COUNCILMEMBER PITTMAN: Yes.
14 ASSISTANT CLERK BRYANT: Councilmember
15 Roche?
16 COUNCILMEMBER ROCHE: Yes.
17 COUNCILMEMBER BATES: And I'll make a motion
18 to modify the maximum fee from $50.00 to $75.00.
19 MAYOR JENKINS: Do I get a second?
20 COUNCILMEMBER PITTMAN: Second.
21 MAYOR JENKINS: Call the roll, please.
22 COUNCILMEMBER FLEMING: Discussion.
23 MAYOR JENKINS: All right. Discussion.
24 COUNCILMEMBER FLEMING: Mr. Bates, I
25 respectfully request to increase the limits based on

Page 39

1 the Georgia Public Service Commission and include the
2 towing rates -- not to exceed the towing rates that
3 they have on hand for towing --
4 COUNCILMEMBER BATES: So --
5 COUNCILMEMBER FLEMING: -- because the --
6 COUNCILMEMBER BATES: I'm sorry. I didn't
7 mean to interrupt.
8 COUNCILMEMBER FLEMING: That's quite all
9 right.
10 Just the towing and booting are similar
11 services, and I feel that booting should also be given
12 that opportunity as does the towing companies.
13 COUNCILMEMBER BATES: Now, that's going to
14 open up for question, Mr. Weed. We just passed -- you
15 know, this is still an ordinance that's in works, but
16 we just passed an amendment to it that says no booting
17 shall occur until after two hours.
18 Is there a time frame from which the boot is
19 placed before the car can be towed?
20 ATTORNEY WEED: I'm sorry. Do you mean to
21 say from the time the vehicle is parked on the
22 property, is there a grace period before the boot can
23 be applied?
24 COUNCILMEMBER BATES: That's two hours that
25 we just passed; correct?

Page 40

1 ATTORNEY WEED: Yes.
2 COUNCILMEMBER BATES: Once the boot is on,
3 is there a time period before the car can be towed?
4 So I park my big rig at Butler Tires. I go to Burger
5 King for a very long lunch, fall asleep. Two hours
6 and one minute go by and there's now a boot on my rig.
7 At what point can the boot company call a tow truck to
8 remove my rig?
9 ATTORNEY WEED: That's not set out in the
10 current ordinance. I believe in the towing section of
11 Title 44 -- I don't happen to have that with me. I'd
12 have to look it up.
13 COUNCILMEMBER BATES: So hypothetically, the
14 booting and the towing could occur simultaneously and
15 so there would be a boot fee and a tow fee.
16 ATTORNEY WEED: Hypothetically, I think
17 that's within the realm of possibility, yes, sir.
18 COUNCILMEMBER BATES: Okay. So under that
19 hypothetical, if it was a rig and our fees mirrored
20 the PSC, it would be $650 for a boot and $650 maximum
21 for towing for a total of $1,300.
22 ATTORNEY WEED: That is correct.
23 COUNCILMEMBER BATES: Thank you.
24 ATTORNEY WEED: Under that scenario.
25 COUNCILMEMBER PITTMAN: And can I clarify

Page 41

1 something real quick? I have the minutes here from
2 the last meeting, and it stated -- my statement was,
3 "I'm pretty sure the tank farms are very much aware,
4 because there was an e-mail sent out to all of them,
5 and they have been made aware of that." It did not
6 clarify who sent it, but it did come from the tank
7 farms.
8 And Pam, I did forward that to you.
9 ATTORNEY WEED: For what it's worth, my --
10 COUNCILMEMBER FLEMING: So noted.
11 ATTORNEY WEED: Yeah. My memory of that
12 whole interaction was I'm the one who brought up that
13 it might be a business-friendly thing to do for the
14 Council because the Council is regularly invited to
15 the petroleum co-op board meetings, that it might be a
16 business-friendly thing to do, and since you seem to
17 be inclined to do that generally, to notify them about
18 what was going on. So that's where -- I believe that
19 was my idea originally.
20 COUNCILMEMBER PITTMAN: Well, I was just
21 saying I made a statement they had sent one out, and
22 it didn't clarify who sent it.
23 COUNCILMEMBER BATES: So I will stand by
24 motion to raise the fee from $50.00 to $75.00.
25 MAYOR JENKINS: Second?

Page 42

1 COUNCILMEMBER FLEMING: Can we pause for one
2 moment, please?
3 COUNCILMEMBER FLEMING: The question was,
4 from Mr. Bates, the GPS --
5 COUNCILMEMBER BATES: If we're going to --
6 COUNCILMEMBER FLEMING: -- whether there is
7 a time for towing as far as whether there is a time
8 element.
9 COUNCILMEMBER BATES: If we're going to --
10 COUNCILMEMBER FLEMING: Correct?
11 COUNCILMEMBER BATES: -- need to do
12 research, then I move that we -- let's just table this
13 and let Mr. Weed research it and we'll address it at
14 the next meeting.
15 MAYOR JENKINS: That suit you, Pam?
16 COUNCILMEMBER BATES: I'll withdraw my
17 motion.
18 COUNCILMEMBER FLEMING: Thank you.
19 MAYOR JENKINS: Okay. Is that all on that
20 item?
21 We have Mr. Chad Oelstrom in the audience,
22 and I'd like the Council to move Item No. 13 up and
23 get this bids on the park to where we need them to be.
24 Would you come up, please?
25 MAYOR JENKINS: Do I have a motion?

Page 43

1 COUNCILMEMBER ROCHE: I'd like to make a
2 motion that we handle Item No. 13 on the agenda next.
3 MAYOR JENKINS: Okay.
4 COUNCILMEMBER BATES: Second.
5 COUNCILMEMBER PITTMAN: Second.
6 MAYOR JENKINS: Call the roll.
7 COUNCILMEMBER BATES: Yes.
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.

Page 44

1 MR. OELSTROM: Good evening. I'm Chad
2 Oelstrom with Precision Planning, Lawrenceville,
3 Georgia.
4 We were hired to do the design plans and
5 also bid management for the Autumn Park stream bank
6 stabilization, and we're now on construction for Phase
7 II and Phase III of the project.
8 We put the project out to bid. We received
9 six bids for the project. They were opened on
10 December 3rd, 2009, at a public opening. The bids
11 were Todd Smith Grading at $117,935.43; Georgia
12 Development Partners at $129,511.44; Site Engineering,
13 Incorporated, at $197,890; Civil Works, Incorporated,
14 $202,530; J.M. Wilkerson Construction at $224,060; and
15 Kline (phonetic) Service Corporation at $235,540. The
16 lowest bid was Todd Smith Grading.
17 In addition to that base bid amount, we put
18 some supplemental items in their bid, asked for
19 pricing on that, and with the supplemental bids, Todd
20 Smith's price came out to $133,290.93 which is still
21 the lowest bid when you added in those supplemental
22 items to the other bids.
23 Once we opened the bids, we tabulated the
24 bids, checked their numbers and everything. We also
25 contacted their banks for a reference, and that all

Page 45

1 passed with Todd Smith Grading. We also contacted two
2 of their references. One was Southern Branch Farm,
3 LLC, a Mr. Tom Wade. The work they did for him was
4 some stream bank stabilization work and some
5 mitigation work on some streams and some wetlands. He
6 was very pleased with their work and said they were
7 very good to work with. We also contacted Forsyth
8 County, Ms. Donna Kukarola out of their purchasing
9 department. They've done park work and some stream
10 bank work with Forsyth County, and they were also very
11 pleased with their work.
12 Based on that, we are making the recommenda-
13 tion that the Phase II and Phase III of the stream
14 bank stabilization project of Autumn Park be awarded
15 to Todd Smith Grading, Incorporated, for a fee of
16 $133,290.93.
17 MAYOR JENKINS: Thank you, Todd.
18 Carol --
19 MS. STEPHENS: Yes, sir.
20 MAYOR JENKINS: -- do you have any comment
21 on that? I mean --
22 MS. STEPHENS: No, sir.
23 MAYOR JENKINS: -- you've worked with those
24 people.
25 MS. STEPHENS: I agree with Chad

Page 46

1 completely.
2 MAYOR JENKINS: Do you agree with the Todd
3 Smith?
4 MS. STEPHENS: Yes, sir.
5 MAYOR JENKINS: Okay. Any questions?
6 Is Tom Hart in the audience?
7 Thank you.
8 Bring it up to the table. Any discussion?
9 Do I have a motion?
10 COUNCILMEMBER ALEXANDER: Mr. Weed, will
11 they have to enter into a contract with us as far as
12 like the surety bond just like we did on English Oak
13 Park --
14 ATTORNEY WEED: Yes.
15 COUNCILMEMBER ALEXANDER: -- as far as
16 payment to vendors and things like that?
17 ATTORNEY WEED: Yes.
18 COUNCILMEMBER BATES: And they're qualified
19 to do the stream bank stuff as far as from an EPD --
20 MR. OELSTROM: Yes, yes. All that was
21 approved when we got the plans approved.
22 COUNCILMEMBER BATES: I'll make a motion to
23 approve the resolution to award the stream bank
24 stabilization Phase II and III for Autumn Park in the
25 amount of $133,290.93. And just so it's clear, this

Page 47

1 is coming out of our storm water funds; it's not
2 coming out of our budget.
3 COUNCILMEMBER ROCHE: Second.
4 MAYOR JENKINS: Anymore discussion?
5 - - -
6 (No response)
7 - - -
8 MAYOR JENKINS: Call the roll, please.
9 ASSISTANT CLERK BRYANT: Councilmember
10 Alexander?
11 COUNCILMEMBER ALEXANDER: Yes.
12 ASSISTANT CLERK BRYANT: Councilmember
13 Bates?
14 COUNCILMEMBER BATES: Yes.
15 ASSISTANT CLERK BRYANT: Councilmember
16 Fleming?
17 COUNCILMEMBER FLEMING: Yes.
18 ASSISTANT CLERK BRYANT: Councilmember
19 Pachuta?
20 COUNCILMEMBER PACHUTA: Yes.
21 ASSISTANT CLERK BRYANT: Councilmember
22 Pittman?
23 COUNCILMEMBER PITTMAN: Yes.
24 ASSISTANT CLERK BRYANT: Councilmember
25 Roche?

Page 48

1 COUNCILMEMBER ROCHE: Yes.
2 COUNCILMEMBER BATES: Thank you, Chad.
3 MAYOR JENKINS: Thank you.
4 Thank you, Chad. Appreciate it.
5 Item No. 5?
6 COUNCILMEMBER FLEMING: Yes, sir. Item No.
7 5 is I wanted to comment about the 2008 moratorium
8 hearings which the City Council -- Mayor and City
9 Council participated in for a period of September
10 through the end of November. In the absence of having
11 an official building official on hand, it was indeed
12 up to the Mayor and City Council to make appropriate
13 decisions on uses and addresses. We were given at
14 that time at each hearing the addresses and uses that
15 were to be used -- I mean that would be utilized at
16 that particular address.
17 From 1985 when the ZPA, the Zoning
18 Procedures Act, went into effect and until September
19 of 2008, 23 years' worth of the city doing business,
20 we had in our zoning ordinances -- it stated, "other
21 retail and services uses as may be determined by the
22 City Council to be similar and compatible with the
23 above-listed permitted uses." That particular
24 statement is in C-1, it appears in C-2 and all other
25 codes where it states, "All other uses as may be

Page 49

1 determined by the City Council to be similar and
2 compatible with the above-listed permitted uses."
3 Based on the information that I have
4 acquired through our own zoning ordinances, I do feel
5 in fact that the 2008 moratorium hearings that the
6 majority of Council were present, whether they
7 approved or denied, are in fact legal based on our
8 zoning codes and what we have said here.
9 I do not feel that for 23 years, the City
10 has been doing everything wrong. I think the Mayor
11 and City Council, for 23 years, based on those codes,
12 had to have been doing something right, and I believe
13 that this present Council did as well. And so the
14 uses that were approved at that time should be
15 approved uses for the address that was listed.
16 What's happened is that we now have several
17 uses that, because we now have a zoning appropriate-
18 ness detailed report that must be filled out by every
19 business owner in the city, that has unfortunately
20 made an indicator that those -- some of those uses
21 that were approved are not in the proper zoning codes
22 based on the December 2008 zoning code of ordinances.
23 These approved in the moratorium hearings
24 were prior to our current zone. As far as I am
25 concerned, those are still approved. They should not

Page 50

1 be considered conditional uses. If anything, they
2 should be approved on the zoning appropriateness and
3 considered approved by non-conforming use, if anything
4 else.
5 But to make these people -- I'm not sure how
6 many are involved, but to make these people, business
7 owners, go through the process of having to apply for
8 conditional use permits for them to either open or
9 retain their business, I believe that the City is not
10 thinking about the total outcome of what may happen
11 with the business owners.
12 Also there was one other comment I wanted to
13 make regarding this. We also have one other thing in
14 our Doraville zoning code, Article V, in regards to
15 nonconforming uses, and it states again that, "The
16 City Council by general rule or by making findings in
17 the specific case shall find that the proposed use is
18 equally appropriate or more appropriate to the
19 district than the existing nonconforming use."
20 So I would like to make a motion or you can
21 call for discussion, but I will be planning on making
22 a motion.
23 MAYOR JENKINS: We have some sign-ups for
24 that. We're still at the table.
25 Any questions at the table?

Page 51

1 COUNCILMEMBER ROCHE: I think essentially
2 what's happened is that businesses came to us during
3 the moratorium. They came before the Council, they
4 said, "Can we open?" and the Council said yes.
5 So they've opened. They've been in business
6 for a while. They've invested their money. They've
7 invested their time, et cetera, et cetera. As far as
8 I know, they've been good business people, haven't
9 broken any laws or whatever. But then this year,
10 surprise, we get this little form that we all had to
11 fill out -- and I had to fill one out too because I
12 have a -- because I'm self employed here in Doraville.
13 And essentially what we're doing is saying
14 to all those people that maybe we'll just put you out
15 of business, but maybe if you come back and go through
16 the whole process, pay additional moneys, go through
17 whatever, then maybe we'll let you stay.
18 And to me, there's just a basic question of
19 fairness on this, you know, because a lot of these
20 things I voted for. I usually managed to show up in
21 most of those meetings, and, you know, we determined
22 that they were okay -- you know, the majority of the
23 Council, the quorum of Council. And to put them
24 through all of this all of a sudden again --
25 First of all, if I'm thinking about moving

Page 52

1 to Doraville and I hear this story, I'm going to think
2 twice about moving to Doraville and opening any kind
3 of business. I think it's a basic question of
4 fairness.
5 And you know, some of the things -- you
6 know, whether they're good uses or not, we did approve
7 them a year ago; we must have thought they were good
8 uses a year ago, so --
9 ATTORNEY WEED: Mr. Mayor --
10 COUNCILMEMBER ROCHE: -- I think --
11 ATTORNEY WEED: -- and members of the
12 Council -- and my professional opinion on this has
13 been duly recorded in an e-mail to all of you on
14 December the 18th and again today. That's my opinion,
15 and I haven't heard anything tonight that changes that
16 opinion.
17 COUNCILMEMBER FLEMING: I have one other
18 comment, then.
19 The number of times, ladies and gentlemen,
20 that we have gone into executive session to discuss
21 pending and future litigation, there have been some
22 issues of zoning that have been discussed in there
23 regarding pending and future litigation, and many
24 times we came out of that executive session and said,
25 "No action taken." I'm not sure whether any of you

Page 53

1 were here during those periods of time. No action was
2 taken because we were negotiating. Instead of moving
3 forward with a lawsuit, we decided on terms or we
4 decided to give instead of going to court.
5 Now, if we are going to stand on principle,
6 those too were zoning issues and should have been
7 advertised and the sign posted.
8 ATTORNEY WEED: I can't agree with that,
9 either, Council, and I would like to address that in
10 executive session or at a more appropriate time.
11 COUNCILMEMBER ROCHE: Well, recently we
12 passed an ordinance -- or apparently it turned out
13 that I guess it was the building permits that had
14 problems because they were signed and stamped by a
15 building official that had not worked for the City for
16 quite some time, and we sat up here and we voted to
17 retroactively make all of them okay or make them all
18 legal retroactively, you know. And if we can get away
19 with that, you would think that we could retro-
20 actively, you know, straighten this out too.
21 I don't know. I've gotten to where half the
22 time I don't know who to believe sitting up here
23 anymore. I've gotten to where I don't -- you know.
24 It's just every time we try to do something or do
25 something the right way, it just seems to go

Page 54

1 completely wrong, and then the more we try to fix it,
2 it seems like the worse it gets. So I don't know
3 anymore, you know? I don't know.
4 ATTORNEY WEED: With resolving the
5 situations that are present before you, there is a way
6 to do it: you'd follow the Zoning Procedures Act and
7 follow the procedures that are guided by the State.
8 None of the situations that have been
9 described to you are impossible to resolve. My advice
10 to you has been, is now and shall be that we follow
11 the appropriate state law to accomplish those goals.
12 COUNCILMEMBER ROCHE: And so all these
13 people have to pay for --
14 COUNCILMEMBER FLEMING: No, no.
15 COUNCILMEMBER ROCHE: -- late fees?
16 COUNCILMEMBER FLEMING: That was waived.
17 That was one of --
18 ATTORNEY WEED: I've never suggested that --
19 COUNCILMEMBER FLEMING: -- those things --
20 ATTORNEY WEED: -- be the case, Councilman.
21 COUNCILMEMBER FLEMING: -- where you waived
22 the fees.
23 However, if you want to go into executive
24 session to discuss this, that's fine, or I can start
25 reading the e-mails; either one.

Page 55

1 ATTORNEY WEED: Frankly, Councilman, I would
2 advise you that if you read attorney-client privileged
3 e-mails, you might be sanctioned by the remainder of
4 the Council. You act upon your own accord if you do
5 so.
6 COUNCILMEMBER FLEMING: I would imagine by
7 now since it's over and done with and we're moving
8 forward with forcing these people to do conditional-
9 use permits or reapply or whatever, that these should
10 be subject to Open Records.
11 ATTORNEY WEED: Councilman, that's your
12 position. I don't know if it would be legal.
13 MAYOR JENKINS: Pam?
14 COUNCILMEMBER FLEMING: Yes, sir?
15 ATTORNEY WEED: With regard to getting the
16 rest of the Council to waive the attorney-client
17 privilege, I certainly stand by any e-mail that I
18 wrote. Glad to do that.
19 MAYOR JENKINS: I want to hear from the rest
20 of the table. Comments?
21 COUNCILMEMBER PITTMAN: Sign-ups.
22 MAYOR JENKINS: Oh, you want to do that
23 before we --
24 COUNCILMEMBER PITTMAN: Uh-huh.
25 MAYOR JENKINS: Okay. That's good.

Page 56

1 Susan Crawford?
2 MS. CRAWFORD: Has anybody else signed up
3 for this?
4 MAYOR JENKINS: Yes. Ben Crawford and
5 Stuart Anderson.
6 MS. CRAWFORD: I'm going to let them go
7 first.
8 MR. CRAWFORD: I'll be kind and let Stuart
9 go first. Let Stuart go first, I'll go second.
10 MAYOR JENKINS: Come on up, Stuart.
11 MR. ANDERSON: As a zoning person, I'm very
12 aware of the problems that this conditional use permit
13 situation put upon us by our city planner has created
14 amongst the businesses. I'm very aware of --
15 MAYOR JENKINS: Stuart?
16 MR. ANDERSON: Yes.
17 MAYOR JENKINS: Keep names and people out of
18 this.
19 COUNCILMEMBER ROCHE: Why, Mayor?
20 MAYOR JENKINS: You said the city planner.
21 Go ahead and address this.
22 MR. ANDERSON: The city planner put forth by
23 the ability of the City Council.
24 At any rate, I'm very aware of what
25 Ms. Fleming has said about the ability for the City

Page 57

1 Council to find in these matters as well as the City
2 Council's ability to find in these matters,
3 nonconforming use.
4 If you find that this is an appropriate
5 business, if it's not a steel mill next to an R-1
6 house, it's basically compatible, and you guys in your
7 wisdom approve of it, then it's a done deal. We
8 shouldn't be coming back for conditional use permits
9 and variances and hoops to jump through. That's bad
10 for business. It's inappropriate conduct for good
11 governments, as it were.
12 Nonetheless, the point is you people are
13 entitled and given the ability to make these decisions
14 legally in our zoning ordinances, and you've made
15 these decisions, and now we're going back and we're --
16 once again, we're doing M-1/M-2 again, we're doing C-
17 1/C-2, we're going to do O-I/O-W again. This is not
18 appropriate and it's not good government.
19 Thank you.
20 MAYOR JENKINS: Ben?
21 MR. CRAWFORD: Ben Crawford, Oakcliff
22 Estates.
23 Mayor and City Council, I'm kind of confused
24 a little bit by Pam -- I don't want to get into that
25 right now -- seeing that she was in part of the

Page 58

1 driver's seat the whole time. So was Bob Roche and
2 the rest of the people on City Council.
3 The zoning changes that were made I think
4 were appropriate. I think we need to move further in
5 the future with it.
6 Now is not the time, Pam, to roll back to
7 1983 or 1986. Now is the time for the future.
8 MR. ANDERSON: Who's calling names?
9 MR. CRAWFORD: The citizens --
10 MR. ANDERSON: Who's calling names?
11 MAYOR JENKINS: (Banging gavel)
12 MR. CRAWFORD: I'm just making a statement.
13 MR. ANDERSON: Who's calling names?
14 MR. CRAWFORD: Stuart, you're out of order.
15 MR. ANDERSON: No. You're out of order.
16 I didn't say Mr. Haeberlin. I did not say
17 Mr. Haeberlin. He's calling --
18 MAYOR JENKINS: Shut up or get out.
19 MR. CRAWFORD: I'm not calling anybody
20 names. I'm being very respectful.
21 MR. ANDERSON: Right.
22 MR. CRAWFORD: I was just mentioning
23 something that Ms. Fleming brought up, in my opinion,
24 of rolling back the zoning. It's not the time or the
25 place to roll back.

Page 59

1 We as citizens of this city who have lived
2 and worked and contributed a lot of our free time and
3 everything else to the city deserve a better future.
4 You know, I don't have any special interests
5 like some other people do around here. And the way I
6 equate some of these things, there are certain people
7 out here who would like to see the bicycle move and
8 stick a stick in the spokes, and that's sometimes what
9 happens around here. We made a lot of progress, we
10 hired a city planner and we need to move to the
11 future.
12 You know, I applaud having a forum with the
13 business community but I also -- you know, I feel that
14 the city planner has been with us a short period of
15 time and I feel -- I give him my support. I feel like
16 he's doing a good job.
17 Thank you.
18 - - -
19 (Applause)
20 - - -
21 MAYOR JENKINS: Thank you.
22 Susan, do you want to speak?
23 MS. CRAWFORD: Susan Crawford.
24 I am not a city planner. Far from it. I'm
25 an English teacher. And maybe I'm just missing

Page 60

1 something here, but are you saying that the ordinances
2 that you people voted on are now to be re- -- you feel
3 that they were --
4 COUNCILMEMBER FLEMING: No, ma'am. That is
5 not what I -- No, that is not what I said.
6 I'm talking about the moratorium hearings.
7 The businesses that were approved or denied in that
8 three-month period are now being challenged based on
9 today's ordinances, not when they were approved.
10 COUNCILMEMBER ROCHE: This is not about --
11 COUNCILMEMBER FLEMING: Okay?
12 COUNCILMEMBER ROCHE: -- the new ordinance.
13 COUNCILMEMBER FLEMING: It's not about the
14 ordinances. I'm not trying to set back time.
15 I'm trying to right the wrong that's
16 happening. I'm very passionate about righting the
17 wrong that's happening. Okay?
18 MS. CRAWFORD: All right.
19 COUNCILMEMBER FLEMING: Thank you.
20 MS. CRAWFORD: Yes. Now I'm even more
21 confused. I --
22 MAYOR JENKINS: Did you have a comment,
23 please, ma'am?
24 MS. CRAWFORD: My comment is simply that I
25 think that most of the businesses in this area want to

Page 61

1 see progress as do the residents, and I think that
2 they're going to -- I think the forum was a good first
3 step and I think we need to all move forward. But I
4 do think that we do need to move forward and not go
5 backwards on the zoning or anything else.
6 MAYOR JENKINS: Thank you, Susan.
7 I want to make a comment to Mr. Stuart.
8 Now, you will not do anything like you just
9 finished doing, again, or you will be out the door.
10 Do you understand that?
11 MR. ANDERSON: Yes, sir.
12 MAYOR JENKINS: Thank you.
13 We're back up to the table.
14 COUNCILMEMBER ROCHE: I guess maybe I'll try
15 to take a crack at trying to clarify this.
16 Back in 2008, we had issues where people
17 were moving into the M-1. Remember we had -- was it
18 recycling? The people that went and cleaned out the
19 grease traps or whatever. And we were concerned about
20 the types of businesses that might show up there, so
21 we decided to put a moratorium on anything and
22 everything basically until we had a chance to rewrite
23 the new zoning ordinance.
24 COUNCILMEMBER FLEMING: And hire a city
25 inspector and hire a city planner.

Page 62

1 COUNCILMEMBER ROCHE: And do all those
2 things.
3 So what we did is we had that moratorium,
4 which I think lasted I think initially three months,
5 and we may or may not have extended it for a month.
6 During that moratorium, anybody that wanted to do
7 anything had to come before the Council. There was no
8 new zoning ordinance at that time.
9 And they came before us, and every Friday or
10 so, we would have -- you know, usually we'd have
11 enough to get a quorum. And they would come before us
12 and they would say, "We want to open this business.
13 Can we? Yes or no," because they had to come to the
14 Council for approval. And most of them we approved;
15 some, we didn't. We didn't approve all of them.
16 Once that moratorium was over, that's when
17 we passed the new ordinance.
18 Now what's happening is they're saying,
19 "Okay, fine. We approved you during the moratorium,
20 but now this year everybody's got to get" -- basically
21 has to get reapproved, and that's, I think, what the
22 concern is.
23 I understand what you're talking about with
24 the ordinances and all that, and that's a different
25 issue here.

Page 63

1 What I'm talking about, if someone that
2 comes here, they say, "I'm thinking about moving to
3 Doraville," they come to the Council, and the Council
4 says, "Yes, by all means. Thank you. Welcome to
5 Doraville." That's what we kept saying: Welcome to
6 Doraville.
7 And a year later: surprise. You got to go
8 through the process all over again.
9 You know, I mean I have a business here too.
10 Does this mean next year I've got to wonder if next
11 year you're going to say, "We can't have IT consulting
12 services in Doraville," and maybe I get zoned out?
13 Who knows? You see what I'm saying?
14 So this is what we're talking about here.
15 We're not really talking about the new ordinances or
16 anything else --
17 MS. CRAWFORD: So there are --
18 COUNCILMEMBER ROCHE: -- at this point.
19 MS. CRAWFORD: -- businesses that are
20 already --
21 COUNCILMEMBER ROCHE: These are already
22 businesses in --
23 MS. CRAWFORD: -- operating.
24 COUNCILMEMBER ROCHE: I don't know how to
25 make it happen. If it was me, I would say we would

Page 64

1 pick a date and say, "If you were here before this
2 date, you're grandfathered, you're fine," and move
3 forward.
4 You know, to go back and try to
5 retroactively put people out of -- People are being
6 put out of business in Doraville. They're having to
7 move out of Doraville and go someplace else. And they
8 go someplace else and they say, "I want to open a"
9 whatever, and, you know, they get their business
10 license the same day; no big deal. Not in Doraville.
11 MAYOR JENKINS: Anybody else at the table?
12 - - -
13 (No response)
14 - - -
15 MAYOR JENKINS: What else you got, Pam?
16 COUNCILMEMBER FLEMING: I'd like to make a
17 motion, sir.
18 I'd like to make a motion to confirm the
19 legality of the moratorium hearings, and those that
20 were approved are approved indeed and should not be
21 held up by any type of additional conditional use
22 hearings or any additional paperwork that may be
23 involved.
24 MAYOR JENKINS: Do I get a second?
25 COUNCILMEMBER ROCHE: I'm going to second

Page 65

that. I think that we may have to do it a little different way, but I'm going to second that.
My heart says I second that.
MAYOR JENKINS: Anymore discussion?
COUNCILMEMBER ALEXANDER: I have concerns specifically with a business that came before us previously, that they were given, in my opinion, specific instructions as to what they could and could not do, and they went out of that realm and continued to do more than they were given permission to for over a year. So I am concerned with giving a blanket okay to all those businesses.
And furthermore, I think we have a -- did we not initiate an ordinance that all conditional uses have to come up for review in a year anyway?
ATTORNEY WEED: That ordinance does exist and was passed by this Council.
COUNCILMEMBER FLEMING: But these wouldn't be considered conditional use. These are approved uses based on the moratorium hearing.
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER ALEXANDER: Now they're conditional uses.
COUNCILMEMBER ROCHE: But they weren't --
COUNCILMEMBER FLEMING: No, no, no. But

Page 66

based on the new zoning code.
COUNCILMEMBER ALEXANDER: I understand what you're saying, Ms. Fleming.
COUNCILMEMBER FLEMING: Okay.
COUNCILMEMBER ROCHE: And I guess if these people had been granted a business license to operate two years ago and today they were, you know, acting without -- you know, outside the realm of what their business license allowed them, what about them?
COUNCILMEMBER ALEXANDER: I am not going to speak disparagingly of the forefathers of this government, but having worked on the annexation and finding out that we violated the Federal Voting Rights Act of 1965 when we performed annexations that was basically illegal under federal law, I have great concerns with actions that were taken by previous leaders of this city.
COUNCILMEMBER ROCHE: So does that mean that Doraville's city limits are not what we think they are today?
ATTORNEY WEED: No, sir. I fixed that.
COUNCILMEMBER ALEXANDER: We fixed that, thank you very much. I took off time from work to go down to the state archives and get the documents and submit them to the federal government.

Page 67

COUNCILMEMBER FLEMING: So are we going to go back to 1985? We've already done 2006 and '07 and said everything that was done in '06 and '07 were illegal if it were based on zoning. Are we going to take it all the way back to 1985?
COUNCILMEMBER ALEXANDER: We are trying to move forward.
COUNCILMEMBER FLEMING: Well, then why are we stepping back into 2008, saying that the moratorium hearings were illegal?
COUNCILMEMBER ALEXANDER: I never said that.
ATTORNEY WEED: If someone would like to ask me a question, I'm happy to answer it.
COUNCILMEMBER FLEMING: Oh.
MAYOR JENKINS: We got a motion and a second. Have we finished discussion?
Call the roll, please.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: No.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: No.
ASSISTANT CLERK BRYANT: Councilmember Fleming?

Page 68

COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: No.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: No.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Motion denied.
COUNCILMEMBER ROCHE: I'd like to make another motion or at least leave this open for discussion.
COUNCILMEMBER FLEMING: Revisit it, then.
COUNCILMEMBER ROCHE: I'd like to make a motion to revisit this topic.
COUNCILMEMBER FLEMING: Second.
MAYOR JENKINS: What was that motion?
COUNCILMEMBER ROCHE: To revisit this topic or to continue discussing this topic.
MAYOR JENKINS: To revisit it?
COUNCILMEMBER ROCHE: Not the motion but the topic.
COUNCILMEMBER BATES: I don't think we need

Page 69

to, sir.
COUNCILMEMBER ROCHE: That's fine, then.
I'm looking for a way to solve this with the -- You know, right now we have businesses -- I think some businesses in particular have state licensing requirements, and part of their annual inspection is that they have to be able to show a business license to operate, which we were holding up because they were tied up in this also.
I'm just trying to find the most expeditious way to get these things resolved and get these people back in business. If there's problems with --
MAYOR JENKINS: This motion was denied. We need to move on, Bob.
COUNCILMEMBER FLEMING: He has a motion on the floor, Mayor.
MAYOR JENKINS: On the same item. We denied the motion.
COUNCILMEMBER FLEMING: I seconded his motion --
MAYOR JENKINS: Murray?
COUNCILMEMBER FLEMING: -- to revisit.
COUNCILMEMBER ROCHE: And to continue discussing it.
ATTORNEY WEED: I thought I heard the

Page 70

Councilman withdraw the motion, but perhaps you didn't, Councilman Roche. And if you didn't --
COUNCILMEMBER ROCHE: No. Someone said we didn't need a motion to continue discussing this.
ATTORNEY WEED: And I got the impression you agreed, but if that didn't --
COUNCILMEMBER ROCHE: Well, as long as we're continuing to try to solve this problem, fine.
ATTORNEY WEED: And I think I can offer a solution in just a moment.
But dealing with the procedural issue, you haven't withdrawn your motion. There's a motion and a second on the table, and you can proceed on with a vote, further discussion and a vote.
And the motion as I understood it was to continue -- you made a motion to continue, I assume at a --
COUNCILMEMBER ROCHE: Discussion.
ATTORNEY WEED: -- future date, further discussion of the item, and there was --
COUNCILMEMBER ROCHE: Well, I'd prefer --
ATTORNEY WEED: -- a second to that motion.
COUNCILMEMBER ROCHE: -- to deal with it now if it's possible.
ATTORNEY WEED: Then, apparently the motion

Page 71

before you is to continue to discuss this item now.
COUNCILMEMBER ROCHE: Yes.
ATTORNEY WEED: I assume the motion has been seconded --
COUNCILMEMBER FLEMING: Yes, it was.
ATTORNEY WEED: -- by Councilman Fleming. It's up for discussion and/or a vote by members of Council.
COUNCILMEMBER BATES: I will apologize. I either missed the e-mail, missed the conversation. How many businesses are we talking about?
COUNCILMEMBER FLEMING: That you approved and denied? because it affects the denials also.
COUNCILMEMBER BATES: How many of them are facing this reapplication?
COUNCILMEMBER FLEMING: Mr. Bates, I wouldn't have any idea. We never get to see the denials or the --
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER FLEMING: -- approvals or --
COUNCILMEMBER BATES: So there could be --
COUNCILMEMBER FLEMING: -- pendings.
COUNCILMEMBER BATES: There could be two.
COUNCILMEMBER FLEMING: We have no clue.
COUNCILMEMBER BATES: There could be twenty.

Page 72

COUNCILMEMBER FLEMING: Exactly.
COUNCILMEMBER ROCHE: And there are some businesses that have already packed up and left Doraville.
ATTORNEY WEED: My understanding from the planner, Mr. Bates, is that there are approximately twelve. There may be more. I haven't been able to get a definitive answer from the planner at this point.
COUNCILMEMBER ROCHE: Where is the planner, Mayor?
COUNCILMEMBER FLEMING: He's not authorized. He's not -- doesn't have to be here.
ATTORNEY WEED: There may be more; there may be less. That's the information I have tonight.
COUNCILMEMBER BATES: Thank you.
COUNCILMEMBER FLEMING: Did you want to try to re-make the motion?
COUNCILMEMBER ROCHE: Well, I think the motion now is to continue discussing this now.
COUNCILMEMBER FLEMING: All right.
MAYOR JENKINS: Okay. Anymore discussion?
- - -
(No response)
- - -

Page 73

MAYOR JENKINS: Call the roll.
ASSISTANT CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Abstain.
ASSISTANT CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
ASSISTANT CLERK BRYANT: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
ASSISTANT CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: No.
ASSISTANT CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: No.
ASSISTANT CLERK BRYANT: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
ATTORNEY WEED: It's tied 2-2, Mr. Mayor.
COUNCILMEMBER BATES: It's actually 3-2.
ATTORNEY WEED: Oh, I'm sorry. You're correct. Thank you. Motion passes.
COUNCILMEMBER ROCHE: So what's the --
MAYOR JENKINS: For further discussion; is

Page 74

that correct?
ATTORNEY WEED: Yes, sir.
MAYOR JENKINS: I think we need to take a 10-minute break before we get into it.
COUNCILMEMBER ROCHE: Okay.
- - -
(Recess)
- - -
MAYOR JENKINS: Meeting come to order.
All right. Whoever made that motion, if you want to continue it. What are you going to do?
COUNCILMEMBER ROCHE: We discussed it briefly over the --
Let me ask a question. Well, the city planner -- we dare not speak his name -- is not here. Do we know if he's scheduled the hearings for all these twelve or so conditional uses?
MAYOR JENKINS: As far as I know, he's scheduled all of them, yes.
ATTORNEY WEED: Councilman, I think I can answer that. I don't know. I don't know what goes on in his office ordinarily during the day.
Based upon my general conversations with him, there has not been a determination yet of the exact number that might be involved. The best count

Page 75

right now is approximately twelve. There may be more, there may be less.
Therefore, because he doesn't know the exact number, there's been no advertised hearings on the vast majority of them. There has been an advertised hearing on at least one of them, and that is upcoming.
COUNCILMEMBER ROCHE: So we're talking these people are going to wait for at least another six weeks to two months minimum.
MAYOR JENKINS: We have a meeting the 23rd and the 25th, I believe, on those. I may be wrong.
COUNCILMEMBER ROCHE: On all of them or just the one that you know about?
ATTORNEY WEED: There's --
COUNCILMEMBER ROCHE: I don't know where our city planner is to answer these questions.
ATTORNEY WEED: There's one that will be done within the month of January unless the Council puts the matter off.
With regard to the remainder, to my knowledge, I don't know if any of them have been, you know, dealt with or ferreted out or advertised for purposes of future hearing compliant with the Zoning Procedures Act.
COUNCILMEMBER ROCHE: Thank you.

Page 76

ATTORNEY WEED: I think that's the first thing that we need to find out is the exact number, and I've been recommending that for quite some time.
COUNCILMEMBER ROCHE: Well, it's going to be difficult to move forward on this until we get this information, and, unfortunately, the person that could give us the information is not in attendance tonight even though we knew it was going to be on the agenda.
COUNCILMEMBER FLEMING: I'll make the motion.
COUNCILMEMBER ROCHE: Yeah. You said you had another possible way.
COUNCILMEMBER FLEMING: Another possible motion, please, sir?
MAYOR JENKINS: Yes.
COUNCILMEMBER FLEMING: Thank you.
I'd like to make a motion that those uses to the addresses that were so noted in the moratorium hearings of 2008, the approved uses be considered legal nonconforming uses if they do not -- if their zoning presently conflicts with our now-new zoning codes.
MAYOR JENKINS: Second?
COUNCILMEMBER ROCHE: I'll second that just to see where it goes.

Page 77

ATTORNEY WEED: And for legal advice, I think that may be a perfectly appropriate motion for after a Zoning Procedures Act advertisement's run. If the motion's purpose is to have that as an item of conversation after the ZPA ad's been run, after following our internal process, I think that motion's fine.

And my advice to the Council is we don't have a choice. We've got to follow the state law in 36-66-4. We have to do that. Therefore, because that motion would in effect constitute what is called a zoning decision under 36-66-3, we are required by state law, before you make a final decision on it, to run the ads.

COUNCILMEMBER FLEMING: Mr. Weed, our city planner is making zoning decisions every single day without consideration to Council and Mayor, and though he is a professional, I do believe that the authority of this Mayor and Council can indeed invoke legal nonconforming of the already approved uses to the addresses that were listed in the Moratorium hearings of 2008.

ATTORNEY WEED: And Councilman, I realize that I cannot convince you otherwise. However, it remains my opinion that what you are proposing is a

Page 78

zoning decision, and a zoning decision is defined by 36-66-3 as legislative action by a local government that results in: a., the adoption of a zoning ordinance; b., the adoption of an amendment to a zoning ordinance by changes to the text; c., the adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another; d., the adoption of an amendment to a zoning ordinance by a local government that zones property to be annexed; and e., the grant of a permit relating to a special use of property.

COUNCILMEMBER ROCHE: So if we pass this motion tonight as it's stated, then it would be duly advertised in the back pages of whatever, and at the next zoning public hearing, that would be the question and that would be the only question. Everyone would not necessarily have to have -- every single individual business wouldn't have to come and make their case all over again for a conditional use, and then because they don't have a conditional use, they wouldn't have to come back year after year after year to get reapproved.

ATTORNEY WEED: The answer to your question is yes, I believe we can make it happen.

COUNCILMEMBER ROCHE: That's --

Page 79

ATTORNEY WEED: Based purely upon the motion that's been made, I would like some time to think about all the technicalities of it to make -- to find a legal way to make the goal happen.

If the goal is that every business that was approved during the moratorium, that you want to make sure that that business complies with zoning, can you accomplish that goal by a legislative amendment that would require them to pay fees, yes, my opinion is you can. There is a mechanism that you could do that. You would do it by a text amendment. We could simply write a piece of legislation that says, "This laundry list of businesses that appeared before us on this date, we deem that their uses are", you know, "legal nonconforming or we deem that their uses are allowed by this ordinance." That's fine. You can do that.

My only caveat is if you're going to do that, it's got to be done pursuant -- underneath the Zoning Procedures Act.

COUNCILMEMBER ROCHE: I understand that, and so we would -- I would ask for a friendly amendment to the motion to say "Begin the process through the Zoning Procedures Act to," and then the rest of the motion.

In other words, we can't do it tonight. We

Page 80

don't have a magic want tonight. But we can begin the process and advertise for that instead of having everyone advertised individually and the whole nine yards.

ATTORNEY WEED: My opinion would be that would be perfectly legal, and if that's the goal, you know, we can get you there.

COUNCILMEMBER ROCHE: Do you understand?

COUNCILMEMBER FLEMING: Uh-huh. So noted.

COUNCILMEMBER ROCHE: So that's a friendly amendment to your motion if you accept that.

COUNCILMEMBER FLEMING: I do indeed.

COUNCILMEMBER ROCHE: And I'll still second it.

COUNCILMEMBER BATES: And this is to advertise for a zoning hearing to review the 2008 Moratoriums to either make them legal nonconforming or an approved use within their zoning classification.

COUNCILMEMBER ROCHE: Right. And that way, they won't have to individually come in, will they?

ATTORNEY WEED: Yes. And I think the mechanism you would do that probably would be by text amendment.

COUNCILMEMBER ROCHE: Seems like the cleanest way to straighten this out. Still, it's

Page 81

1 going to take the length of time it's going to take no
2 matter what we do.
3 MAYOR JENKINS: Anymore discussion?
4 - - -
5 (No response)
6 - - -
7 MAYOR JENKINS: Call the roll.
8 COUNCILMEMBER ALEXANDER: I think I --
9 Wait a minute. Excuse me.
10 COUNCILMEMBER ALEXANDER: -- have additional
11 questions.
12 It's been brought to our attention that
13 previous government, governing bodies, had allowed
14 uses to be in areas that did not have zoning that
15 allowed those uses to be. Is that a correct
16 statement?
17 ATTORNEY WEED: That's what I have been
18 told.
19 COUNCILMEMBER ALEXANDER: So we have two of
20 the same type of businesses in that same zone. We
21 would give permission to one to continue to exist,
22 because they came before us during the moratorium.
23 ATTORNEY WEED: Yes.
24 COUNCILMEMBER ALEXANDER: How would you
25 address the other one?

Page 82

1 ATTORNEY WEED: My suggestion would be that,
2 you know, when the use comes up and it's found out
3 that that use, you know, is problematic and existed
4 without, you know, being a complying use under the
5 code, that you act in the same manner: that anything
6 prior to a certain date, that you essentially are
7 going to allow in, and you have a Zoning Procedures
8 Act hearing. We'd write another text amendment to
9 allow it.
10 I think it would be -- Do I think you could
11 differentiate between uses, you know, that may not be
12 legal now? Arguably, you can. And what you would do
13 is you of course would apply the standards that you've
14 approved to each individual use and make that
15 decision.
16 Now, metaphysically speaking, it would
17 probably be hard for you to differentiate from one
18 now-illegal use compared to another illegal use.
19 They're both illegal. However, one might be less
20 pleasant than the other, and you'd make that
21 determination, and how you try to make that
22 determination legally would be based upon the
23 standards in the code.
24 If you got sued over it, what the zoning
25 lawyer is going to argue is that there was no reason

Page 83

1 to differentiate one from the other. And unless you
2 had clearly articulable reasons that were based upon
3 your standards, you know, that would be a decent
4 argument to make. But all of you are clever enough
5 and you've engaged the ordinance enough where you
6 could probably articulate reasons to differentiate
7 between the two items.
8 COUNCILMEMBER FLEMING: So that I understand
9 your question, Ms. Alexander, are you referring to a
10 business that's prior to 2008, that has been in
11 existence in the city, that there was no use for that
12 particular item or declared use for the zoning codes
13 up through 2008; is that correct?
14 COUNCILMEMBER ALEXANDER: Yes.
15 COUNCILMEMBER FLEMING: However, they are
16 here?
17 COUNCILMEMBER ALEXANDER: Yes.
18 COUNCILMEMBER FLEMING: Would that not be
19 covered under the grandfather law?
20 ATTORNEY WEED: Not if they were -- if the
21 use was always illegal, if some previous official -- a
22 prior mayor, a prior building inspector, whomever --
23 even if the government wrote a piece of paper that
24 said you are allowed to be in this zone, unless the
25 Zoning Procedures Act was followed and unless the

Page 84

1 ordinance itself allowed them to be in that zone, then
2 the case law is very clear: an illegally issued permit
3 or a permit issued by the government that's mistaken
4 never vests any individual rights in anybody. And the
5 case is Corey Outdoor Advertising, Inc., v. City of
6 Atlanta which I cited to the Council previously. You
7 simply can't vest in something if it wasn't legal at
8 the outset.
9 COUNCILMEMBER FLEMING: Even if they've been
10 here for five or six or ten years.
11 ATTORNEY WEED: It doesn't matter. The
12 philosophy is that the government is forever, and
13 therefore the same rule applies, for example, with
14 adverse possession.
15 Adverse possession applies against your
16 neighbor. If Councilman Alexander tries to use
17 adverse possession against Councilman Bates for
18 private property that they own, she holds it openly
19 and adversely for seven years, pays the taxes on it
20 and tells everybody that it's hers, he doesn't do
21 anything about it, then she could make claim to that
22 property.
23 If Mr. Bates is the government, doesn't
24 matter. You know, you can hold it, you can pay taxes
25 on it, you can jump up and down on it, but you're the

Page 85

government and you'll always be the government and, therefore, those claims don't work against the government.

It's contemplated, frankly, that the government will make errors, that the errors may not be discovered for 10/20/50 years. There's no rule of equity that says that suddenly those errors get to be ignored. Those type of rules do apply against private parties but they don't apply against the government. I'm not saying it's right. I'm just saying it is.

MAYOR JENKINS: More discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.

ASSISTANT CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: No.

ASSISTANT CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: Pass.

ASSISTANT CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

ASSISTANT CLERK BRYANT: Councilmember

Page 86

Pachuta?

COUNCILMEMBER PACHUTA: No.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: No.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER FLEMING: I believe that the Council --

COUNCILMEMBER BATES: Hold on. Hold on.

MAYOR JENKINS: Wait just a minute.

COUNCILMEMBER PACHUTA: He passed.

MAYOR JENKINS: Wait a minute.

COUNCILMEMBER FLEMING: Oh, I'm very sorry.

MAYOR JENKINS: Sandra?

COUNCILMEMBER BATES: Mayor?

MAYOR JENKINS: Yes?

COUNCILMEMBER BATES: Hang on.

ATTORNEY WEED: Motion passed.

COUNCILMEMBER BATES: No. I --

COUNCILMEMBER ALEXANDER: No. He passed.

COUNCILMEMBER BATES: I passed. I didn't abstain.

ATTORNEY WEED: You passed. I'm sorry.

Page 87

You're going to vote now.

COUNCILMEMBER BATES: Yes.

ATTORNEY WEED: Okay.

ASSISTANT CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: No.

COUNCILMEMBER FLEMING: Now I will make my statement.

MAYOR JENKINS: Sandra, how did the --

ASSISTANT CLERK BRYANT: It failed.

MAYOR JENKINS: Tell me about the vote. I'm a little confused. Go ahead. Who voted how?

ASSISTANT CLERK BRYANT: Four no, two yes.

MAYOR JENKINS: Four no and --

ASSISTANT CLERK BRYANT: Two yes.

MAYOR JENKINS: Thank you.

Pam?

COUNCILMEMBER FLEMING: Just a statement.

I want to thank all the business owners for being here. I'm thanking the Council and Mayor for having a business forum. I believe that the vote this evening indicated that we are not going to try to help them.

MAYOR JENKINS: Next item on the agenda.

COUNCILMEMBER ALEXANDER: I wholeheartedly

Page 88

disagree with that.

MAYOR JENKINS: Bob Roche?

COUNCILMEMBER ROCHE: City Council Resolution on Civil Discourse. This was put on the last agenda.

I'm not sure how many people are aware of this, but we had a blog that was actually shut down over what's considered hate speech -- hate speech is when you say things that are against people's race, creed, gender preference, gender orientation, gender whatever -- and one of our citizens was viciously attacked, and while most people were celebrating Christmas Eve and Christmas Day, this person had to contend with all kinds of attacks, particularly attacks based on the fact that she's a transgender person.

Doraville recently passed an ordinance -- well, actually, the first year I was in office -- for employment nondiscrimination, that Doraville does not discriminate against people based on these issues.

Hate speech is a little different than just simply, you know, political attacks, calling names or whatever. You know, hate speech frankly doesn't even talk about lies. You know, we get a lot of people, they get out there on the blogs and they -- I don't

Page 89

1 know -- they have -- some people are really good at
2 telling the opposite of the truth. Anyway -- but I'm
3 trying to keep this focused just on the hate speech
4 issue.
5 I did a little bit of research.
6 San Francisco, Kansas City, Missouri, some other
7 cities have actually passed resolutions. A resolution
8 does not have the force of law and it certainly
9 doesn't -- you know, you can't go out and arrest
10 somebody or do anything based on a resolution. But I
11 would like to see this Council make some sort of --
12 you know, this new Council make some sort of gesture
13 or statement or whatever condemning this sort of
14 thing.
15 In my mind, this is one of the worst
16 problems that Doraville has, because what happens in
17 Doraville is instead of trying to discuss or work out
18 problems or situations or solutions or figure out
19 what's the best thing to do based on facts, we attack
20 people. And if we can't attack people based on what
21 they're saying or whatever, we attack them because
22 they happen to be, you know, a different gender or a
23 different race or different whatever. And there's
24 been very little of that, but I just -- like I say, it
25 just -- I just try to think about that person and what

Page 90

1 kind of Christmas they had.
2 So I, for one -- I don't see why we should
3 tolerate it. I don't think that this Council should
4 condone this with our silence.
5 I took a resolution that was originally part
6 of a similar resolution written in Kansas City,
7 Missouri, that basically says:
8 "Whereas, the City of Doraville prides
9 itself on its ability to welcome and accommodate a
10 growing diverse population.
11 "Whereas, the City Council passed ordinance
12 2008-24 which protects City employees from discrimi-
13 nation based on gender identity and gender preference.
14 "Whereas, hate speech is speech perceived to
15 disparage a person or a group of people based on their
16 social or ethic group such as race, gender, age,
17 ethnicity, nationality, religion, sexual orientation,
18 gender identity, disability, language ability,
19 ideology, social class, appearance, mental capacity or
20 any other distinction that might be considered by some
21 as a liability.
22 "Whereas, hate speech has been recently
23 observed in various Internet blogs and e-mails causing
24 mental and emotional distress amongst Doraville
25 citizens.

Page 91

1 "Whereas, hate speech in any form is immoral
2 and does not believe in the city of Doraville any --"
3 COUNCILMEMBER FLEMING: Belong.
4 COUNCILMEMBER ROCHE: I'm sorry?
5 COUNCILMEMBER FLEMING: Belong in the city.
6 COUNCILMEMBER ROCHE: "-- is immoral and
7 does not belong in the city of Doraville or any
8 civilized society and must be condemned.
9 "Now therefor be it resolved by the City
10 Council of Doraville, Georgia, that the Mayor and City
11 Council of Doraville, Georgia, condemn any and all
12 hate speech and denounce all communications written in
13 bitterness or naivete which express intolerance or
14 hate or perpetuate stereotypes of any kind.
15 "Be it further resolved that the City of
16 Doraville will immediately provide sensitivity
17 training in gender preference and gender identity to
18 its employees and make reasonable efforts to offer
19 this training to citizens, business people and
20 interested parties."
21 And then, "This resolution shall be
22 effective" blah-blah-blah.
23 That last section was -- when we passed the
24 employment nondiscrimination, there was an agreement
25 made sitting right over here that we would provide

Page 92

1 sensitivity training for our Doraville employees.
2 That was a long time ago. Still haven't heard about
3 it. I guess it's not going to happen. I guess we're
4 used to that.
5 MAYOR JENKINS: Bob --
6 COUNCILMEMBER ROCHE: So anyway, I'm going
7 to submit that for --
8 MAYOR JENKINS: Can I ask --
9 COUNCILMEMBER ROCHE: -- discussion from --
10 MAYOR JENKINS: -- you something?
11 COUNCILMEMBER ROCHE: -- the Council, and
12 I'm done, sir.
13 MAYOR JENKINS: Okay. You said this was out
14 on a blog. What did it have to do with this Council?
15 COUNCILMEMBER ROCHE: The person was
16 attacked.
17 MAYOR JENKINS: By some Councilman? Is that
18 what you're saying?
19 COUNCILMEMBER ROCHE: Well, actually, I was
20 attacked as part of it. Councilwoman Fleming was
21 attacked as part of it. Anyone that's --
22 Oh. Well, I know that you don't mind that,
23 Mayor.
24 MAYOR JENKINS: Excuse me?
25 COUNCILMEMBER ROCHE: I know that you don't

Page 93

1 mind that.
2 MAYOR JENKINS: What?
3 COUNCILMEMBER ROCHE: But you know, it's
4 going to be you next time. Anyway --
5 MAYOR JENKINS: I don't really understand
6 that.
7 COUNCILMEMBER ROCHE: I got that.
8 MAYOR JENKINS: All I'm saying to you is, is
9 this City business?
10 COUNCILMEMBER ROCHE: I think it is, Mayor,
11 because what happens is --
12 MAYOR JENKINS: I have no problem with your
13 doing the resolution as set, but you're talking about
14 the background of it. What caused it? Did this City
15 Council cause it?
16 COUNCILMEMBER ROCHE: I think it's going to
17 be impossible to explain this to you, Mayor. This is
18 basically -- it was basically a political attack --
19 MAYOR JENKINS: If you can't explain it --
20 COUNCILMEMBER ROCHE: -- where they --
21 MAYOR JENKINS: -- to me, explain it to the
22 rest of the Council.
23 COUNCILMEMBER ROCHE: Well, I think I did.
24 I think the people that saw the postings
25 realized that it was originally politically motivated.

Page 94

1 We had people that were out to attack myself,
2 Ms. Fleming and other people, and they did whatever
3 they could to do that, because instead of trying to
4 move Doraville forward, instead of trying to look at
5 the facts and figure out what's best, they attack
6 people personally.
7 COUNCILMEMBER BATES: And I've got two
8 things. One is having been on the receiving end of
9 attacks based upon my sexual orientation, I am a firm
10 believer in the first amendment and a person's right
11 to express their point of view no matter how
12 offensive, repugnant or irresponsible it is. I think
13 that is protected under the United States Constitution
14 and I will fight for that and the ability for an
15 individual to say what they want.
16 My question, Mr. Roche, is, do you believe
17 that false accusations would fall under your proposed
18 resolution?
19 COUNCILMEMBER ROCHE: Well, this is not so
20 much under false accusations. This is basically
21 attacking someone based on their, in this case, gender
22 identity.
23 COUNCILMEMBER BATES: So you think it's okay
24 to falsely accuse someone of making said comments.
25 COUNCILMEMBER ROCHE: I'm not sure I under-

Page 95

1 stand.
2 COUNCILMEMBER BATES: I think --
3 COUNCILMEMBER FLEMING: He's setting you up.
4 COUNCILMEMBER ROCHE: Oh. He's setting me
5 up? Okay. Actually, I don't know.
6 COUNCILMEMBER BATES: Yeah, I am. There was
7 an individual, a resident, who was accused of making
8 the said comments regarding the other resident, and it
9 went pretty quick as to whether or not that person did
10 or not.
11 I don't want to get into a he-said/she-said
12 thing, but --
13 COUNCILMEMBER ROCHE: I think the reason you
14 wouldn't is because you, Mr. Bates, sent an e-mail to
15 that person saying, "If it was you, then you need to
16 apologize."
17 COUNCILMEMBER BATES: Absolutely I did.
18 COUNCILMEMBER ROCHE: So I mean obviously
19 you were very suspicious of that person too.
20 COUNCILMEMBER BATES: No.
21 COUNCILMEMBER ROCHE: I mean you certainly
22 jumped to the same conclusion.
23 COUNCILMEMBER BATES: No. That's factually
24 --
25 COUNCILMEMBER ROCHE: So therefore --

Page 96

1 COUNCILMEMBER BATES: -- factually
2 incorrect.
3 COUNCILMEMBER PACHUTA: I think this is
4 inappropriate for the government. I mean we're
5 basically involving ourselves --
6 - - -
7 (Applause)
8 - - -
9 COUNCILMEMBER PACHUTA: -- in one incident
10 that happened in the neighborhood, one incident above
11 all other incidents. I mean I certainly especially
12 during the campaign had horrible things said about me.
13 I don't expect the government to get involved.
14 I respect the first amendment. You know, as
15 distasteful as it may be, it was perfectly allowable.
16 It's permitted. The government can't do anything
17 about it. And I understand that you're saying the
18 resolution has no, you know, force of law, but I see
19 no reason why the government should be getting
20 involved in petty differences between neighbors.
21 I would love for everyone to get along, and
22 unfortunately we can't legislate that everybody get
23 along, and I just -- I don't see any reason to do this
24 as a council, as a government body.
25 COUNCILMEMBER ROCHE: Fine.

Page 97

1 MAYOR JENKINS: That was my whole point. I
2 didn't believe it's anything to do with this Council.
3 COUNCILMEMBER PITTMAN: And I don't think
4 this Council needs a piece of paper. I think we
5 should be respectful no matter.
6 UNIDENTIFIED SPEAKER: Mr. Roche, was it a
7 terroristic threat or just --
8 MAYOR JENKINS: Wait just a minute, now.
9 UNIDENTIFIED SPEAKER: Sorry.
10 COUNCILMEMBER ROCHE: The actual text was
11 taken off the blog. In fact, the person that owned
12 the blog actually shut down the whole blog.
13 COUNCILMEMBER PITTMAN: And I certainly
14 don't condone it. It was disgusting. But again, I
15 don't think we should be getting involved and I don't
16 think we need a piece of paper telling us how we need
17 to behave. We need to know how to behave.
18 COUNCILMEMBER FLEMING: Well, I think
19 there's one other issue to this that I want to bring
20 to light is that if we don't comment the fact that we
21 don't condone it, if we don't put our stamp on it that
22 we do not condone this type of behavior, then when it
23 escalates beyond verbal attacks, then we could be --
24 COUNCILMEMBER PACHUTA: Then, that would be
25 illegal. I mean if someone's going to escalate

Page 98

1 something beyond a verbal attack to a physical attack,
2 that's illegal.
3 UNIDENTIFIED SPEAKER: Yeah.
4 COUNCILMEMBER FLEMING: If we --
5 COUNCILMEMBER PACHUTA: That's pretty -- the
6 police department gets involved.
7 COUNCILMEMBER FLEMING: Right. But if we
8 have put our stamp of approval on this and didn't even
9 comment that we don't condone it, to me, it's a very
10 moral issue and we should indicate that we do not
11 condone this type of discrimination.
12 COUNCILMEMBER BATES: I would encourage each
13 of us, if we are so inclined, to do that on our own
14 and not let the government body be involved in the
15 matters between individuals.
16 MAYOR JENKINS: We do have sign-ups on this
17 ordinance. Do we want to move on with it?
18 COUNCILMEMBER ROCHE: I think people need to
19 be able to say what they want to say, Mayor.
20 MAYOR JENKINS: Very good.
21 Carol Gilman, are you still here?
22 MS. GILMAN: I pass.
23 MAYOR JENKINS: Okay. Ginny Calvert?
24 MS. CALVERT: I don't think the City should
25 be responsible for people's personal choices of

Page 99

1 lifestyle. People are going to talk about those who
2 are alcoholic; they're going to talk about the
3 Council, they're going to talk about the Mayor and
4 those we think are strange, crazy or weird. They're
5 going to talk about them on the phone or by e-mail.
6 Alive or dead, they will be talked about. That's
7 called freedom of speech.
8 I wish our Council would concentrate on
9 doing for the city, close up your doggone computers
10 and get out among the people and business people and
11 try to come together on issues. Maybe if the business
12 people see we are trying to help them, perhaps they
13 will help us to reach our goals too. If you don't
14 have time to do this, then you need to get off the
15 Council and stop depending on people and lawyers in
16 our offices to do the work for you. You had the time
17 for two months to walk the streets but now you don't
18 have that time again.
19 I know we can't spend money, so we need to
20 go after the transportation department and county
21 regarding our roads and sidewalks where needed. Keep
22 pushing until we get it done.
23 COUNCILMEMBER FLEMING: Thanks, Ginny.
24 MAYOR JENKINS: Thank you, Ginny.
25 Ben Crawford?

Page 100

1 MR. CRAWFORD: First of all, I want to
2 apologize to Pam if I offended you in any way. I
3 believe I was perfectly respectful, but anyhow,
4 someone obviously didn't think I was.
5 On this whole issue here, actually Stephe
6 happens to be a neighbor of mine, and I thought -- the
7 stuff was brought to my attention and I thought it was
8 rather disgusting. But I mean lots of things get said
9 about a lot of people, and, you know, I don't see the
10 resolution as being a hard thing. I don't know about
11 the training, but as far as a resolution goes -- If
12 you see an issue with City employees being insensitive
13 in those areas, then maybe there should be sensitivity
14 training. But as far as a resolution, I don't see any
15 harm in passing a resolution.
16 Thank you.
17 MAYOR JENKINS: Susan?
18 MS. CRAWFORD: When I signed up for this, I
19 actually thought it was about something else.
20 But Stephe is a neighbor of mine as well and
21 a friend. And I've read many, many things on blogs
22 and elsewhere, and I must say that this was -- it
23 really blew me away. It was really -- it was really
24 bad. It was really past insulting. And I'm sure
25 somebody very sensitive could have been very upset,

Page 101

and I think she was upset enough to not be here tonight and maybe not be in politics from now on. I don't know. And I, too, think that it would not hurt anything to just make a statement saying that you don't condone this sort of thing. But I also think it's wrong to accuse people falsely, and I did see that as well.

MAYOR JENKINS: Joe?

MR. O'CONNOR: Joe O'Connor.

I signed up for this one when I immediately saw it because I'm for freedom of speech, and I don't want to sound insensitive. I think it was really out of line, what was written on that blog, but the blog isn't owned by the city, had nothing to do with the city.

There's no showing that a City employee, a City agent or anybody that had anything to do with the City was involved in it, in this blog writing. And this person is not a cit- -- is a citizen but they're not on the City Council or anything. I just can't see where we want to give up our freedoms for a reso-lution.

We just spent 15 minutes of our time on this. We've gotten through three items. I think I keep on seeing this old business since June. When are

Page 102

we going to get down to doing business that you guys are elected for and forget about these feel-good subjects? I don't think they have any place. I think we're here for business. Take care of us citizens and take care of the business if you have to, but let's do away with all these platitudes.

Thank you.

MAYOR JENKINS: Thank you.

COUNCILMEMBER FLEMING: Thank you.

- - -

(Applause)

- - -

MS. GILMAN: Carol Gilman, Chestnut Place.

Mayor, Council, I do believe this is a very important topic. I believe it's an important topic that should be spoken in our neighborhood meetings. I think it should be addressed in our schools and churches and at home with our families and particularly our children. I don't believe it should be discussed here as a part of our city's business.

All of what is being said here, though, I believe is part of the minutes of this meeting. I would hope that someone would gather a set of those minutes once they're approved and present them to the person that was so horribly, horribly offended. I was

Page 103

offended on that person's behalf. And I would invite anyone who is aware of what was written in this blog to pick up the telephone, would send a card, would send a letter, would say something to that person, would embrace that person. For goodness sakes, give that person a hug separate and apart from the business of the city.

We spend far too much time addressing these type issues, important and sensitive as they are, to the exclusion of serious city business that has gone on too long not being addressed.

Benjamin Franklin said something about time. It's too important to waste.

Thank you for your attention.

COUNCILMEMBER FLEMING: Thank you, Carol.

MAYOR JENKINS: Thank you.

- - -

(Applause)

- - -

MAYOR JENKINS: I apologize, Stuart. Come on up.

MR. ANDERSON: I'll make this brief.

Yes, we have more important things to be done, but I also certainly feel that we certainly should back up the resolution that we made in 2008.

Page 104

But what I'm up here to say, I guess, is in the discourse from the citizens, I've heard the person that was offended by this named twice by both of them, by a family that I won't name.

MS. CRAWFORD: (Inaudible)

MR. CRAWFORD: Ben Crawford. He's a friend of mine.

UNIDENTIFIED SPEAKER: (Inaudible)

MAYOR JENKINS: My main objection is the bringing out names was actually staff, Mr. Stuart, people that are on this staff.

We're past our time.

COUNCILMEMBER FLEMING: Make a motion we continue the meeting.

MAYOR JENKINS: Do I get a second?

COUNCILMEMBER ROCHE: I'll second it.

MAYOR JENKINS: Anymore discussion?

Call the roll.

COUNCILMEMBER ALEXANDER: I'd like to extend the meeting to incorporate citizens comments and --

MAYOR JENKINS: Citizens comments only.

COUNCILMEMBER ALEXANDER: -- and department heads if they need to say anything.

ATTORNEY WEED: Councilman Roche can speak for himself. I'm sorry. Was your motion to -- I'm

Page 105

1 sorry. Councilman Fleming. Was your motion for the
2 whole kit and caboodle or --
3 COUNCILMEMBER FLEMING: My motion was
4 unlimited time.
5 ATTORNEY WEED: Okay. That's the motion and
6 there's a second.
7 COUNCILMEMBER FLEMING: I didn't say that.
8 I just said I make a motion to extend this meeting.
9 MAYOR JENKINS: All right. Anymore
10 discussion?
11 - - -
12 (No response)
13 - - -
14 MAYOR JENKINS: Call the roll, please.
15 ASSISTANT CLERK BRYANT: Councilmember
16 Alexander?
17 COUNCILMEMBER ALEXANDER: No.
18 ASSISTANT CLERK BRYANT: Councilmember
19 Bates?
20 COUNCILMEMBER BATES: Excuse me.
21 COUNCILMEMBER ALEXANDER: Pass.
22 ASSISTANT CLERK BRYANT: Councilmember
23 Fleming?
24 COUNCILMEMBER FLEMING: Yes.
25 ASSISTANT CLERK BRYANT: Councilmember

Page 106

1 Pachuta?
2 COUNCILMEMBER PACHUTA: No.
3 ASSISTANT CLERK BRYANT: Councilmember
4 Pittman?
5 COUNCILMEMBER PITTMAN: No.
6 ASSISTANT CLERK BRYANT: Councilmember
7 Roche?
8 COUNCILMEMBER ROCHE: Well, I seconded, so
9 I'll have to say yes.
10 ATTORNEY WEED: The motion did not pass;
11 therefore, the meeting will not be extended.
12 Traditionally you do go ahead and do --
13 COUNCILMEMBER ROCHE: Citizen comments.
14 ATTORNEY WEED: -- go ahead and do citizens
15 to be heard.
16 MAYOR JENKINS: I'd like to have a motion
17 that we extend to citizens comments and the police
18 department report.
19 COUNCILMEMBER ALEXANDER: So moved.
20 MAYOR JENKINS: Second?
21 COUNCILMEMBER PITTMAN: Second.
22 MAYOR JENKINS: Call the roll.
23 ASSISTANT CLERK BRYANT: Councilmember
24 Alexander?
25 COUNCILMEMBER ALEXANDER: Yes.

Page 107

1 ASSISTANT CLERK BRYANT: Councilmember
2 Fleming?
3 COUNCILMEMBER FLEMING: Yes.
4 ASSISTANT CLERK BRYANT: Councilmember
5 Pachuta?
6 COUNCILMEMBER PACHUTA: Yes.
7 ASSISTANT CLERK BRYANT: Councilmember
8 Pittman?
9 COUNCILMEMBER PITTMAN: Yes.
10 ASSISTANT CLERK BRYANT: Councilmember
11 Roche?
12 COUNCILMEMBER ROCHE: Yes.
13 MAYOR JENKINS: You want to get the police
14 report first and then we'll get citizens comments?
15 ATTORNEY WEED: Mayor, that's up to you at
16 this point.
17 ACTING CHIEF ATKINSON: The only thing that
18 I have is on January 27th -- I believe that's the next
19 Thursday -- at 3:30, we're going to have a
20 presentation presented to us by a member of the Code
21 Red company who does reverse 911, if anyone would like
22 to be present.
23 COUNCILMEMBER PITTMAN: When is it again?
24 MAYOR JENKINS: 27th.
25 ACTING CHIEF ATKINSON: The 27th at 3:30.

Page 108

1 COUNCILMEMBER FLEMING: Where?
2 ACTING CHIEF ATKINSON: We haven't set a
3 location yet. We're holding a training class that
4 day, and I'm not sure that it's going to be over, but
5 I will have the information to City Hall on that.
6 Also, when you get home, you might see on
7 the news tonight that there was a shooting in the city
8 of Doraville today. It was not in the city of
9 Doraville. A subject was shot in the city of Chamblee
10 and was transported to a residence in Doraville and
11 has since been transferred to the hospital. So the
12 media was out there, so just know that it did not
13 occur in Doraville.
14 COUNCILMEMBER ROCHE: Thank you.
15 MAYOR JENKINS: Thank you, Chuck.
16 Okay. Who's first, citizens comments? Come
17 up to the table.
18 MR. ANDERSON: Stuart Anderson.
19 I guess refusal of passing -- or spending
20 more time is what I stood up in the first place
21 talking about booting and impounding which is a
22 valuable and necessary thing.
23 But the point I'm making now is we're not
24 getting to address the January 12th business meeting
25 agenda. These people are here because they had

Page 109

concerns that night, and they're here because they have got concerns tonight. It's what they came here for: business.

And also we're not hearing about other important things like the ADA ramps. That's a good idea. But instead, we're spending time on other things. Street lights should go underneath the addressing business concerns and ADA ramps.

I'm just asking for priorities, I guess. Thank you.

MAYOR JENKINS: Thank you.

Next? Come on up.

MR. HART: I guess what I'm really concerned about again is this not getting to the important pieces of information here like the budget mid-year review -- money. I mean I think we got this topic a year ago where the city was in a panic unless they had a financial report every 30 days or the department heads couldn't run the government.

Now we haven't had a financial report in over a year. We've gone through five accountants. It's like, what happened? Where's the dough? Where's the money? Where's the budget? And we voted to spend $150,000 or a hundred grand tonight. Where's the budget? I mean there's no budget for last year, this

Page 110

year. There's no budget mid-year review which by law is supposed to be done in January. I don't get this.

And we're talking about frou-frou, you know. Stop the frou-frou. Where is the bucks? Where is the accountant? I mean how many you going to hire this year? We're working on five or six of them at this point. I mean this has nothing to do with either end of the bench. It's all seven people sitting there.

This is not right. It's not right under Georgia law.

They had to pay to get rid of an accountant that had been here for 17 years. Absolute panic. Now we're going to go through -- you know, this person will probably last another month, that's here now.

We have gone a full year, and, you know, there's no financials, there's no year-to-date. Where's the audit? How much money do we have in the bank? I mean all these numbers are thrown on the Internet, but where are they? I mean doesn't anybody recognize the importance of this?

Thank you.

- - -

(Applause)

- - -

COUNCILMEMBER BATES: Mr. Mayor, if I may.

Page 111

COUNCILMEMBER FLEMING: Mr. Bates had a loss in his very dear family today, and --

COUNCILMEMBER BATES: I apologize (exiting Council room.)

MAYOR JENKINS: Is there anybody else, please? If you want.

- - -

(No response)

- - -

MAYOR JENKINS: Motion we adjourn?

COUNCILMEMBER ALEXANDER: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Call the roll.

ASSISTANT CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

ASSISTANT CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

ASSISTANT CLERK BRYANT: Councilmember Pittman?

Page 112

COUNCILMEMBER PITTMAN: Yes.

ASSISTANT CLERK BRYANT: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

- - -

(Meeting adjourned at 9:15 p.m.)

- - -

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 26th day of January, 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

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$

$1,100 (2)
29:9,13
$1,300 (1)
40:21
$117,935.43 (1)
44:11
$129,511.44 (1)
44:12
$133,290.93 (3)
44:20;45:16;46:25
$150,000 (1)
109:24
$16,000 (1)
33:16
$197,890 (1)
44:13
$2,000 (1)
24:19
$200 (1)
25:19
$202,530 (1)
44:14
$224,060 (1)
44:14
$235,540 (1)
44:15
$245 (1)
33:20
$50.00 (13)
9:22;10:17;21:21;
22:2,4,10,14;23:2,
25;24:1,11;38:18;
41:24
$500 (5)
22:21,21;25:18;
29:10;30:12
$500.00 (1)
25:15
$650 (3)
22:22;40:20,20
$75.00 (2)
38:18;41:24

0

06 (1)
67:3
07 (2)
67:2,3
09 (1)
15:10

1

1/4/2010 (1)
3:23
1/C-2 (1)
57:17
10 (5)
6:14;7:14,15;
24:15;37:16
10/20/50 (1)
85:6
10-minute (1)
74:4
12th (1)
108:24
13 (2)
42:22;43:2
15 (2)
31:22;101:23
16 (1)
18:17
160-some (1)
21:18
17 (1)
110:12
18th (1)
52:14
18-wheeler (2)
22:21,23
18-wheelers (1)
26:4
1965 (1)
66:14
1983 (1)
58:7
1985 (3)
48:17;67:2,5
1986 (1)
58:7

2

2 (2)
6:4;9:20
2006 (1)
67:2
2008 (12)
48:7,19;49:5,22;
61:16;67:9;76:19;
77:22;80:16;83:10,
13;103:25
2008-24 (1)
90:12
2009 (1)
44:10
2-2 (1)
73:20
23 (3)
48:19;49:9,11
23rd (1)
75:10
24/7 (1)
19:12
24-hour (1)
12:6
25th (1)
75:11
27th (3)
107:18,24,25

3

3 (3)
6:3;9:20;30:9
3:30 (2)
107:19,25
30 (1)
109:18
300 (3)
21:24,25;22:9
3-2 (1)
73:21
36-66-3 (2)
77:12;78:2
36-66-4 (1)
77:10
3rd (1)
44:10

4

4 (1)
6:14
40 (6)
18:16,18,21,22,23;
20:13
44 (2)
14:25;40:11
44-1-13 (1)
12:3
48 (1)
13:11

5

5 (2)
48:5,7

6

68 (1)
33:15
6-902 (1)
6:14

9

9 (1)
30:10
9:15 (1)
112:6
911 (1)
107:21

A

ability (8)
18:10;56:23,25;
57:2,13;90:9,18;
94:14
able (10)
13:17;16:5,11;
22:15;23:2;29:15;
33:16;69:7;72:7;
98:19
above (1)
96:10
above-listed (2)
48:23;49:2
absence (1)
48:10
absolute (2)
27:5;110:12
Absolutely (2)
32:22;95:17
Abstain (2)
73:4;86:24
accept (1)
80:11
accommodate (1)
90:9
accomplish (2)
54:11;79:8
accord (1)
55:4
accountant (2)
110:5,11
accountants (1)
109:21
accurate (2)
15:11;27:25
accusations (2)
94:17,20
accuse (2)
94:24;101:6
accused (1)
95:7
acquired (1)
49:4
act (12)
9:2;48:18;54:6;
55:4;66:14;75:24;
77:3;79:19,23;82:5,
8;83:25
ACTING (12)
28:1,9,12,17,19;
29:8,19,22;66:7;
107:17,25;108:2
action (3)
52:25;53:1;78:2
actions (1)
66:16
actively (1)
53:20
actual (1)
97:10
actually (16)
6:5;7:17,24;9:24;
22:11;31:6;73:21;
88:7,18;89:7;92:19;
95:5;97:12;100:5,19;
104:10
ADA (2)
109:5,8
add (2)
6:24;13:6
added (3)
5:18,20;44:21
addition (1)
44:17
additional (5)
10:13;51:16;
64:21,22;81:10
address (8)
8:8;42:13;48:16;
49:15;53:9;56:21;
81:25;108:24
addressed (4)
5:17;8:3;102:17;
103:11
addresses (4)
48:13,14;76:18;
77:21
addressing (2)
103:8;109:8
adjourn (1)
111:10
adjourned (1)
112:6
adjustment (1)
14:1
adopt (3)
5:11;14:11;18:23
adoption (4)
78:3,4,6,8
ads (1)
77:14
ad's (1)
77:5
adverse (3)
84:14,15,17
adversely (1)
84:19
advertise (2)
80:2,16
advertised (6)
53:7;75:4,5,22;
78:14;80:3
advertisement's (1)
77:3
Advertising (1)
84:5
advice (3)
54:9;77:1,8
advise (1)
55:2
affect (1)
34:2
affects (1)
71:13
again (15)
18:4;19:2;50:15;
51:24;52:14;57:16,
16,17;61:9;63:8;
78:19;97:14;99:18;
107:23;109:14
against (7)
84:15,17;85:2,8,9;

88:9,20
age (1)
90:16
agenda (12)
4:24;26:21,24;
27:2,8;36:19,21;
43:2;76:8;87:24;
88:5;108:25
agent (1)
101:17
ago (5)
52:7,8;66:7;92:2;
109:17
agree (6)
20:17;22:13;26:1;
45:25;46:2;53:8
agreed (2)
24:21;70:6
agreement (1)
91:24
agrees (1)
14:7
ahead (8)
11:7;20:14;36:23;
37:11;56:21;87:12;
106:12,14
air (2)
26:23;27:9
alcoholic (1)
99:2
Alexander (60)
3:5,6;4:4,5;5:15;
6:2,12,18;11:11,14,
18,21;31:3,9;35:12,
15,16;36:17;37:25;
38:1;43:9,10;46:10,
15;47:10,11;65:5,22;
66:2,10,22;67:6,11,
19,20;73:3,4;81:8,
10,19,24;83:9,14,17;
84:16;85:17,18;
86:22;87:25;104:19,
22;105:16,17,21;
106:19,24,25;
111:11,16,17
Alive (1)
99:6
allow (4)
21:9;30:16;82:7,9
allowable (1)
96:15
allowed (9)
5:16;12:9,18;66:9;
79:15;81:13,15;
83:24;84:1
allowing (1)
15:1
allows (2)
13:16;22:7
along (2)
96:21,23
always (2)
83:21;85:1
amend (2)
34:11;37:15
amendment (12)
39:16;78:4,6,8;
79:8,11,21;80:11,23;
82:8;94:10;96:14
among (1)
99:10
amongst (2)
56:14;90:24
amount (6)
9:8;10:22;21:23;
22:8;44:17;46:25
amounts (2)
12:17,19
and/or (1)
71:7
Anderson (16)
26:15,16,16;56:5,
11,16,22;58:8,10,13,
15,21;61:11;103:22;
108:18,18
annexation (1)
66:12
annexations (1)
66:14
annexed (1)
78:10
annual (1)
69:6
Anthony (1)
23:8
Anymore (8)
47:4;53:23;54:3;
65:4;72:22;81:3;
104:17;105:9
apart (1)
103:6
apologize (6)
26:17;71:9;95:16;
100:2;103:20;111:3
apparently (2)
53:12;70:25
appearance (1)
90:19
appeared (1)
79:13
appears (1)
48:24
applaud (1)
59:12
Applause (5)
59:19;96:7;
102:11;103:18;
110:23
applicable (1)
10:2
applied (1)
39:23
applies (3)
16:24;84:13,15
apply (5)
16:22;50:7;82:13;
85:8,9
Appreciate (2)
4:21;48:4
appropriate (10)
10:23;48:12;
50:18,18;53:10;
54:11;57:4,18;58:4;
77:2
appropriate- (1)
49:17
appropriateness (1)
50:2
approval (2)
62:14;98:8
approvals (1)
71:20
approve (6)
3:23;26:18;46:23;
52:6;57:7;62:15
approved (24)
46:21,21;49:7,14,
15,21,23,25;50:2,3;
60:7,9;62:14,19;
64:20,20;65:19;
71:12;76:19;77:20;
79:6;80:18;82:14;
102:24
approximately (2)
72:6;75:1
archives (1)
66:24
area (3)
14:24;23:3;60:25
areas (2)
81:14;100:13
arguably (3)
8:23;15:14;82:12
argue (2)
33:4;82:25
argument (1)
83:4
around (3)
32:16;59:5,9
arrest (1)
89:9
Article (1)
50:14
articulable (1)
83:2
articulate (1)
83:6
Asian (2)
8:2,4
asleep (1)
40:5
asphalt (1)
7:4
ASSISTANT (74)
3:4,7,10,13,16,19;
4:3,6,9,12,15,18;
35:14,17,20,23;36:1,
4;37:24;38:2,5,8,11,
14;43:8,11,14,17,20,
23;47:9,12,15,18,21,
24;67:18,21,24;68:2,
5,8;73:2,5,8,11,14,
17;85:16,19,22,25;
86:3,6;87:4,10,13,
15;105:15,18,22,25;
106:3,6,23;107:1,4,7,
10;111:15,18,21,24;
112:2
assume (2)
70:16;71:3
ATKINSON (11)
28:1,9,12,17,19;
29:8,19,22;107:17,
25;108:2
Atlanta (8)
15:4;20:23;21:1,
22,24;22:11;23:21;
84:6
ATM (1)
29:11
atomic-bomb (1)
19:19
attack (8)
89:19,20,21;93:18;
94:1,5;98:1,1
attacked (4)
88:12;92:16,20,21
attacking (1)
94:21
attacks (5)
88:14,15,22;94:9;
97:23
attendance (1)
76:7
attention (4)
5:7;81:12;100:7;
103:14
ATTORNEY (86)
5:1,19;6:12,20;
8:19;9:9,23;10:16,
19;11:25;13:4;14:5,
21;15:10,14;16:15;
17:16;18:15;20:4,7,
11,21;30:5;34:15,19;
35:2,5;36:23;39:20;
40:1,9,16,22,24;41:9,
11;46:14,17;52:9,11;
53:8;54:4,18,20;
55:1,11,15;65:16;
66:21;67:12;69:25;
70:5,9,19,22,25;71:3,
6;72:5,14;73:20,22;
74:2,20;75:14,17;
76:1;77:1,23;78:23;
79:1;80:5,21;81:17,
23;82:1;83:20;
84:11;86:20,25;87:3;
104:24;105:5;
106:10,14;107:15
attorney-client (2)
55:2,16
audience (2)
42:21;46:6
audit (1)
110:17
authority (7)
14:25;15:18,23;
17:5,17;19:4;77:18
authorization (1)
31:7
authorized (3)
12:16;18:23;72:12
automobile (1)
8:5
Autumn (3)
44:5;45:14;46:24
available (2)
5:8;12:14
award (1)
46:23
awarded (1)
45:14
aware (7)
41:3,5;56:12,14,
24;88:6;103:2
away (3)
53:18;100:23;
102:6
Axis (1)
23:9

B

back (22)
11:13;27:14;
29:12,25;30:16;
51:15;57:8,15;58:6,
24,25;60:14;61:13,
16;64:4;67:2,5,9;
69:12;78:14,21;
103:25
background (1)
93:14
backwards (1)
61:5
bad (2)
57:9;100:24
Banging (1)
58:11
bank (7)
44:5;45:4,10,14;
46:19,23;110:18
banks (1)
44:25
base (1)
44:17
based (27)
5:2;9:25;10:14;
16:18;38:25;45:12;
49:3,7,11,22;60:8;
65:20;66:1;67:4;
74:23;79:1;82:22;
83:2;88:15,20;89:10,
19,20;90:13,15;94:9,
21

basic (3)
23:20;51:18;52:3
basically (12)
16:3;19:11;24:16;
57:6;61:22;62:20;
66:15;90:7;93:18,18;
94:20;96:5
Bates (95)
3:8,9;4:7,8;7:17,
20;8:7,10,14,17;
10:7,10,17;11:3;
13:25;27:16,19;
29:17,20;35:18,19;
36:8,10,13;37:11,21;
38:3,4,17,24;39:4,6,
13,24;40:2,13,18,23;
41:23;42:4,5,9,11,
16;43:4,7,12,13;
46:18,22;47:13,14;
48:2;67:22,23;68:25;
71:9,14,16,21,23,25;
72:6,16;73:6,7,21;
80:15;84:17,23;
85:20,21;86:11,17,
19,21,23;87:2,5,6;
94:7,23;95:2,6,14,17,
20,23;96:1;98:12;
105:19,20;110:25;
111:1,3
bear (1)
20:4
become (2)
8:22;9:3
Begin (2)
79:22;80:1
begins (1)
12:7
behalf (1)
103:1
behave (2)
97:17,17
behavior (1)
97:22
believer (1)
94:10
Belong (3)
91:3,5,7
Ben (5)
56:4;57:20,21;
99:25;104:6
bench (1)
110:8
Benjamin (1)
103:12
best (3)
74:25;89:19;94:5
better (4)
19:9,16;34:24;
59:3
beyond (3)
9:13;97:23;98:1
bicycle (1)
59:7
bid (6)
44:5,8,16,17,18,21
bids (7)
42:23;44:9,10,19,
22,23,24
big (3)
31:11;40:4;64:10
bit (2)
57:24;89:5
bitterness (1)
91:13
blah-blah-blah (1)
91:22
blanket (1)
65:11
blew (1)
100:23
blocked (1)
18:13
blog (9)
88:7;92:14;97:11,
12,12;101:13,13,18;
103:2
blogs (3)
88:25;90:23;
100:21
board (1)
41:15
Bob (4)
58:1;69:14;88:2;
92:5
bodies (1)
81:13
body (2)
96:24;98:14
boils (1)
14:18
bond (1)
46:12
boot (18)
10:12,18;11:2,5,6,
6,12,22;22:10;30:12;
33:20;39:18,22;40:2,
6,7,15,20
booted (9)
7:9;27:22,24;28:3,
5;29:1;30:2,11;33:15
booting (35)
4:24;5:5,14;10:2;
12:17;13:1,12,13,17,
22;15:3;17:6;19:8,
18,23,24;20:3;21:20;
22:2,4,18;24:22;
25:9;27:5,11,20;
28:15;29:22;33:12,
19;39:10,11,16;
40:14;108:21
boots (4)
21:24,25;22:9;
30:17
boot's (1)
11:19
both (6)
16:22,24;27:10,25;
82:19;104:3
box (1)
25:18
Branch (1)
45:2
break (1)
74:4
breaking (2)
26:4;30:22
breath (1)
7:7
brief (1)
103:22
briefly (1)
74:13
bring (4)
9:11;27:14;46:8;
97:19
bringing (1)
104:10
broken (3)
25:1,3;51:9
brought (4)
41:12;58:23;
81:12;100:7
BRYANT (75)
3:4,7,10,13,16,19;
4:3,6,9,12,15,18;
35:14,17,20,23;36:1,
4,17;37:24;38:2,5,8,
11,14;43:8,11,14,17,
20,23;47:9,12,15,18,
21,24;67:18,21,24;
68:2,5,8;73:2,5,8,11,
14,17;85:16,19,22,
25;86:3,6;87:4,10,
13,15;105:15,18,22,
25;106:3,6,23;107:1,
4,7,10;111:15,18,21,
24;112:2
bucks (1)
110:4
budget (6)
47:2;109:15,23,25,
25;110:1
Buford (1)
19:13
building (7)
17:21,23,25;48:11;
53:13,15;83:22
bunch (1)
23:12
Burger (2)
31:19;40:4
bus (5)
27:22;28:2,5;
31:13;32:2
business (52)
6:1,6;8:24;15:5;
16:9;22:15;24:1,17;
26:17;32:7;33:24;
48:19;49:19;50:6,9,
11;51:5,8,15;52:3;
57:5,10;59:13;62:12;
63:9;64:6,9;65:6;
66:6,9;69:7,12;
78:18;79:5,7;83:10;
87:19,21;91:19;93:9;
99:10,11;101:25;
102:1,4,5,20;103:6,
10;108:24;109:3,8
businesses (16)
26:4;27:23;51:2;
56:14;60:7,25;61:20;
63:19,22;65:12;69:4,
5;71:11;72:3;79:13;
81:20
business-friendly (2)
41:13,16
Butler (2)
28:6;40:4

C

C- (1)
57:16
C-1 (1)
48:24
C-2 (1)
48:24
caboodle (1)
105:2
Call (19)
3:3;4:2;28:4,20;
35:13;37:22;38:21;
40:7;43:6;47:8;
50:21;67:17;73:1;
81:7;85:15;104:18;
105:14;106:22;
111:14
called (4)
16:21;24:9;77:11;
99:7
calling (6)
58:8,10,13,17,19;
88:22
Calvert (2)
98:23,24
came (9)
21:21;44:20;51:2,
3;52:24;62:9;65:6;
81:22;109:2
campaign (1)
96:12
can (51)
7:10;8:21;9:15,16;
10:20;11:1;12:13;
13:18,19;14:18,23;
15:6;16:25;17:2;
18:24;21:8;23:15,16;
25:5;30:1;32:10;
35:6;36:20,21;39:19,
22;40:3,7,25;42:1;
50:20;51:4;53:18;
54:24;62:13;70:9,13;
74:20;77:19;78:24;
79:7,10,16;80:1,7;
82:12;84:24,24,25;
92:8;104:24
capacity (1)
90:19
Captain (1)
27:16
car (9)
9:7;25:10,11,18;
28:23,25;30:14;
39:19;40:3
card (1)
103:3
care (2)
102:4,5
Carol (4)
45:18;98:21;
102:13;103:15
carry (1)
36:18
cars (5)
15:8;16:2,13;
22:12;30:17
case (8)
14:9,10;50:17;
54:20;78:19;84:2,5;
94:21
cause (1)
93:15
caused (1)
93:14
causing (1)
90:23
caveat (1)
79:17
celebrating (1)
88:12
CEO (1)
21:13
certain (4)
6:9;9:7;59:6;82:6
certainly (11)
6:20;19:21;21:8;
26:23;55:17;89:8;
95:21;96:11;97:13;
103:24,24
cetera (4)
7:4;15:2;51:7,7
Chad (5)
42:21;44:1;45:25;
48:2,4
challenged (1)
60:8
Chamblee (1)
108:9
chance (1)
61:22
change (6)
34:11,20;36:21;
37:13,13,14
changes (5)
35:1,7;52:15;58:3;

78:5
charge (5)
12:17,18;13:18;
24:12;32:5
charged (1)
12:5
charges (3)
9:24;10:1,3
cheaper (1)
22:22
checked (1)
44:24
Chestnut (1)
102:13
CHIEF (11)
28:1,9,12,17,19;
29:8,19,22;107:17,
25;108:2
children (1)
102:19
choice (1)
77:9
choices (1)
98:25
choose (1)
34:2
Christmas (3)
88:13,13;90:1
Chuck (1)
108:15
churches (1)
102:18
cit- (1)
101:19
citation (1)
18:2
citations (1)
19:1
cited (1)
84:6
cities (3)
15:5;33:23;89:7
citizen (2)
101:19;106:13
citizens (13)
58:9;59:1;88:11;
90:25;91:19;102:4;
104:2,20,21;106:14,
17;107:14;108:16
city (91)
12:21,23,24;13:2;
14:19;16:11;17:15;
19:25;20:23,24,25;
21:1,1,22,23;22:6,
11;23:18,20,22;26:6;
27:1,2,23;32:15;
33:11,18;48:8,8,12,
19,22;49:1,9,11,19;
50:9,16;53:15;56:13,
20,22,23,25;57:1,23;
58:2;59:1,3,10,14,
24;61:24,25;66:17,
19;74:14;75:16;
77:15;83:11;84:5;
88:3;89:6;90:6,8,11,
12;91:2,5,7,9,10,15;
93:9,14;98:24;99:9;
100:12;101:14,15,
16,17,18,20;103:7,
10;108:5,7,8,9;
109:17
city's (1)
102:20
Civil (2)
44:13;88:4
civilized (1)
91:8
claim (1)
84:21
claims (1)
85:2
clarify (4)
40:25;41:6,22;
61:15
Class (4)
26:23;27:9;90:19;
108:3
classification (2)
78:7;80:18
cleaned (1)
61:18
cleanest (1)
80:25
clear (4)
26:9;32:10;46:25;
84:2
cleared (1)
32:10
clearly (3)
13:15,17;83:2
CLERK (74)
3:4,7,10,13,16,19;
4:3,6,9,12,15,18;
35:14,17,20,23;36:1,
4;37:24;38:2,5,8,11,
14;43:8,11,14,17,20,
23;47:9,12,15,18,21,
24;67:18,21,24;68:2,
5,8;73:2,5,8,11,14,
17;85:16,19,22,25;
86:3,6;87:4,10,13,
15;105:15,18,22,25;
106:3,6,23;107:1,4,7,
10;111:15,18,21,24;
112:2
clever (1)
83:4
close (2)
17:24;99:9
clue (1)
71:24
code (21)
12:2,11,14;15:20,
20;17:15,19;18:16,
16,17,19,21,22;
20:12,13;49:22;
50:14;66:1;82:5,23;
107:20
codes (6)
48:25;49:8,11,21;
76:22;83:12
collect (4)
5:16;33:16,25;
34:3
coming (8)
4:21;11:1;13:23;
24:24;30:16;47:1,2;
57:8
comment (12)
12:16,20;33:10;
45:20;48:7;50:12;
52:18;60:22,24;61:7;
97:20;98:9
comments (10)
21:10;55:20;
94:24;95:8;104:20,
21;106:13,17;
107:14;108:16
commerce (2)
15:21,24
Commission (3)
9:24;13:8;39:1
communications (1)
91:12
community (1)
59:13
companies (10)
12:16,21;13:3,7,9;
15:1;24:3,14,18;
39:12
company (17)
8:3;10:14;12:18;
13:1,12,13;27:23;
28:24;29:4,15,18,21,
22;31:14,15;40:7;
107:21
compare (2)
21:21,22
compared (1)
82:18
compatible (3)
48:22;49:2;57:6
complain (1)
22:21
complaining (1)
26:20
completely (3)
18:5;46:1;54:1
compliant (1)
75:23
complies (1)
79:7
complying (1)
82:4
computers (1)
99:9
concentrate (1)
99:8
concept (1)
36:24
concern (2)
8:21;62:22
concerned (4)
49:25;61:19;
65:11;109:13
concerns (5)
65:5;66:16;109:1,
2,8
conclusion (1)
95:22
condemn (1)
91:11
condemned (1)
91:8
condemning (1)
89:13
conditional (11)
50:1,8;56:12;57:8;
64:21;65:14,19,23;
74:17;78:19,20
conditional- (1)
55:8
condone (7)
90:4;97:14,21,22;
98:9,11;101:5
conduct (1)
57:10
confirm (2)
27:21;64:18
conflicts (1)
76:21
confused (3)
57:23;60:21;87:12
Connecticut (1)
33:11
consent (1)
14:11
consideration (1)
77:17
considered (6)
50:1,3;65:19;
76:19;88:8;90:20
constitute (2)
8:25;77:11
Constitution (1)
94:13
construction (2)
44:6,14
consulting (1)
63:11
contact (1)
24:2
contacted (3)
44:25;45:1,7
contemplated (1)
85:4
contend (1)
88:14
context (2)
16:23,23
continue (12)
20:16;25:4;68:21;
69:23;70:4,16,16;
71:1;72:20;74:11;
81:21;104:14
continued (1)
65:9
continuing (1)
70:8
contract (5)
8:4;23:3;33:12,19;
46:11
contracted (2)
24:20;31:6
contracts (1)
21:18
contributed (1)
59:2
control (3)
15:21;17:1,2
conversation (2)
71:10;77:5
conversations (1)
74:23
convince (1)
77:24
co-op (1)
41:15
copy (1)
23:11
Corey (1)
84:5
Corporation (1)
44:15
correctly (1)
28:22
cost (2)
31:25;32:3
Council (67)
5:2;6:22;8:4;9:22;
11:25;13:4,20;20:8;
32:20;33:23;41:14,
14;42:22;48:8,9,12,
22;49:1,6,11,13;
50:16;51:3,4,23,23;
52:12;53:9;55:4,16;
56:23;57:1,23;58:2;
62:7,14;63:3,3;
65:17;71:8;75:18;
77:8,17,19;84:6;
86:10;87:20;88:3;
89:11,12;90:3,11;
91:10,11;92:11,14;
93:15,22;96:24;97:2,
4;99:3,8,15;101:20;
102:14;111:4
Councilman (15)
6:12;8:20;54:20;
55:1,11;70:1,2;71:6;
74:20;77:23;84:16,
17;92:17;104:24;
105:1
Councilmember (477)
3:4,6,7,9,10,12,13,
15,16,18,19,21,24;

4:1,3,5,6,8,9,11,12,14,15,17,18,20;5:15;6:2,5,18;7:17,19,20;8:1,7,9,10,12,14,16,17;9:5,18;10:7,9,10,17,24;11:3,4,8,11,12,14,16,18,19,21,24;12:15;13:21,25;14:13,17;15:7,12,25;17:8;18:12;19:6;20:6,10,20;25:8,13,15,20,23;27:16,19;28:7,11,14,18;29:7,17,20;30:3,25;31:3,9,13,16,24;32:2,14,19,22;33:2,6,9;34:10,13,23;35:3,10,12,14,16,17,19,20,22,23,25;36:1,3,4,6,8,10,13,17,20;37:3,5,6,8,11,12,15,17,21,24;38:1,2,4,5,7,8,10,11,13,14,16,17,20,22,24;39:4,5,6,8,13,24;40:2,13,18,23,25;41:10,20,23;42:1,3,5,6,9,10,11,16,18;43:1,4,5,7,8,10,11,13,14,16,17,19,20,22,23,25;46:10,15,18,22;47:3,9,11,12,14,15,17,18,20,21,23,24;48:1,2,6;51:1;52:10,17;53:11;54:12,14,15,16,19,21;55:6,14,21,24;56:19;60:4,10,11,12,13,19;61:14,24;62:1;63:18,21,24;64:16,25;65:5,18,21,22,24,25;66:2,4,5,10,18,22;67:1,6,8,11,14,18,20,21,23,24;68:1,2,4,5,7,8,10,12,15,16,18,20,23,25;69:2,15,19,22,23;70:3,7,18,21,23;71:2,5,9,12,14,16,19,20,21,22,23,24,25;72:1,2,10,12,16,17,19,21;73:2,4,5,7,8,10,11,13,14,16,17,19,21,24;74:5,12;75:7,12,15,25;76:4,9,11,13,16,24;77:15;78:12,25;79:20;80:8,9,10,12,13,15,19,24;81:8,10,19,24;83:8,14,15,17,18;84:9;85:16,18,19,21,22,24,25;86:2,3,5,6,8,9,11,13,15,17,19,21,22,23;87:2,4,6,7,18,25;88:3;91:3,4,5,6;92:6,9,11,15,19,25;93:3,7,10,16,20,23;94:7,19,23,25;95:2,3,4,6,13,17,18,20,21,23,25;96:1,3,9,25;97:3,10,13,18,24;98:4,5,7,12,18;99:23;102:9;103:15;104:13,16,19,22;105:3,7,15,17,18,20,21,22,24,25;106:2,3,5,6,8,13,19,21,23,25;107:1,3,4,6,7,9,10,12,23;108:1,14;110:25;111:1,3,11,13,15,17,18,20,21,23,24;112:1,2,4

Council's (3)
6:3;7:11;57:2

Councilwoman (1)
92:20

count (1)
74:25

county (7)
21:16;27:21;28:5;32:3;45:8,10;99:20

course (2)
20:20;82:13

court (3)
18:7,8;53:4

cover (1)
20:14

covered (3)
6:17;20:18;83:19

crack (1)
61:15

Crawford (29)
25:24,25,25;56:1,2,4,6,8;57:21,21;58:9,12,14,19,22;59:23,23;60:18,20,24;63:17,19,23;99:25;100:1,18;104:5,6,6

crazy (1)
99:4

created (1)
56:13

creed (1)
88:10

criminal (1)
18:17

crowd (1)
4:22

current (2)
40:10;49:24

customers (1)
16:10

D

da-da-da (1)
17:11

damaging (1)
7:3

Danbury (1)
33:11

danger (2)
26:25;27:1

dare (1)
74:15

date (7)
6:8;30:8;64:1,2;70:19;79:14;82:6

day (6)
24:25;64:10;74:22;77:16;88:13;108:4

days (1)
109:18

dead (2)
36:12;99:6

deal (6)
12:5;19:17;24:5;57:7;64:10;70:23

dealing (1)
70:11

dealt (1)
75:22

dear (1)
111:2

December (3)
44:10;49:22;52:14

decent (1)
83:3

decide (2)
7:12;13:5

decided (3)
53:3,4;61:21

decision (7)
6:22;34:1;77:12,13;78:1,1;82:15

decision-making (1)
7:13

decisions (4)
48:13;57:13,15;77:16

declared (1)
83:12

deem (3)
10:23;79:14,15

deep (1)
7:7

defined (1)
78:1

definitive (2)
12:1;72:8

Dekalb (2)
27:21;28:5

delinquent (3)
33:13,14,21

delivery (1)
25:19

denials (2)
71:13,18

denied (6)
49:7;60:7;68:11;69:13,17;71:13

denounce (1)
91:12

department (7)
23:14;45:9;98:6;99:20;104:22;106:18;109:18

depend (1)
16:17

dependent (1)
19:3

depending (1)
99:15

depends (4)
16:16;18:15;25:16,21

described (1)
54:9

deserve (1)
59:3

design (1)
44:4

designated (1)
8:18

detailed (1)
49:18

deter (1)
26:14

determination (3)
74:24;82:21,22

determined (3)
48:21;49:1;51:21

developed (1)
27:7

Development (1)
44:12

devices (1)
5:4

difference (1)
22:19

differences (1)
96:20

different (7)
14:14;62:24;65:2;88:21;89:22,23,23

differentiate (4)
82:11,17;83:1,6

difficult (2)
26:19;76:5

directing (1)
20:8

disability (1)
90:18

disagree (1)
88:1

Discourse (2)
88:4;104:2

discovered (1)
85:6

discrimi- (1)
90:12

discriminate (1)
88:20

discrimination (1)
98:11

discuss (6)
9:15;26:25;52:20;54:24;71:1;89:17

discussed (5)
27:3,6;52:22;74:12;102:20

discussing (4)
68:21;69:24;70:4;72:20

discussion (20)
27:12;38:22,23;46:8;47:4;50:21;65:4;67:16;68:14;70:14,18,20;71:7;72:22;73:25;81:3;85:11;92:9;104:17;105:10

disgusting (2)
97:14;100:8

disparage (1)
90:15

disparagingly (1)
66:11

distasteful (1)
96:15

distinction (1)
90:20

distress (1)
90:24

district (1)
50:19

diverse (1)
90:10

documents (1)
66:24

doggone (1)
99:9

dollars (1)
22:7

done (15)
5:6;23:21;27:6;32:13;45:9;55:7;57:7;67:2,3;75:18;79:18;92:12;99:22;103:24;110:2

Donna (1)
45:8

door (1)
61:9

Doraville (40)
12:22,23,24;13:22,24;17:11;19:10;20:1;24:17;26:23;27:24;50:14;51:12;52:1,2;63:3,5,6,12;64:6,7,10;72:4;88:17,19;89:16,17;90:8,24;91:2,7,10,11,16;92:1;94:4;108:8,9,10,13

Doraville's (1)

66:19
double (1)
18:25
double-axle (1)
11:22
dough (1)
109:22
down (8)
14:18;19:14;
24:11;66:24;84:25;
88:7;97:12;102:1
downtown (1)
26:7
draft (4)
5:3,6,17;17:18
driver (2)
27:24;28:21
driver's (1)
58:1
drive-through (1)
24:17
due (2)
33:14,21
duly (2)
52:13;78:13
Dunwoody (1)
26:21
during (8)
51:2;53:1;62:6,19;
74:22;79:6;81:22;
96:12

E

earlier (1)
6:19
easily (1)
8:21
effect (2)
48:18;77:11
effective (1)
91:22
effort (1)
18:6
efforts (1)
91:18
eight (1)
17:23
either (11)
6:16;14:6;20:5,22;
26:14;50:8;53:9;
54:25;71:10;80:17;
110:7
Elan's (1)
26:7
elected (1)
102:2
element (1)
42:8
else (15)
9:17;20:18,22;
34:4;50:4;56:2;59:3;
61:5;63:16;64:7,8,
11,15;100:19;111:5
else's (1)
30:14
elsewhere (1)
100:22
elucidate (1)
12:13
e-mail (12)
32:21,23,24;33:1,
3,7;41:4;52:13;
55:17;71:10;95:14;
99:5
e-mailed (1)
32:17
e-mails (5)
24:3;32:15;54:25;
55:3;90:23
embrace (1)
103:5
emotional (1)
90:24
employed (1)
51:12
employee (1)
101:16
employees (4)
90:12;91:18;92:1;
100:12
employment (2)
88:19;91:24
encourage (1)
98:12
end (5)
11:17,20;48:10;
94:8;110:7
energy (1)
18:6
enforce (2)
7:23;15:2
Enforcement (2)
21:13;24:25
engaged (1)
83:5
engages (1)
13:13
Engineering (1)
44:12
English (2)
46:12;59:25
enough (7)
18:5;22:4,10;
62:11;83:4,5;101:1
enter (1)
46:11
entirety (1)
12:2
entitled (2)
17:3;57:13
EPD (1)
46:19
equally (1)
50:18
equate (1)
59:6
equity (1)
85:7
errors (3)
85:5,5,7
escalate (1)
97:25
escalates (1)
97:23
especially (1)
96:11
essentially (5)
15:21;18:24;51:1,
13;82:6
Estates (1)
57:22
et (4)
7:4;15:2;51:7,7
ethic (1)
90:16
ethnicity (1)
90:17
Eve (1)
88:13
even (8)
5:24;18:12;60:20;
76:8;83:23;84:9;
88:23;98:8
evening (4)
9:23;23:8;44:1;
87:22
eventually (2)
9:3,4
everybody (4)
4:21;14:7;84:20;
96:22
everybody's (1)
62:20
Everyone (3)
78:16;80:3;96:21
evidence (1)
5:21
exact (3)
74:25;75:3;76:2
Exactly (3)
8:16;30:8;72:1
example (2)
17:19;84:13
exceed (1)
39:2
except (1)
34:11
exclusion (1)
103:10
Excuse (5)
25:8;36:9;81:9;
92:24;105:20
executive (4)
52:20,24;53:10;
54:23
exempt (1)
5:23
exemption (1)
13:10
exist (2)
65:16;81:21
existed (1)
82:3
existence (1)
83:11
existing (1)
50:19
exiting (1)
111:3
expect (1)
96:13
expeditious (1)
69:10
expensive (1)
26:12
explain (3)
93:17,19,21
explore (1)
20:3
express (2)
91:13;94:11
extend (3)
104:19;105:8;
106:17
extended (3)
7:24;62:5;106:11
eye (1)
19:11

F

face (1)
18:8
facing (1)
71:15
fact (12)
17:2;18:20,22;
19:3,4;21:15;23:13;
49:5,7;88:15;97:11,
20
facts (2)
89:19;94:5
factually (2)
95:23;96:1
failed (3)
36:8,10;87:10
fair (2)
6:23;7:12
fairness (2)
51:19;52:4
fall (3)
23:21;40:5;94:17
false (2)
94:17,20
falsely (2)
94:24;101:6
familiar (2)
32:14,17
families (1)
102:18
family (2)
104:4;111:2
far (17)
6:4;15:3;17:17;
19:5;22:17;30:7;
42:7;46:11,15,19;
49:24;51:7;59:24;
74:18;100:11,14;
103:8
Farm (1)
45:2
farms (3)
32:16;41:3,7
fast (1)
16:25
favor (1)
7:25
feasibly (2)
8:5;10:4
Federal (3)
66:13,15,25
fee (23)
9:21;10:11,13,18;
11:5,6;21:20;22:2;
23:25;24:11;25:9;
29:3,7,8,10,13;33:20,
20;38:18;40:15,15;
41:24;45:15
feedback (1)
6:3
feel (9)
12:17;39:11;49:4,
9;59:13,15,15;60:2;
103:24
feel-good (1)
102:2
fees (11)
10:2,6,7;12:5,8;
21:15;23:1;40:19;
54:15,22;79:9
feet (3)
17:21,22,23
ferreted (1)
75:22
few (1)
21:14
fight (1)
94:14
figure (2)
89:18;94:5
fill (2)
51:11,11
filled (2)
26:5;49:18
final (2)
14:8;77:13
finally (1)
34:22
financial (2)
109:18,20
financials (1)
110:16
find (12)
7:9;9:15;19:7;

20:1;28:23;50:17;
57:1,2,4;69:10;76:2;
79:3
finding (2)
19:22;66:13
findings (1)
50:16
fine (12)
27:12;34:13;35:6;
37:6;54:24;62:19;
64:2;69:2;70:8;77:7;
79:16;96:25
fines (2)
33:14,22
finished (2)
61:9;67:16
fire (2)
18:13,13
firm (1)
94:9
firms (1)
12:10
first (28)
5:10,12;9:2;12:6;
14:3,4;34:9,21,21;
35:4,4,6,6,9;36:11;
51:25;56:7,9,9;61:2;
76:1;88:18;94:10;
96:14;100:1;107:14;
108:16,20
five (8)
16:1;22:7;25:11,
14;31:1;84:10;
109:21;110:6
five/six/seven (1)
30:23
fix (2)
24:20;54:1
fixed (3)
19:21;66:21,22
Fleming (124)
3:11,12;4:10,11;
8:1,9,12,16;9:18;
10:9,24;11:8,12,16,
19,24;12:15;28:7,11,
14,18;32:19;33:9;
35:21,22;37:15;38:6,
7,22,24;39:5,8;
41:10;42:1,3,6,10,
18;43:15,16;47:16,
17;48:6;52:17;54:14,
16,19,21;55:6,14;
56:25;58:23;60:4,11,
13,19;61:24;64:16;
65:18,25;66:3,4;
67:1,8,14,25;68:1,15,
18;69:15,19,22;71:5,
6,12,16,20,22,24;
72:1,12,17,21;73:9,
10;76:9,13,16;77:15;
80:9,12;83:8,15,18;
84:9;85:23,24;86:9,
15;87:7,18;91:3,5;
92:20;94:2;95:3;
97:18;98:4,7;99:23;
102:9;103:15;
104:13;105:1,3,7,23,
24;107:2,3;108:1;
111:1,19,20
Fleming's (1)
8:20
floor (1)
69:16
focused (1)
89:3
follow (4)
54:6,7,10;77:9
followed (1)
83:25
following (1)
77:6
for- (1)
16:13
force (2)
89:8;96:18
forcing (1)
55:8
forefathers (1)
66:11
forever (1)
84:12
forget (1)
102:2
form (2)
51:10;91:1
format (1)
18:11
forms (1)
23:15
for-sale (1)
15:8
Forsyth (2)
45:7,10
forth (2)
33:22;56:22
forum (3)
59:12;61:2;87:21
forward (10)
21:6;41:8;53:3;
55:8;61:3,4;64:3;
67:7;76:5;94:4
forwarded (1)
5:6
found (5)
5:16;12:10;20:24;
30:10;82:2
four (5)
6:10,19;7:14;
87:13,14
frame (1)
39:18
frames (1)
9:7
Francisco (2)
33:18;89:6
Franklin (1)
103:12
frankly (5)
9:13;19:7;55:1;
85:4;88:23
free (2)
32:5;59:2
freedom (2)
99:7;101:11
freedoms (1)
101:21
Friday (1)
62:9
friend (2)
100:21;104:6
friendly (2)
79:21;80:10
front (3)
11:17,22;27:7
frou-frou (2)
110:3,4
fuel (1)
22:23
full (2)
16:13;110:15
fully (1)
27:7
fundamentally (1)
6:23
funds (1)
47:1
further (5)
58:4;70:14,19;
73:25;91:15
furthermore (1)
65:13
future (9)
26:13;52:21,23;
58:5,7;59:3,11;
70:19;75:23

G

gasoline (1)
26:5
gather (1)
102:23
gavel (1)
58:11
gender (11)
88:10,10,10;89:22;
90:13,13,16,18;
91:17,17;94:21
general (4)
5:24;18:9;50:16;
74:23
generally (3)
7:1;18:11;41:17
gentleman (5)
28:20;29:2,9,14,24
gentleman's (1)
10:25
gentlemen (1)
52:19
Georgia (10)
9:23;16:21;21:13,
18;39:1;44:3,11;
91:10,11;110:10
gesture (1)
89:12
gets (3)
19:11;54:2;98:6
Gilman (4)
98:21,22;102:13,
13
Ginny (3)
98:23;99:23,24
given (6)
16:20;39:11;
48:13;57:13;65:7,10
gives (1)
14:25
giving (1)
65:11
Glad (1)
55:18
goal (4)
79:4,5,8;80:6
goals (2)
54:11;99:13
God (1)
21:3
goes (4)
14:9;74:21;76:25;
100:11
good (16)
4:22;13:9;23:8;
44:1;45:7;51:8;52:6,
7;55:25;57:10,18;
59:16;61:2;89:1;
98:20;109:5
goodness (1)
103:5
governing (1)
81:13
government (26)
14:10;16:19;18:1;
19:1;57:18;66:12,25;
78:2,9;81:13;83:23;
84:3,12,23;85:1,1,3,
5,9;96:4,13,16,19,24;
98:14;109:19
governments (3)
16:20;18:23;57:11
government's (1)
18:10
governs (1)
14:24
GPS (3)
7:8;12:17;42:4
GPSs (1)
26:8
grace (1)
39:22
Grading (4)
44:11,16;45:1,15
grand (1)
109:24
grandfather (1)
83:19
grandfathered (1)
64:2
grant (1)
78:10
granted (1)
66:6
grease (1)
61:19
great (1)
66:15
group (2)
90:15,16
growing (1)
90:10
guess (13)
13:9;14:18;17:4;
26:20;53:13;61:14;
66:5;92:3,3;104:1;
108:19;109:9,13
guided (1)
54:7
guys (3)
23:13;57:6;102:1

H

Haeberlin (2)
58:16,17
half (1)
53:21
halfway (1)
18:7
Hall (1)
108:5
hand (2)
39:3;48:11
handle (1)
43:2
handled (1)
27:7
Hang (1)
86:19
Hapeville (4)
15:4;20:25;22:6;
23:22
happen (11)
16:13;19:12;25:5;
26:12;40:11;50:10;
63:25;78:24;79:4;
89:22;92:3
happened (8)
7:11;8:2;16:13;
25:1;49:16;51:2;
96:10;109:22
happening (3)
60:16,17;62:18
happens (5)
17:10;59:9;89:16;
93:11;100:6
happy (4)

20:16;21:3;34:10;
67:13
hard (2)
82:17;100:10
harm (1)
100:15
Harper (2)
21:9,12
Hart (2)
46:6;109:13
hate (11)
16:15;88:8,8,21,
23;89:3;90:14,22;
91:1,12,14
heads (2)
104:23;109:19
health (1)
15:22
hear (3)
8:3;52:1;55:19
heard (6)
27:19;52:15;
69:25;92:2;104:2;
106:15
hearing (8)
48:14;65:20;75:6,
23;78:15;80:16;
82:8;109:4
hearings (11)
48:8;49:5,23;60:6;
64:19,22;67:10;
74:16;75:4;76:19;
77:21
heart (1)
65:3
held (1)
64:21
help (6)
7:23;15:21;25:6;
87:22;99:12,13
helpful (1)
9:4
helping (1)
24:19
he-said/she-said (1)
95:11
high (1)
19:15
Highway (1)
19:13
himself (1)
104:25
hire (3)
61:24,25;110:5
hired (2)
44:4;59:10
hold (3)
84:24;86:11,11
holding (2)
69:8;108:3
holds (1)
84:18
home (2)
102:18;108:6
hoops (1)
57:9
hope (1)
102:23
hopeful (1)
7:23
horrible (1)
96:12
horribly (2)
102:25,25
hospital (1)
108:11
hour (2)
34:12,14
hours (17)
6:10,19;7:14;8:6;
17:12;30:23;31:1;
34:12,23;36:22,22;
37:4,17,18;39:17,24;
40:5
house (2)
17:1;57:6
hug (1)
103:6
hundred (7)
13:23;22:7,7;
25:12,14;26:19;
109:24
hurt (1)
101:3
hydrant (1)
18:13
hypothetical (1)
40:19
hypothetically (2)
40:13,16

I

idea (3)
41:19;71:17;109:6
identity (4)
90:13,18;91:17;
94:22
ideology (1)
90:19
ignored (1)
85:8
ii (4)
9:21;44:7;45:13;
46:24
III (3)
44:7;45:13;46:24
illegal (13)
8:10,22;9:3;14:18;
18:19;66:15;67:4,10;
82:18,19;83:21;
97:25;98:2
illegally (2)
8:15;84:2
imagine (1)
55:6
immediately (2)
91:16;101:10
immobilized (1)
22:19
immoral (2)
91:1,6
importance (1)
110:20
important (7)
102:15,15;103:9,
13,23;109:5,14
impose (1)
14:19
impossible (3)
18:5;54:9;93:17
impound (3)
5:4;22:24;23:9
impounding (1)
108:21
impression (1)
70:5
inadequate (1)
7:6
inappropriate (2)
57:10;96:4
Inaudible (2)
104:5,8
in-between (1)
7:18
Inc (1)
84:5
incident (2)
96:9,10
incidents (2)
27:20;96:11
inclined (2)
41:17;98:13
include (1)
39:1
income (1)
13:23
incon- (1)
26:11
incorporate (1)
104:20
Incorporated (4)
21:14;44:13,13;
45:15
incorrect (1)
96:2
increase (2)
33:24;38:25
indeed (4)
48:11;64:20;
77:19;80:12
indicate (1)
98:10
indicated (1)
87:22
indicates (1)
14:9
indicator (1)
49:20
individual (7)
17:3;19:3;78:18;
82:14;84:4;94:15;
95:7
individually (2)
80:3,20
individuals (1)
98:15
information (7)
5:15;49:3;72:15;
76:6,7;108:5;109:15
initially (1)
62:4
initiate (1)
65:14
initiates (1)
9:2
insensitive (2)
100:12;101:12
inside (1)
30:14
inspection (1)
69:6
inspector (2)
61:25;83:22
instead (8)
22:20;53:2,4;80:2;
89:17;94:3,4;109:6
instructed (1)
5:3
instructions (1)
65:8
insulting (1)
100:24
intend (2)
5:11;14:11
interaction (1)
41:12
interested (2)
19:22;91:20
interests (1)
59:4
internal (1)
77:6
Internet (2)
90:23;110:19
interrupt (1)
39:7
into (12)
26:7,10;28:21;
46:11;48:18;52:20;
54:23;57:24;61:17;
67:9;74:4;95:11
intolerance (1)
91:13
invested (2)
51:6,7
invite (1)
103:1
invited (1)
41:14
invoke (1)
77:19
involved (11)
14:23;26:3;50:6;
64:23;74:25;96:13,
20;97:15;98:6,14;
101:18
involving (1)
96:5
irresponsible (1)
94:12
issue (11)
7:21;15:13;18:1;
28:19;62:25;70:11;
89:4;97:19;98:10;
100:5,12
issued (3)
18:18;84:2,3
issues (8)
7:24;26:23;52:22;
53:6;61:16;88:20;
99:11;103:9
item (14)
6:3;9:20;36:12;
42:20,22;43:2;48:5,
6;69:17;70:20;71:1;
77:4;83:12;87:24
items (5)
27:8;44:18,22;
83:7;101:24
iv (1)
6:3

J

January (4)
75:18;107:18;
108:24;110:2
JENKINS (143)
3:2,22,25;4:2,21;
5:13;9:17;14:16;
21:4;23:7;25:7,24;
26:15;27:14,18;
29:24;31:21;32:12,
18;33:8;34:4,8,18,
25;35:8,11,13;36:7,
9,12,15;37:2,7,19,22;
38:19,21,23;41:25;
42:15,19,25;43:3,6;
45:17,20,23;46:2,5;
47:4,8;48:3;50:23;
55:13,19,22,25;56:4,
10,15,17,20;57:20;
58:11,18;59:21;
60:22;61:6,12;64:11,
15,24;65:4;67:15;
68:11,19,22;69:13,
17,21;72:22;73:1,25;
74:3,9,18;75:10;
76:15,23;81:3,7;
85:11,15;86:12,14,
16,18;87:9,11,14,16,
24;88:2;92:5,8,10,
13,17,24;93:2,5,8,12,
19,21;97:1,8;98:16,

20,23;99:24;100:17;
101:8;102:8;103:16,
20;104:9,15,17,21;
105:9,14;106:16,20,
22;107:13,24;
108:15;109:11;
111:5,10,12,14
JM (1)
44:14
job (1)
59:16
Joe (2)
101:8,9
jump (2)
57:9;84:25
jumped (1)
95:22
June (1)
101:25

K

Kansas (2)
89:6;90:6
keep (9)
14:17;16:8;19:11;
20:22;26:18;56:17;
89:3;99:21;101:25
kept (1)
63:5
kind (6)
14:24;52:2;56:8;
57:23;90:1;91:14
kinds (1)
88:14
King (2)
31:19;40:5
kit (1)
105:2
Kline (1)
44:15
K-Mart (3)
28:22;31:4,7
knew (3)
7:11;24:6;76:8
knowledge (1)
75:21
known (1)
5:4
knows (1)
63:13
Kukarola (1)
45:8

L

ladies (1)
52:19
landscape (4)
27:22;28:24;
29:17;30:7
lane (1)
18:13
language (1)
90:18
lapsed (1)
9:8
last (15)
5:2,7;6:13;8:3;
9:12;19:24;24:19;
26:1;28:3;32:20;
41:2;88:5;91:23;
109:25;110:14
lasted (1)
62:4
late (1)
54:15
later (2)
17:12;63:7
laughed (1)
18:8
laundry (1)
79:12
law (17)
5:25;6:17;13:11,
16;14:9,24;18:18;
54:11;66:15;77:9,13;
83:19;84:2;89:8;
96:18;110:1,10
Lawrenceville (1)
44:2
laws (2)
20:18;51:9
lawsuit (1)
53:3
lawyer (1)
82:25
lawyers (2)
21:2;99:15
leaders (1)
66:17
leaning (1)
7:18
leap (1)
20:3
leaping (1)
20:5
least (4)
22:8;68:13;75:6,8
leave (3)
8:25;30:18;68:13
Lee (19)
23:8,8;25:11,14,
16,21;30:2,7;31:2,6,
11,15,18,22;32:1,4,
13,25;33:4
left (3)
30:14;31:19;72:3
legal (23)
6:20;7:15,15,16;
8:21;9:3,3;16:16;
17:6,9;18:7;49:7;
53:18;55:12;76:20;
77:1,19;79:4,14;
80:6,17;82:12;84:7
legality (1)
64:19
legally (5)
8:23;14:5;16:5;
57:14;82:22
legislate (1)
96:22
legislation (1)
79:12
legislative (2)
78:2;79:8
legitimate (1)
8:20
length (2)
6:9;81:1
less (5)
7:22;26:12;72:15;
75:2;82:19
letter (1)
103:4
levied (1)
10:14
liability (1)
90:21
license (5)
21:15;64:10;66:6,
9;69:7
licensed (3)
21:16;23:15,16
licensing (1)
69:5
lies (1)
88:24
lifestyle (1)
99:1
light (3)
12:20;29:15;97:20
lights (1)
109:7
likely (1)
26:12
limit (1)
34:12
limits (2)
38:25;66:19
line (4)
6:15;22:18;23:21;
101:13
lines (1)
8:18
list (1)
79:13
listed (3)
9:21;49:15;77:21
literally (2)
16:17;19:2
litigation (2)
52:21,23
little (7)
51:10;57:24;65:1;
87:12;88:21;89:5,24
live (1)
17:1
lived (1)
59:1
living (1)
17:2
LLC (1)
45:3
lobbyists (1)
13:9
local (7)
16:19,20;18:23,24;
19:1;78:2,9
located (1)
21:19
location (2)
12:23;108:3
long (8)
14:6,7;29:12;
31:21;40:5;70:7;
92:2;103:11
look (7)
6:13;7:7;20:16;
21:3;26:8;40:12;
94:4
looking (3)
12:3;20:22;69:3
loss (1)
111:1
lost (1)
7:9
lot (16)
11:7;16:1,9,12;
17:10;19:21;22:19,
22,22;28:5;31:10;
51:19;59:2,9;88:24;
100:9
lots (2)
26:18;100:8
love (1)
96:21
lower (1)
24:11
lowest (2)
44:16,21
lunch (2)
26:7;40:5
lution (1)
101:22

M

M-1 (1)
61:17
M-1/M-2 (1)
57:16
ma'am (4)
28:17;31:2;60:4,
23
magic (2)
17:23;80:1
main (2)
14:7;104:9
majority (3)
49:6;51:22;75:5
making (10)
12:15;24:16;
45:12;50:16,21;
58:12;77:16;94:24;
95:7;108:23
managed (1)
51:20
management (1)
44:5
mandatory (1)
17:20
manner (1)
82:5
many (10)
17:1,20;50:6;
52:23;71:11,14;88:6;
100:21,21;110:5
mark (1)
7:20
matter (11)
6:21;14:4,12;
34:15;35:5;75:19;
81:2;84:11,24;94:11;
97:5
matters (4)
14:9;57:1,2;98:15
maximum (4)
9:21,24;38:18;
40:20
may (21)
12:13;19:16;
27:17;48:21,25;
50:10;62:5,5;64:22;
65:1;72:7,14,14;
75:1,2,11;77:2;
82:11;85:5;96:15;
110:25
maybe (13)
7:7;26:9;31:22;
34:11;51:14,15,17;
59:25;61:14;63:12;
99:11;100:13;101:2
MAYOR (168)
3:2,22,25;4:2,21;
5:1,13;9:17;14:16;
21:4;23:7;25:7,24;
26:15;27:14,18;
28:20;29:24;31:21;
32:12,18;33:8;34:4,
8,18,25;35:8,11,13;
36:7,9,12,15;37:2,7,
19,22;38:19,21,23;
41:25;42:15,19,25;
43:3,6;45:17,20,23;
46:2,5;47:4,8;48:3,8,
12;49:10;50:23;
52:9;55:13,19,22,25;
56:4,10,15,17,19,20;
57:20,23;58:11,18;
59:21;60:22;61:6,12;
64:11,15,24;65:4;
67:15;68:11,19,22;
69:13,16,17,21;
72:11,22;73:1,20,25;

74:3,9,18;75:10;
76:15,23;77:17,19;
81:3,7;83:22;85:11,
15;86:12,14,16,17,
18;87:9,11,14,16,20,
24;88:2;91:10;92:5,
8,10,13,17,23,24;
93:2,5,8,10,12,17,19,
21;97:1,8;98:16,19,
20,23;99:3,24;
100:17;101:8;102:8,
14;103:16,20;104:9,
15,17,21;105:9,14;
106:16,20,22;
107:13,15,24;
108:15;109:11;
110:25;111:5,10,12,
14
McDonough (1)
21:19
mean (40)
6:21;10:21;13:22,
23;14:6;15:14,25;
16:3,7,18;19:20;
20:19;21:24;22:9;
23:16,19;24:2,12;
25:5;26:6;29:15;
39:7,20;45:21;48:15;
63:9,10;66:18;95:18,
21;96:4,11;97:25;
100:8;109:16,25;
110:5,7,18,19
meaning (1)
8:22
means (2)
16:9;63:4
mechanism (2)
79:10;80:22
mechanisms (1)
5:5
media (1)
108:12
Meeting (20)
3:2;5:2;26:22,25;
27:4;32:20;36:14,15;
37:1;41:2;42:14;
74:9;75:10;102:22;
104:14,20;105:8;
106:11;108:24;112:6
meetings (3)
41:15;51:21;
102:16
member (1)
107:20
members (3)
5:1;52:11;71:7
memory (1)
41:11
mental (2)
90:19,24
mentioned (3)
6:15,18;12:4
mentioning (1)
58:22
message (1)
28:4
met (1)
9:12
metaphysically (1)
82:16
microphone (2)
21:11;30:6
middle (1)
26:6
mid-year (2)
109:15;110:1
might (15)
7:3,5;9:2,3;17:18;
29:15;36:25;41:13,
15;55:3;61:20;
74:25;82:19;90:20;
108:6
mill (1)
57:5
mind (4)
20:4;89:15;92:22;
93:1
mine (3)
100:6,20;104:7
minimum (1)
75:9
minute (5)
40:6;81:9;86:12,
14;97:8
minutes (12)
3:23;7:14,15;
21:10;24:15,16;
31:22;37:16;41:1;
101:23;102:22,24
mirror (1)
10:2
mirrored (1)
40:19
missed (2)
71:10,10
missing (1)
59:25
Missouri (2)
89:6;90:7
mistaken (1)
84:3
mitigation (1)
45:5
modify (2)
14:2;38:18
moment (2)
42:2;70:10
momentary (1)
32:11
money (6)
22:10;51:6;99:19;
109:16,23;110:17
moneys (1)
51:16
month (4)
21:24;62:5;75:18;
110:14
months (3)
62:4;75:9;99:17
moral (1)
98:10
moratorium (17)
48:7;49:5,23;51:3;
60:6;61:21;62:3,6,
16,19;64:19;65:20;
67:9;76:18;77:21;
79:6;81:22
Moratoriums (1)
80:17
more (13)
8:17;29:15;50:18;
53:10;54:1;60:20;
65:10;72:7,14;75:1;
85:11;103:23;108:20
morning (1)
30:9
Most (7)
7:21;11:21;51:21;
60:25;62:14;69:10;
88:12
motion (66)
3:23;14:2,3,3;34:8,
18,25;35:8;36:24;
37:2,9,12;38:17;
41:24;42:17,25;43:2;
46:9,22;50:20,22;
64:17,18;67:15;
68:11,13,17,19,23;
69:13,15,18,20;70:1,
4,12,12,15,16,22,25;
71:3;72:18,20;73:23;
74:10;76:10,14,17;
77:2,11;78:13;79:1,
22,24;80:11;86:20;
104:13,25;105:1,3,5,
8;106:10,16;111:10
motion's (2)
77:4,6
motivated (1)
93:25
motor (5)
18:16,19,21,22;
20:13
move (15)
21:6;42:12,22;
58:4;59:7,10;61:3,4;
64:2,7;67:7;69:14;
76:5;94:4;98:17
moved (4)
3:24;35:10;
106:19;111:11
moving (6)
51:25;52:2;53:2;
55:7;61:17;63:2
much (10)
17:2;23:20;31:11,
24;32:3;41:3;66:23;
94:20;103:8;110:17
Murray (4)
4:25;21:4,8;69:21
must (4)
49:18;52:7;91:8;
100:22
myself (1)
94:1

N

naivete (1)
91:13
name (2)
74:15;104:4
named (1)
104:3
names (7)
56:17;58:8,10,13,
20;88:22;104:10
nation (1)
90:13
nationality (1)
90:17
necessarily (1)
78:17
necessary (1)
108:22
need (31)
5:12,18;14:2;
16:11;21:5,6,7;25:6;
26:9;32:6;34:16,25;
42:11,23;58:4;59:10;
61:3,4;68:25;69:14;
70:4;74:3;76:2;
95:15;97:16,16,17;
98:18;99:14,19;
104:23
needed (1)
99:21
needs (6)
5:19;27:6,6,6;
36:18;97:4
negotiating (1)
53:2
neighbor (3)
84:16;100:6,20
neighborhood (2)
96:10;102:16
neighbors (1)
96:20
ness (1)
49:18
new (8)
23:19;60:12;
61:23;62:8,17;63:15;
66:1;89:12
news (1)
108:7
next (16)
36:13,14,15,19,21,
25;42:14;43:2;57:5;
63:10,10;78:15;
87:24;93:4;107:18;
109:12
night (2)
24:25;109:1
nine (1)
80:3
nonconforming (7)
50:15,19;57:3;
76:20;77:20;79:15;
80:17
non-conforming (1)
50:3
nonconsensual (3)
9:25;10:1,3
nondiscrimination (2)
88:19;91:24
None (1)
54:8
Nonetheless (1)
57:12
non-zoning (1)
16:23
nor (1)
12:24
Norcross (1)
26:8
normally (1)
24:12
note (1)
36:18
noted (3)
41:10;76:18;80:9
notice (1)
7:6
notified (2)
28:15;30:11
notify (1)
41:17
November (1)
48:10
now-illegal (1)
82:18
now-new (1)
76:21
number (9)
6:3;9:10,20,20;
17:23;52:19;74:25;
75:4;76:2
numbers (2)
44:24;110:18

O

Oak (1)
46:12
Oakcliff (2)
25:25;57:21
objection (3)
6:21;27:11;104:9
obligations (2)
33:13,16
observed (1)
90:23
obviously (7)
6:25;7:11;13:20;

24:7;29:10;95:18;
100:4
occupation (4)
5:22;6:15;13:10,
19
occupational (5)
5:17;12:24;13:1,
24;21:17
occur (3)
39:17;40:14;
108:13
occurred (1)
28:3
o'clock (2)
30:9,10
O'Connor (2)
101:9,9
odd (1)
13:8
Oelstrom (4)
42:21;44:1,2;
46:20
off (6)
7:10;22:20;66:23;
75:19;97:11;99:14
offended (4)
100:2;102:25;
103:1;104:3
offense (1)
18:2
offensive (1)
94:12
offer (3)
24:1;70:9;91:18
office (4)
5:2;28:21;74:22;
88:18
officer (3)
17:12,14;28:8
officers (2)
28:13,15
offices (1)
99:16
official (4)
48:11,11;53:15;
83:21
O-I/O-W (1)
57:17
old (1)
101:25
once (8)
18:4;19:2;33:25;
40:2;44:23;57:16;
62:16;102:24
one (40)
7:2;8:18;21:6;
23:9;25:11;27:23;
28:13,14;32:21;
34:12;36:22;37:3;
40:6;41:12,21;42:1;
45:2;50:12,13;51:11;
52:17;54:17,25;75:6,
13,17;78:7;81:21,25;
82:17,19;83:1;88:11;
89:15;90:2;94:8;
96:9,10;97:19;
101:10
only (12)
6:24;9:21;10:12,
17;12:3;13:6;19:24;
22:19;78:16;79:17;
104:21;107:17
open (7)
39:14;50:8;51:4;
55:10;62:12;64:8;
68:13
opened (4)
28:24;44:9,23;
51:5
opening (2)
44:10;52:2
openly (1)
84:18
operable (1)
23:4
operate (6)
21:17,18;22:8,15;
66:6;69:8
operating (3)
12:21;24:10;63:23
operational (1)
22:14
opinion (22)
7:16;10:20;13:12,
18,22;14:21;15:6,19,
23;17:6,6,16;18:2;
20:12;52:12,14,16;
58:23;65:7;77:25;
79:9;80:5
opportunity (1)
39:12
opposite (1)
89:2
order (8)
3:2;27:12;32:4;
34:16,17;58:14,15;
74:9
ordinance (39)
5:3,7,11;9:16;
10:12;14:8;15:8;
16:12;17:19;18:11;
19:5;20:2;21:7;23:1,
11,22;24:23;34:1,20;
35:1;39:15;40:10;
53:12;60:12;61:23;
62:8,17;65:14,16;
78:4,5,6,9;79:16;
83:5;84:1;88:17;
90:11;98:17
ordinances (10)
18:24;48:20;49:4,
22;57:14;60:1,9,14;
62:24;63:15
ordinarily (1)
74:22
orientation (3)
88:10;90:17;94:9
originally (3)
41:19;90:5;93:25
otherwise (2)
5:23;77:24
ourselves (1)
96:5
out (62)
4:22,23;5:16;7:22;
18:8;21:17;24:2,19,
24;25:6;28:3,23;
31:6;32:7,10,10,15,
21;33:12;40:9;41:4,
21;44:8,20;45:8;
47:1,2;49:18;51:11,
11,14;52:24;53:12,
20;56:17;58:14,15,
18;59:7;61:9,18;
63:12;64:5,6,7;65:9;
66:13;75:22;76:2;
80:25;82:2;88:25;
89:9,17,18;92:13;
94:1,5;99:10;101:12;
104:10;108:12
outcome (1)
50:10
Outdoor (1)
84:5
outset (1)
84:8
outside (1)
66:8
over (15)
4:25;23:11;29:6;
36:18;55:7;62:16;
63:8;65:10;74:13;
78:19;82:24;88:8;
91:25;108:4;109:21
overnight (4)
7:24;8:23;17:9,10
owed (1)
33:15
owing (1)
33:16
own (5)
21:3;49:4;55:4;
84:18;98:13
owned (2)
97:11;101:14
owner (8)
6:6;7:2;8:24;10:4;
19:11;29:4,14;49:19
owners (7)
23:9;24:1;25:6;
32:8;50:7,11;87:19

P

Pachuta (35)
3:14,15;4:1,13,14;
7:19;9:5;11:4;13:21;
34:13;35:24,25;38:9,
10;43:18,19;47:19,
20;68:3,4;73:12,13;
86:1,2,13;96:3,9;
97:24;98:5;106:1,2;
107:5,6;111:22,23
packed (1)
72:3
page (3)
6:3,14;9:20
pages (1)
78:14
paid (1)
5:22
Pam (8)
41:8;42:15;55:13;
57:24;58:6;64:15;
87:17;100:2
panic (2)
109:17;110:12
paper (3)
83:23;97:4,16
paperwork (1)
64:22
park (12)
8:22;24:4,14;
26:11;31:7;40:4;
42:23;44:5;45:9,14;
46:13,24
parked (12)
7:3;8:15,18;16:1;
17:9,10,13,24;18:13;
31:4,18;39:21
parking (22)
7:24;8:10,21,22;
14:18,19;15:12;16:1,
4,8,9,12;17:10,15;
18:19;19:20;21:13;
26:6,18;28:5;31:10;
33:13
parks (1)
7:6
part (11)
4:23;5:20;8:19;
17:1;57:25;69:6;
90:5;92:20,21;
102:20,22
participated (1)
48:9
particular (6)
5:8;27:20;48:16,
23;69:5;83:12
particularly (2)
88:14;102:19
parties (2)
85:9;91:20
Partners (1)
44:12
parts (2)
9:15;13:15
pass (6)
15:7;78:12;85:21;
98:22;105:21;106:10
passed (17)
24:23;39:14,16,25;
45:1;53:12;62:17;
65:17;86:13,20,22,
23,25;88:17;89:7;
90:11;91:23
passes (1)
73:23
passing (2)
100:15;108:19
passionate (1)
60:16
pass-on (2)
28:9,12
past (4)
33:14,21;100:24;
104:12
past-due (1)
34:3
Patrol (1)
18:25
patrols (1)
19:13
pause (1)
42:1
pavement (3)
25:2;26:5;30:22
pay (10)
11:4,6;19:20;
21:17;33:21;51:16;
54:13;79:9;84:24;
110:11
paying (3)
10:5;13:24;30:13
payment (1)
46:16
pays (1)
84:19
pending (2)
52:21,23
pendings (1)
71:22
people (57)
7:22;14:14,16;
16:10;17:1;20:3;
21:5;22:16,20;26:10,
17,17;31:20;45:24;
50:5,6;51:8,14;
54:13;55:8;56:17;
57:12;58:2;59:5,6;
60:2;61:16,18;64:5,
5;66:6;69:11;75:8;
88:6,12,20,24;89:1,
20,20;90:15;91:19;
93:24;94:1,2,6;
98:18;99:1,10,10,12,
15;100:9;101:6;
104:11;108:25;110:8
people's (3)
24:4;88:9;98:25
perceived (1)
90:14
percent (2)
13:23;26:19
perfectly (5)

8:20;77:2;80:6;
96:15;100:3
performed (1)
66:14
perhaps (2)
70:1;99:12
period (8)
7:25;12:6,7;39:22;
40:3;48:9;59:14;
60:8
periods (3)
12:3,4;53:1
permission (2)
65:10;81:21
permit (6)
12:25;13:2;56:12;
78:10;84:2,3
permits (5)
10:1;50:8;53:13;
55:9;57:8
permitted (3)
48:23;49:2;96:16
permitting (1)
5:20
perpetuate (1)
91:14
person (19)
7:5;56:11;76:6;
88:13,16;89:25;
90:15;92:15;95:9,15,
19;97:11;101:19;
102:25;103:4,5,6;
104:2;110:13
personal (2)
32:9;98:25
personally (2)
10:24;94:6
person's (2)
94:10;103:1
petroleum (3)
24:3,13;41:15
petty (1)
96:20
Phase (5)
44:6,7;45:13,13;
46:24
philosophy (1)
84:12
phone (2)
29:6;99:5
phonetic (1)
44:15
photocopied (1)
9:10
physical (1)
98:1
physically (1)
11:9
pick (3)
11:15;64:1;103:3
piece (4)
79:12;83:23;97:4,
16
pieces (1)
109:15
Pittman (55)
3:17,18,24;4:16,
17;18:12;30:3,25;
31:13,16;32:14,19,
22;33:2,6;34:10;
35:3,10;36:2,3,20;
37:3,6,8,12,17;38:12,
13,20;40:25;41:20;
43:5,21,22;47:22,23;
55:21,24;68:6,7;
73:15,16;86:4,5;
97:3,13;106:4,5,21;
107:8,9,23;111:13,
25;112:1
place (4)
58:25;102:3,13;
108:20
placed (1)
39:19
places (2)
6:7;7:21
planner (13)
56:13,20,22;59:10,
14,24;61:25;72:6,8,
10;74:15;75:16;
77:16
Planning (2)
44:2;50:21
plans (2)
44:4;46:21
platitudes (1)
102:6
pleasant (1)
82:20
please (17)
3:3;4:2;27:20;
30:4,5;35:13;36:19;
37:23;38:21;42:2,24;
47:8;60:23;67:17;
76:14;105:14;111:6
pleased (2)
45:6,11
plenty (1)
9:19
pm (1)
112:6
point (13)
8:20;24:12,13;
30:15;40:7;57:12;
63:18;72:9;94:11;
97:1;107:16;108:23;
110:7
police (14)
16:21,22;17:11,14;
19:10,15;23:14,17;
28:8,13,14;98:6;
106:17;107:13
political (2)
88:22;93:18
politically (1)
93:25
politics (1)
101:2
population (1)
90:10
position (1)
55:12
possession (3)
84:14,15,17
possibility (1)
40:17
possible (4)
17:18;70:24;
76:12,13
possibly (1)
15:15
posted (1)
53:7
postings (1)
93:24
potential (1)
7:5
potholes (2)
24:21;25:2
power (2)
18:1;19:5
powers (4)
16:19,21,22,22
Precision (1)
44:2
preempted (1)
13:14
prefer (1)
70:21
preference (3)
88:10;90:13;91:17
prepare (1)
5:3
present (7)
8:3;27:10;49:6,13;
54:5;102:24;107:22
presentation (1)
107:20
presented (1)
107:20
presently (1)
76:21
pretty (4)
23:20;41:3;95:9;
98:5
previous (3)
66:16;81:13;83:21
previously (2)
65:7;84:6
price (1)
44:20
pricing (1)
44:19
prides (1)
90:8
principle (1)
53:5
prior (5)
49:24;82:6;83:10,
22,22
priorities (2)
27:11;109:9
priority (1)
19:15
private (11)
10:4;14:20;15:9,
13;16:4;17:11;
18:10;20:15;24:4;
84:18;85:8
privilege (1)
55:17
privileged (1)
55:2
probably (6)
18:6;20:24;80:22;
82:17;83:6;110:14
problem (11)
19:7,22;20:1;
23:17,23,23;24:6,7;
32:10;70:8;93:12
problematic (1)
82:3
problems (5)
53:14;56:12;
69:12;89:16,18
procedural (1)
70:11
Procedures (9)
48:18;54:6,7;
75:24;77:3;79:19,23;
82:7;83:25
proceed (1)
70:13
process (7)
5:21;50:7;51:16;
63:8;77:6;79:22;
80:2
professional (2)
52:12;77:18
program (1)
33:12
progress (2)
59:9;61:1
prohibits (1)
15:8
project (4)
44:7,8,9;45:14
proper (1)
49:21
properties (3)
24:20,21,22
property (27)
7:2,3,10;10:4;
12:8;14:20;15:9,13;
16:4;17:11;18:10;
19:11,12;20:15;24:5;
25:6;30:15,17,18,22;
31:8;39:22;78:7,9,
11;84:18,22
proposed (2)
50:17;94:17
proposing (1)
77:25
protect (1)
26:3
protected (1)
94:13
protection (1)
15:22
protects (1)
90:12
provide (5)
22:3,15;23:2;
91:16,25
providing (1)
10:8
provision (1)
13:8
PSC (2)
10:14;40:20
Public (7)
9:23;13:7;15:9,23;
39:1;44:10;78:15
pulled (3)
28:21;30:8,10
pulling (1)
11:10
purchasing (1)
45:8
purely (1)
79:1
purpose (1)
77:4
purposes (1)
75:23
pursuant (1)
79:18
pushing (1)
99:22
put (15)
6:7;7:14;33:25;
44:8,17;51:14,23;
56:13,22;61:21;64:5,
6;88:4;97:21;98:8
puts (1)
75:19

Q

qualified (1)
46:18
quick (3)
25:9;41:1;95:9
quite (5)
26:2;29:2;39:8;
53:16;76:3
quorum (2)
51:23;62:11
quote/quote (1)
7:1

R

R-1 (1)
57:5

race (3)
88:9;89:23;90:16
raise (1)
41:24
raised (1)
22:11
ramps (2)
109:5,8
rate (1)
56:24
rates (4)
9:24,24;39:2,2
rather (2)
11:9;100:8
re- (1)
60:2
reach (1)
99:13
reactions (1)
19:19
read (2)
55:2;100:21
reading (12)
5:10,12;14:3,4;
34:9,21,21;35:4,6,9;
36:11;54:25
ready (4)
23:14,15,17,18
real (2)
15:16;41:1
realize (2)
33:23;77:23
realized (1)
93:25
really (10)
16:17;63:15;89:1;
93:5;100:23,23,23,
24;101:12;109:13
realm (4)
7:12;40:17;65:9;
66:8
reapplication (1)
71:15
reapply (1)
55:9
reapproved (2)
62:21;78:22
rear (1)
11:20
reason (5)
10:3;82:25;95:13;
96:19,23
reasonable (2)
10:22;91:18
reasons (2)
83:2,6
received (2)
28:20;44:8
receiving (1)
94:8
recently (4)
15:8;53:11;88:17;
90:22
Recess (1)
74:7
recognize (1)
110:20
recommenda- (1)
45:12
recommending (1)
76:3
reconsider (1)
22:25
recorded (1)
52:13
recording (1)
32:25
Records (1)
55:10
recycling (1)
61:18
Red (1)
107:21
redo (1)
25:2
reference (3)
6:13;14:1;44:25
references (1)
45:2
referencing (1)
10:11
referring (1)
83:9
refusal (1)
108:19
refuse (2)
11:4,6
regard (10)
5:3,9,16;7:12;12:4,
12;15:1;20:14;
55:15;75:20
regarding (4)
50:13;52:23;95:8;
99:21
regards (1)
50:14
regular (2)
16:9,10
regularly (1)
41:14
regulate (10)
10:21;13:16,17;
15:17,18,24;16:20;
17:5;18:10;23:13
regulated (1)
13:7
regulating (2)
13:14,15
regulatory (2)
15:20;16:23
reinvent (1)
20:19
relating (1)
78:10
released (1)
32:5
relevant (1)
27:5
religion (1)
90:17
remainder (2)
55:3;75:20
remains (1)
77:25
re-make (1)
72:18
remember (2)
28:22;61:17
removal (3)
10:18;12:9;33:20
remove (3)
10:12;11:6;40:8
removed (3)
12:8,9;30:12
report (5)
49:18;106:18;
107:14;109:18,20
repugnant (1)
94:12
request (2)
20:7;38:25
require (3)
13:1;15:2;79:9
required (1)
77:12
requirements (1)
69:6
requiring (1)
13:2
research (4)
21:8;42:12,13;
89:5
residence (1)
108:10
resident (2)
95:7,8
residents (1)
61:1
reso- (1)
101:21
resolution (15)
46:23;88:4;89:7,
10;90:5,6;91:21;
93:13;94:18;96:18;
100:10,11,14,15;
103:25
resolutions (1)
89:7
resolve (1)
54:9
resolved (3)
69:11;91:9,15
resolving (1)
54:4
resort (1)
19:25
respect (1)
96:14
respectful (3)
58:20;97:5;100:3
respectfully (1)
38:25
response (8)
34:6;47:6;64:13;
72:24;81:5;85:13;
105:12;111:8
responsible (1)
98:25
rest (5)
55:16,19;58:2;
79:23;93:22
results (3)
24:8,9;78:3
retail (1)
48:21
retain (1)
50:9
retro- (1)
53:19
retroactively (3)
53:17,18;64:5
revenue (2)
33:25;34:3
reverse (1)
107:21
review (4)
65:15;80:16;
109:16;110:1
Revisit (5)
68:15,17,20,22;
69:22
rewrite (1)
61:22
rezones (1)
78:7
rid (1)
110:11
rides (1)
17:12
rig (9)
30:8,9,19,20,21;
40:4,6,8,19
right (38)
10:21,22;11:1;
12:13,25;15:21;
16:24,25;17:5,9,16;
19:10;20:10;24:14;
26:21;36:7;38:23;
39:9;49:12;53:25;
57:25;58:21;60:15,
18;65:21;69:4;
71:19;72:21;74:10;
75:1;80:19;85:10;
91:25;94:10;98:7;
105:9;110:9,9
righting (1)
60:16
rights (3)
6:25;66:13;84:4
rigs (1)
31:12
roads (1)
99:21
Roche (133)
3:20,21;4:19,20;
6:5;14:13,17;15:7,
12,25;17:8;19:6;
20:6,10,20;25:8,13,
15,20,23;29:7;31:24;
32:2;34:23;36:5,6;
37:5;38:15,16;43:1,
24,25;47:3,25;48:1;
51:1;52:10;53:11;
54:12,15;56:19;58:1;
60:10,12;61:14;62:1;
63:18,21,24;64:25;
65:21,24;66:5,18;
68:9,10,12,16,20,23;
69:2,23;70:2,3,7,18,
21,23;71:2,19;72:2,
10,19;73:18,19,24;
74:5,12;75:7,12,15,
25;76:4,11,24;78:12,
25;79:20;80:8,10,13,
19,24;86:7,8;88:2,3;
91:4,6;92:6,9,11,15,
19,25;93:3,7,10,16,
20,23;94:16,19,25;
95:4,13,18,21,25;
96:25;97:6,10;98:18;
104:16,24;106:7,8,
13;107:11,12;
108:14;112:3,4
roll (17)
3:3;4:2;35:13;
37:22;38:21;43:6;
47:8;58:6,25;67:17;
73:1;81:7;85:15;
104:18;105:14;
106:22;111:14
rolling (1)
58:24
room (1)
111:4
rule (5)
5:24;18:9;50:16;
84:13;85:6
rules (1)
85:8
rumors (1)
27:19
run (4)
77:3,5,14;109:19
runner (1)
14:10
running (1)
27:25

S

safer (1)
22:22
safety (1)
15:22
sakes (1)

103:5
sale (1)
16:14
same (12)
5:9;16:3;17:13;
19:19;33:19;64:10;
69:17;81:20,20;82:5;
84:13;95:22
San (2)
33:18;89:6
sanctioned (1)
55:3
Sandra (2)
86:16;87:9
sat (1)
53:16
Savannah (3)
15:4;20:24;21:1
save (1)
36:25
saw (3)
28:15;93:24;
101:11
saying (22)
6:6;19:14,16;28:4;
33:1,5;41:21;51:13;
60:1;62:18;63:5,13;
66:3;67:9;85:10,10;
89:21;92:18;93:8;
95:15;96:17;101:4
scenario (1)
40:24
scheduled (2)
74:16,19
school (5)
27:22;28:2,5;
31:13;32:2
schools (1)
102:17
seat (1)
58:1
Second (34)
3:25;4:1;6:15;7:5;
35:11,12;37:7,19,21;
38:19,20;41:25;43:4,
5;47:3;56:9;64:24,
25;65:2,3;67:16;
68:18;70:13,22;
76:23,24;80:13;
104:15,16;105:6;
106:20,21;111:12,13
seconded (3)
69:19;71:4;106:8
Section (8)
6:4,14,14;12:4,11;
20:13;40:10;91:23
sections (3)
12:2,12,14
seeing (2)
57:25;101:25
seem (1)
41:16
seems (3)
53:25;54:2;80:24
sees (1)
17:12
self (1)
51:12
semi (1)
25:17
send (3)
32:24;103:3,4
sending (1)
32:15
sense (2)
7:2;22:18
sensitive (2)
100:25;103:9
sensitivity (3)
91:16;92:1;100:13
sent (14)
23:10;24:3;32:21,
23,23;33:1,2,6,7;
41:4,6,21,22;95:14
separate (1)
103:6
September (2)
48:9,18
serious (1)
103:10
Service (9)
9:23;13:7;22:3,16;
23:2;24:1;33:13;
39:1;44:15
services (4)
12:22;39:11;
48:21;63:12
session (4)
52:20,24;53:10;
54:24
set (8)
10:20,22;16:24;
40:9;60:14;93:13;
102:23;108:2
setback (2)
17:20,20
setting (2)
95:3,4
seven (2)
84:19;110:8
seventy-five (1)
22:12
several (1)
49:16
sexual (2)
90:17;94:9
shall (5)
12:8;39:17;50:17;
54:10;91:21
share (1)
27:21
shed (1)
29:15
sheet (1)
10:7
shooting (1)
108:7
shop (1)
16:2
shopping (2)
8:2,5
short (1)
59:14
shot (1)
108:9
show (3)
51:20;61:20;69:7
showing (1)
101:16
Shut (3)
58:18;88:7;97:12
side (2)
7:4;29:5
sidewalks (1)
99:21
sign (1)
53:7
signage (2)
7:6;15:2
signed (6)
14:15;21:5;53:14;
56:2;100:18;101:10
signs (1)
16:14
sign-ups (3)
50:23;55:21;98:16
silence (1)
90:4
silent (1)
15:3
similar (4)
39:10;48:22;49:1;
90:6
simpler (1)
19:17
simply (4)
60:24;79:11;84:7;
88:22
simultaneously (1)
40:14
single (2)
77:16;78:17
sit (1)
30:17
Site (1)
44:12
sitting (9)
28:22,25,25;30:21,
22,25;53:22;91:25;
110:8
situation (6)
7:1;15:19;19:3,5;
26:19;56:13
situations (3)
54:5,8;89:18
six (6)
17:22;31:1;44:9;
75:8;84:10;110:6
SLUP (2)
27:2,9
Smith (5)
44:11,16;45:1,15;
46:3
Smith's (1)
44:20
social (2)
90:16,19
society (1)
91:8
solution (1)
70:10
solutions (1)
89:18
solve (5)
19:7,22;20:1;69:3;
70:8
somebody (2)
89:10;100:25
someone (8)
30:14;63:1;67:12;
70:3;94:21,24;100:4;
102:23
someone's (3)
16:1;17:9;97:25
someplace (2)
64:7,8
sometimes (1)
59:8
Sorry (11)
4:20;28:11;39:6,
20;73:22;86:15,25;
91:4;97:9;104:25;
105:1
sort (5)
18:18;89:11,12,13;
101:5
sound (1)
101:12
Southern (1)
45:2
space (5)
8:18,23;17:3;
26:24;27:9
speak (6)
26:21;27:3;59:22;
66:11;74:15;104:24
speaker (5)
26:1;97:6,9;98:3;
104:8
speaking (1)
82:16
special (2)
59:4;78:11
special-called (3)
26:22,25;27:3
specific (2)
50:17;65:8
specifically (1)
65:6
speech (12)
88:8,8,21,23;89:3;
90:14,14,22;91:1,12;
99:7;101:11
spend (3)
99:19;103:8;
109:23
spending (2)
108:19;109:6
spent (2)
24:19;101:23
spoke (2)
6:6;29:3
spoken (1)
102:16
spokes (1)
59:8
Square (2)
8:2,4
stabilization (4)
44:6;45:4,14;
46:24
staff (2)
104:10,11
stamp (2)
97:21;98:8
stamped (1)
53:14
stand (6)
30:3,5;41:23;53:5;
55:17;95:1
standards (3)
82:13,23;83:3
start (2)
4:23;54:24
state (15)
6:17;9:6;13:16;
14:24,25;15:6;16:21;
18:17,25;54:7,11;
66:24;69:5;77:9,13
stated (3)
41:2;48:20;78:13
statement (9)
41:2,21;48:24;
58:12;81:16;87:8,18;
89:13;101:4
states (3)
48:25;50:15;94:13
state's (1)
15:3
statutes (4)
9:6,6,10,11
stay (1)
51:17
steel (1)
57:5
step (1)
61:3
Stephe (2)
100:5,20
Stephen (1)
21:9
STEPHENS (4)
45:19,22,25;46:4
stepping (1)
67:9

stereotypes (1)
91:14
stick (2)
59:8,8
sticker (1)
6:8
still (9)
17:13;39:15;
44:20;49:25;50:24;
80:13,25;92:2;98:21
sting (2)
32:11,13
stood (1)
108:20
stop (3)
24:6;99:15;110:4
storage (3)
12:5,9,10
store (1)
16:8
storm (1)
47:1
story (2)
29:5;52:1
straight (1)
18:8
straighten (2)
53:20;80:25
strange (1)
99:4
stream (6)
44:5;45:4,9,13;
46:19,23
streams (1)
45:5
street (2)
16:25;109:7
streets (1)
99:17
Stuart (12)
26:15,16;56:5,8,9,
10,15;58:14;61:7;
103:20;104:10;
108:18
stuff (4)
19:8;23:20;46:19;
100:7
subject (3)
5:4;55:10;108:9
subjects (1)
102:3
submit (2)
66:25;92:7
substantially (1)
7:22
sudden (1)
51:24
suddenly (3)
7:9;16:8;85:7
sued (1)
82:24
suggested (3)
6:19;34:20;54:18
suggesting (1)
6:10
suggestion (1)
82:1
suit (1)
42:15
sun (1)
23:19
supplemental (3)
44:18,19,21
supplied (1)
9:22
supply (3)
5:21;27:22;28:24
support (3)
22:4,4;59:15
suppose (1)
17:18
supposed (1)
110:2
sure (14)
10:25;16:6;18:19;
19:23;26:2;30:8;
41:3;50:5;52:25;
79:7;88:6;94:25;
100:24;108:4
surety (1)
46:12
surprise (2)
51:10;63:7
Susan (7)
25:24,25;56:1;
59:22,23;61:6;
100:17
suspicious (1)
95:19
system (1)
33:19

T

table (12)
5:14;27:15;33:8;
42:12;46:8;50:24,25;
55:20;61:13;64:11;
70:13;108:17
tabulated (1)
44:23
talk (6)
14:15;88:24;99:1,
2,3,5
talked (1)
99:6
talking (12)
14:17;16:3;60:6;
62:23;63:1,14,15;
71:11;75:7;93:13;
108:21;110:3
tank (3)
32:15;41:3,6
tax (9)
5:17,22;6:15;
12:25;13:1,10,19,24;
21:17
taxes (3)
33:14;84:19,24
teacher (1)
59:25
tearing (1)
31:10
technicalities (1)
79:3
telephone (1)
103:3
telling (2)
89:2;97:16
tells (2)
15:6;84:20
Ten (2)
24:15;84:10
tend (1)
26:1
terminology (1)
37:13
terms (1)
53:3
terroristic (1)
97:7
thanking (1)
87:20
Thanks (1)
99:23
there'd (1)
22:9
therefor (1)
91:9
therefore (10)
13:8;17:21,24;
18:24;75:3;77:10;
84:13;85:2;95:25;
106:11
thinking (3)
50:10;51:25;63:2
though (3)
76:8;77:17;102:21
thought (7)
6:16;9:13;52:7;
69:25;100:6,7,19
threat (1)
97:7
threats (1)
27:9
three (3)
17:12;62:4;101:24
three-month (1)
60:8
throughout (1)
21:18
thrown (1)
110:18
Thursday (1)
107:19
ticket (3)
14:19;17:14;18:14
tickets (1)
33:14
tie (1)
14:9
tied (2)
69:9;73:20
times (3)
11:7;52:19,24
tion (1)
45:13
Tire (1)
28:6
Tires (1)
40:4
Title (10)
13:11;14:25;
18:16,17,18,21,22,
23;20:13;40:11
today (7)
5:16;6:6;52:14;
66:7,20;108:8;111:2
today's (1)
60:9
Todd (7)
44:11,16,19;45:1,
15,17;46:2
together (1)
99:11
told (5)
29:3,5,9;32:20;
81:18
tolerate (1)
90:3
Tom (2)
45:3;46:6
tonight (14)
4:22;5:11;6:11;
9:12;52:15;72:15;
76:7;78:13;79:25;
80:1;101:2;108:7;
109:2,24
took (3)
29:12;66:23;90:5
topic (7)
68:17,20,21,24;
102:15,15;109:16
total (2)
40:21;50:10
touch (2)
21:14;23:10
tow (7)
9:7;11:5,7,14;
15:1;40:7,15
towards (1)
20:9
towed (7)
10:5,13;11:1;12:6;
22:20;39:19;40:3
towing (33)
9:5,6,11,25;10:1,3,
14;11:9;12:5,10,16,
21;13:3,7,9,13,14,16;
19:18;22:17,18,18,
23;29:20;39:2,2,3,
10,12;40:10,14,21;
42:7
town (1)
28:4
tractor- (1)
25:17
Traditionally (1)
106:12
trailer (2)
11:23;25:18
training (6)
91:17,19;92:1;
100:11,14;108:3
transferred (1)
108:11
transgender (1)
88:15
transportation (2)
29:11;99:20
transported (1)
108:10
traps (1)
61:19
treated (1)
5:25
tree-trimming (1)
31:4
trespass (1)
9:1
tries (1)
84:16
truck (11)
7:3;11:9;17:9,13;
25:13,16,19;27:24;
28:23;29:1;40:7
trucking (1)
24:18
trucks (5)
16:1,8;24:24;26:5;
31:4
truth (1)
89:2
try (10)
53:24;54:1;61:14;
64:4;70:8;72:17;
82:21;87:22;89:25;
99:11
trying (18)
15:17;19:6;21:21;
24:13;26:3,18;28:23;
32:7;60:14,15;61:15;
67:6;69:10;89:3,17;
94:3,4;99:12
turn (1)
4:24
turned (1)
53:12
twelve (3)
72:7;74:17;75:1
twenty (1)
71:25
twice (2)
52:2;104:3
two (24)

8:6;21:9;27:20;
34:12,23;36:22;37:3,
5,6,17,18;39:17,24;
40:5;45:1;66:7;
71:23;75:9;81:19;
83:7;87:13,15;94:7;
99:17
two-hour (2)
7:20,25
type (11)
7:13;15:24;19:19;
25:16;33:24;64:21;
81:20;85:8;97:22;
98:11;103:9
types (1)
61:20
tyrant (1)
32:6

U

unanimous (1)
36:11
under (13)
6:3;16:7;23:19;
40:18,24;66:15;
77:12;82:4;83:19;
94:13,17,20;110:9
under- (1)
94:25
underneath (3)
19:4;79:18;109:7
understood (1)
70:15
Unfortunately (4)
9:11;49:19;76:6;
96:22
UNIDENTIFIED (4)
97:6,9;98:3;104:8
United (1)
94:13
unless (5)
75:18;83:1,24,25;
109:17
unlimited (1)
105:4
up (58)
8:17;11:15;13:4,
20;14:15;16:24;
18:6;19:13;21:5,21;
23:1;25:1,3;26:4;
27:14;30:3,5,22;
31:10;39:14;40:12;
41:12;42:22,24;46:8;
48:12;51:20;53:16,
22;56:2,10;58:18,23;
61:13,20;64:21;
65:15;69:8,9;71:7;
72:3;82:2;83:13;
84:25;95:3,5;99:9;
100:18;101:10,21;
103:3,21,25;104:1;
107:15;108:17,20;
109:12
upcoming (1)
75:6
upon (14)
5:2;7:2;10:14;
14:7;16:18;18:15;
19:3;55:4;56:13;
74:23;79:1;82:22;
83:2;94:9
upset (3)
29:2;100:25;101:1
use (25)
33:18;50:3,8,17,
19;55:9;56:12;57:3,
8;64:21;65:19;78:11,
19,20;80:18;82:2,3,
4,14,18,18;83:11,12,
21;84:16
used (2)
48:15;92:4
uses (27)
48:13,14,21,23,25;
49:2,14,15,17,20;
50:1,15;52:6,8;
65:14,20,23;74:17;
76:17,19,20;77:20;
79:14,15;81:14,15;
82:11
usually (4)
11:5,7;51:20;
62:10
utilized (2)
12:22;48:15
utilizing (1)
33:24

V

valuable (1)
108:22
variances (1)
57:9
various (2)
33:14;90:23
vast (1)
75:5
vehicle (22)
5:4;6:8;10:5,13;
11:1,2,15;12:6;
17:21;18:16,19,21,
22;20:13;25:21;
27:25;30:2,11;31:18,
19;33:12;39:21
vehicles (4)
12:7,9;16:4;33:15
vendors (1)
46:16
venient (1)
26:12
verbal (2)
97:23;98:1
version (1)
14:8
vest (1)
84:7
vests (1)
84:4
viable (1)
18:7
viciously (1)
88:11
victim (2)
7:1,5
view (1)
94:11
violated (1)
66:13
violation (2)
12:11;17:15
virtue (1)
17:2
volume (2)
21:23;22:8
vote (7)
34:22;70:14,14;
71:7;87:1,11,21
voted (5)
51:20;53:16;60:2;
87:12;109:23
Voting (1)
66:13

W

Wade (1)
45:3
wait (6)
6:9;75:8;81:9;
86:12,14;97:8
waive (10)
5:12;14:3,3;34:9,
20,21;35:3,9;36:11;
55:16
waived (2)
54:16,21
walk (2)
29:11;99:17
waste (1)
103:13
watch (1)
32:7
water (1)
47:1
way (28)
6:7,16;14:6,12,14;
17:13;18:7;19:7,9,
17,22,24,25;24:2;
32:16;36:25;53:25;
54:5;59:5;65:2;67:5;
69:3,11;76:12;79:4;
80:19,25;100:2
Weed (93)
4:25;5:1,19;6:12,
20;8:19;9:9;10:10,
16,19;11:25;13:4,25;
14:5,21;15:10,14;
16:15;17:16;18:15;
20:4,7,11,21;23:10;
30:5;34:15,19;35:2,
5;36:23;39:14,20;
40:1,9,16,22,24;41:9,
11;42:13;46:10,14,
17;52:9,11;53:8;
54:4,18,20;55:1,11,
15;65:16;66:21;
67:12;69:25;70:5,9,
19,22,25;71:3,6;
72:5,14;73:20,22;
74:2,20;75:14,17;
76:1;77:1,15,23;
78:23;79:1;80:5,21;
81:17,23;82:1;83:20;
84:11;86:20,25;87:3;
104:24;105:5;
106:10,14;107:15
week (6)
5:7;21:24,25;
24:19;28:3;36:13
weeks (1)
75:9
weigh (1)
6:25
weight (1)
30:21
weight's (1)
31:9
weird (1)
99:4
Welcome (3)
63:4,5;90:9
welfare (1)
15:22
weren't (1)
65:24
wetlands (1)
45:5
whammy (1)
18:25
what's (10)
24:12;25:1;37:13;
49:16;51:2;62:18;
73:24;88:8;89:19;
94:5
whatsoever (1)
23:24
wheel (2)
11:13;20:19
Whereas (5)
90:8,11,14,22;91:1
Where's (5)
109:22,22,23,24;
110:17
wherever (1)
24:14
whole (8)
41:12;51:16;58:1;
80:3;97:1,12;100:5;
105:2
wholeheartedly (1)
87:25
whomever (1)
83:22
Who's (4)
58:8,10,13;108:16
whose (1)
7:2
Wilkerson (1)
44:14
windows (1)
16:14
wisdom (1)
57:7
wish (1)
99:8
withdraw (2)
42:16;70:1
withdrawn (1)
70:12
within (6)
13:2;17:22;22:17;
40:17;75:18;80:18
without (4)
19:7;66:8;77:17;
82:4
woke (1)
30:10
wonder (1)
63:10
words (2)
34:17;79:25
work (13)
22:2;45:3,4,5,6,7,
9,10,11;66:23;85:2;
89:17;99:16
worked (4)
45:23;53:15;59:2;
66:12
working (3)
30:23,24;110:6
works (2)
39:15;44:13
world (1)
17:14
worse (1)
54:2
worst (1)
89:15
worth (2)
41:9;48:19
write (7)
14:19;17:14;
18:14,25;19:5;79:12;
82:8
writing (2)
20:18;101:18
written (4)
90:6;91:12;
101:13;103:2
wrong (7)
10:11;49:10;54:1;
60:15,17;75:11;
101:6

wrote (2)
55:18;83:23

Y

y'all (4)
21:12,20;22:25;
25:6
yards (1)
80:4
year (19)
51:9;52:7,8;62:20;
63:7,10,11;65:11,15;
78:21,21,21;88:18;
109:17,21,25;110:1,
6,15
years (7)
49:9,11;66:7;
84:10,19;85:6;
110:12
years' (1)
48:19
year-to-date (1)
110:16
you-all (4)
24:2,8,9;25:4

Z

Zero (1)
32:4
zone (4)
49:24;81:20;
83:24;84:1
zoned (1)
63:12
zones (1)
78:9
zoning (50)
15:20;16:7,22;
17:19;18:11;48:17,
20;49:4,8,17,21,22;
50:2,14;52:22;53:6;
54:6;56:11;57:14;
58:3,24;61:5,23;
62:8;66:1;67:4;
75:23;76:21,21;77:3,
12,16;78:1,1,3,5,6,7,
8,15;79:7,19,23;
80:16,18;81:14;82:7,
24;83:12,25
ZPA (2)
48:17;77:5