In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

September 20, 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 approximately 6:30 p.m., September 20, 2010.

* * *

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1 APPEARANCES:
2 Doraville City Council:
3 Hon. Ray Jenkins, Mayor
4 Councilmember Maria Alexander
5 Councilmember Brian Bates
6 Councilmember Karen Pachuta
7 Councilmember Donna Pittman
8 Councilmember Bob Roche
9 Councilmember Pam Fleming
10 Rhonda Blackmon, City Clerk
11 Murray J. Weed, City Attorney
12 Freeman, Mathis & Gary, LLP
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1 P R O C E E D I N G S
2 MAYOR JENKINS: Meeting come to order.
3 Call the roll, please.
4 CLERK BLACKMON: Councilmember Alexander?
5 COUNCILMEMBER ALEXANDER: Here.
6 CLERK BLACKMON: Councilmember Bates?
7 COUNCILMEMBER BATES: Here.
8 CLERK BLACKMON: Councilmember Fleming?
9 COUNCILMEMBER FLEMING: Here.
10 CLERK BLACKMON: Councilmember Pachuta?
11 COUNCILMEMBER PACHUTA: Here.
12 CLERK BLACKMON: Councilmember Pittman?
13 COUNCILMEMBER PITTMAN: Here.
14 CLERK BLACKMON: Councilmember Roche?
15 COUNCILMEMBER ROCHE: Here.
16 MAYOR JENKINS: Need to approve the minutes.
17 Want to approve the unsealed minutes of 8/23/2010.
18 COUNCILMEMBER PACHUTA: So moved.
19 MAYOR JENKINS: Second?
20 COUNCILMEMBER PITTMAN: Second.
21 MAYOR JENKINS: Call the roll, please.
22 CLERK BLACKMON: Councilmember Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK BLACKMON: Councilmember Bates?
25 COUNCILMEMBER BATES: Abstain.

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1 CLERK BLACKMON: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BLACKMON: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 CLERK BLACKMON: Councilmember Pittman?
6 COUNCILMEMBER PITTMAN: Yes.
7 CLERK BLACKMON: Councilmember Roche?
8 COUNCILMEMBER ROCHE: Yes.
9 MAYOR JENKINS: All right. And the regular
10 session 8/23/2010. Motion?
11 COUNCILMEMBER PACHUTA: So moved.
12 MAYOR JENKINS: Second?
13 COUNCILMEMBER PITTMAN: Second.
14 MAYOR JENKINS: Call the roll, please.
15 CLERK BLACKMON: Councilmember Alexander?
16 COUNCILMEMBER ALEXANDER: Yes.
17 CLERK BLACKMON: Councilmember Bates?
18 COUNCILMEMBER BATES: Abstain.
19 CLERK BLACKMON: Councilmember Fleming?
20 COUNCILMEMBER FLEMING: Yes.
21 CLERK BLACKMON: Councilmember Pachuta?
22 COUNCILMEMBER PACHUTA: Yes.
23 CLERK BLACKMON: Councilmember Pittman?
24 COUNCILMEMBER PITTMAN: Yes.
25 CLERK BLACKMON: Councilmember Roche?

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COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: And the regular meeting of 8/31/2010. Motion, please?
COUNCILMEMBER PACHUTA: So moved.
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Thank you.
On the Mayor's comments, we've moved the animal control officer, department, whatever you want to call it, into the police department. And the reason I put this on the agenda, there was some councilmen that wanted to ask John some questions and whoever. But it already was taken care of on the

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13th; they took it over on the 13th. So there's no reason to take a long, drawn-out time, but if you have any questions, now is the time.
COUNCILMEMBER FLEMING: In regards to the position being moved over into your -- into the police department, he will be supervised by Major Atkinson, is that correct? or is there another supervisor that you'd be aware of that he'd be supervised by?
CHIEF KING: Ma'am, regularly what -- We're in the process of doing a major reorganization of the department because we are not replacing the position of Captain Brown, so as part of this reorganization, the animal services section will be assigned generally under Major Atkinson. There will be other people that will -- directly he will respond to. Primarily they will be the watch commander, the lieutenant or the sergeant on duty. That right now, we're looking at him showing up, you know, in the morning at his beginning of his tour. He will report to them. He will get whatever pass-on, any safety issues or anything going on on the street from the previous shift, and then he will go and perform his duties and answer the call.
I would ask that not only the staff here at City Hall -- and we are in the process of probably

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revamping some portions of the notifications on the City web site and just have the calls for animal services routed through our 911 center or through our non-emergency line, the 455-1000, instead of going to his office, which they will go -- if he's not in the office, those calls will go into the voice mail. I would prefer, unless the Council feels differently, that the calls be routed through our dispatch service so there is a record of that call, that if it's something that is determined to be of an emergency nature, that at least we can have an officer on the scene to make that determination to either call him from his residence to respond or not.
Hopefully, that kind of gives you a better idea of how the intent is. We're in the process of not only getting Mr. Chupp some additional uniforms, updating uniforms, looking at the newest regulations that we have not only from the Department of Agriculture but also throughout the department -- I think it's Department of Agriculture and the Wildlife Division of I think -- I believe it's --
COUNCILMEMBER FLEMING: Natural Resources.
CHIEF KING: -- Natural Resources. Thank you.
Those two agencies have some major part of

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the duties and responsibilities, equipment requirements. And so we're doing an analysis to make sure that the animal services section, as it comes into the police department, since we're a State-certified agency, that we're in compliance and we don't run the risk of losing our accreditation.
COUNCILMEMBER FLEMING: Okay. And will we need to also review your budgetary needs?
CHIEF KING: Yes, ma'am. I had asked the Mayor a week or so ago for permission, but I would think since it's a budgetary matter that the City Council authorized the budget for the animal services to be moved in -- in total they will be to the -- to the police department, to give us the authorization to be able to charge items -- for example, uniforms, equipment repairs, those kind of things.
COUNCILMEMBER FLEMING: All right. As far as his normal daily schedule, is it going to be a 24/7 or is going to be, you know, 8:00 to 4:00? Just want to be able to, you know, notify the residents as to what his normal ...Do you have any idea or have been able to speak to --
CHIEF KING: It's going to -- I have not been able --
COUNCILMEMBER FLEMING: -- Officer Chupp at

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this time?
CHIEF KING: I have talked to him a couple times, but not into that detail. I would -- I would assume it would be a regular eight-to-four shift, but as -- but he will be -- at the end of his tour of duty, he would be on call, that if a call for animal services comes up after his duty hours, that normally a police officer or supervisor responds, assesses the situation, and if there's a need, then call him, recall him from his home.
COUNCILMEMBER FLEMING: Okay. All right.
CHIEF KING: Hopefully, that kind of gives you a mind's eye.
COUNCILMEMBER FLEMING: Well, I believe that'll help the residents as well to know the following procedure as far as calling the police department --
CHIEF KING: Yes.
COUNCILMEMBER FLEMING: -- and then, you know, dispatching from there.
CHIEF KING: Again, I would prefer that the calls would come to the police department so we can maintain a record and there's an opportunity to follow up, and if there's a problem or a complaint, then we know where to -- where to start from.

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COUNCILMEMBER FLEMING: I appreciate that information.
CHIEF KING: Okay, ma'am.
COUNCILMEMBER FLEMING: Those are the questions I have.
MAYOR JENKINS: Thank you.
COUNCILMEMBER ALEXANDER: Some of the questions I had is the concerns about you being a State-accredited agency.
I reviewed the criteria, the stats, and one of the things I had concern about is I had been told by other Council members that previously animal control was under your guise, but evidently there were issues when you tried to -- I don't know if it was disciplinary action, or create some kind of protocol that then the animal control was suddenly removed from your guise and place under the guise of the Mayor.
I want to make it perfectly clear that Chief King is now supervising animal control.
CHIEF KING: All the indications, ma'am, is that that is fact. The instructions from the Mayor to me were -- were pretty clear.
COUNCILMEMBER ALEXANDER: I was just concerned, because in the Mayor's letter it says "I will continue to monitor the duties and

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responsibilities of the animal control officer.
MAYOR JENKINS: As I do every other department.
COUNCILMEMBER ALEXANDER: I understand that, sir. But we want to make -- I want to make sure we have a clear chain of command here, because that's one of the issues that I was reviewing in the certification programs that talks about sworn officers have one supervisor that they're responsible.
And there are also additional items in here regarding every employee of the department is supposed to help with education and community projects, things like that, and I think that would be good, that if we have community projects regarding animal control.
CHIEF KING: Ma'am, we are doing an analysis. It's going to take more than one employee for the City to take care of the animal services requirements that we have in this city.
You know, Dennis has been doing this for a long time. When I first came to work for the City, we had another -- we had another individual that was assigned to the police department, Mr. Gewa (phonetic). But there's no way, with the requirements of today and the standards, that one man can do you.

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And I will tell you that right now his equipment, the location where he's operating out of in the maintenance shop is inadequate. Expect me to come to you-all and ask for some modifications not only in how we house animals --
And I know we've been skirting that issue of, "Well, we only keep the animals for 12 hours." The regulation only, you know, says if you take animals into custody, there is a certain level of basic requirements, the transportation of an animal. It's like taking somebody into custody as an arrest; there are certain standards that I will tell you right now, our analysis has determined that the vehicle that he's operating right now is inadequate.
COUNCILMEMBER ALEXANDER: That was one of my other issues, because I was informed by another municipality that our animal control vehicle was illegal, and that was another one of my concerns: that it needs to be brought up to date, because there are specific temperature controls listed in the State law regarding animals and how they're supposed to be kept at.
CHIEF KING: Eighty degrees.
COUNCILMEMBER ALEXANDER: Exactly, and that was one of my concerns.

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If you need additional funding to correct the issue with the vehicle, then I want to --

CHIEF KING: Well --

COUNCILMEMBER ALEXANDER: -- make sure that that gets taken care of.

CHIEF KING: -- I don't want to come and penny-pinch you, you know, ask you for a certain something now and then come back a month from now and ask you to -- I want to be able to come and tell you, this is what it's going to cost to meet the minimum standards.

The challenge is is that both the Department of Agriculture and the Department of Natural Resources have some very technical requirements. We are using the assistance of Chamblee. Their animal control officer has a new truck. I've talked to the chief of police, and he's given me some data.

But I will tell you yes, we have been inspected by the Department of Agriculture on our facility, and it's air conditioned but needs some very basic minimum requirements.

But the care of the animals, I think we can very easily focus on the potentially negative part. Sorry, I'm the eternal optimist; I'm the, you know, unofficial cheerleader of this community, I guess.

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But I see this as a great opportunity to engage the community and try to engage our, you know, volunteers to come and help and do a better job of taking care of the animals that are taken into custody.

I've heard the complaints where an animal gets taken into custody and then it gets run to Dekalb County, and before the owner even is aware that the animal is lost or loose, the dog's been euthanized or the animal has been euthanized. I think this is a better -- I think we can do a better job at taking care of our animals, because not all the animals are stray animals. People consider their pets almost as -- sometimes they take better care of their pets than they do their children.

So I think this is an opportunity, and I would hope that the Council will be supportive and try to turn this into something positive.

COUNCILMEMBER BATES: Chief, with that discussion -- and Mayor, this will be for you as well -- the extension service's building is now empty, it's my understanding. Would that facility be something that we could convert into an appropriate --?

CHIEF KING: I think that facility would be fine. I think the facility that Dennis, I think, currently is using, I think if we -- Our problem is

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right now we don't know what we don't know.

COUNCILMEMBER BATES: Right, sure.

CHIEF KING: I don't know what the minimum requirements. And what I wanted to go take a look at is I want to take a look at some, you know, cities. I want to see some of the cities who have struggled with this and see how they overcame. Cobb County went through a major problem recently. I don't know if I want to copy Dekalb County because Dekalb County has taken a beating lately. I don't know if they're through their problems.

COUNCILMEMBER BATES: My only thought on that was because of the relocation to your facilities to make it as close to the police department versus --

CHIEF KING: That's a good idea, sir.

COUNCILMEMBER BATES: -- all the way over on the public works site.

MAYOR JENKINS: That's true, but that building's not in good shape. He's in better shape where he is.

COUNCILMEMBER BATES: I'm just throwing --

MAYOR JENKINS: This building --

COUNCILMEMBER BATES: -- it out there as --

MAYOR JENKINS: -- is just not --

COUNCILMEMBER BATES: -- something to

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consider for the evaluation.

CHIEF KING: Not a problem, sir.

MAYOR JENKINS: It's not in good shape at all.

CHIEF KING: We will consider whatever we have.

The key is I think this is an opportunity to try to engage our community and get some volunteers to have somebody at least, you know, keeping up -- checking up on the animals that we do take into custody, whether it's two hours, eight hours, 12 hours or 24 hours. Just like we take care of our citizens better than the County does, I think we can take care of our stray animals better than the County does.

MAYOR JENKINS: And we always have.

Any more questions?

COUNCILMEMBER ROCHE: Mayor, it sounds like there's one last thing that needs to be taken care of, and that would be -- and I'll just -- I guess we need to make a motion.

I make a motion to move the --

MAYOR JENKINS: We do not need a motion, sir. It's already been done.

COUNCILMEMBER ROCHE: To change the budget? To move the budget --

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MAYOR JENKINS: If you want to --
COUNCILMEMBER ROCHE: -- over under the police department?
MAYOR JENKINS: -- change the budget, that -
COUNCILMEMBER ROCHE: Isn't that what we do up here is budget?
MAYOR JENKINS: Well, how are you going to change it? Do you how you're going to change it? Are you --
COUNCILMEMBER ROCHE: Yeah, Mayor.
MAYOR JENKINS: -- going to make a motion?
COUNCILMEMBER ROCHE: I was going to make a motion before you interrupted me.
I was going to make a motion that we would mover the cost center for animal control under the police department and maintain it as a separate cost center.
MAYOR JENKINS: Very good. Do I get a second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: More discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.

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CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
Thank you.
MAYOR JENKINS: Thank you.
Item number 2 under IV under Mayor's comments has been canceled, so we're going to move down to department head reports.
Do you have anything, John?
CHIEF KING: No, sir, not at this time, sir.
MAYOR JENKINS: Okay. Public comments on agenda items. Now, this means three-minute comments on all items, old and new business, and the next time the public will get to say anything is on public comments.
And I want to remind everybody about their

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cell phones. Please cut them off.
Public comments on all agenda items. Come on up to the microphone.
MS. HOFFMEISTER: Honorable Mayor, City Council, citizens of Doraville. I've had numerous people talk to me, call me, concerning new business item number 2.
Unfortunately, I've not been attending your meetings as diligently as before, but I can speak as a homeowner and I can say we're not doing too bad. I just went out and looked at the property values that have sold in the last nine months. Atlanta is holding its own. I mean Doraville is holding its own as far as the 30340 Zip code is concerned, so we're doing something right. We all come in here and complain, but we're doing something right.
Yes, we're not the average of 30340. Our highest sale in my neighborhood was a hundred and sixty-six; the lowest one was sixty-eight. The average was a hundred and five, the mean was a hundred. In this economy, that isn't bad, so obviously you're doing something right, and the City government is doing something right.
I would hope that we could all learn to work together to be a little more public-minded and

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concerned about the businesses and the residents and just bear in mind that what we're doing -- We all have faults, but let's work together and continue to do better than the surrounding area. I can look at the area south of Northcrest, and they have better homes than us, and their homes are selling for less.
So we're doing something right here. Yes, there's room for improvement, and I think we just as citizens have to take some time to consider the facts and to look at the numbers, and we're not doing too bad. Thank you.
MAYOR JENKINS: Thank you.
Next?
MS. CRAWFORD: Okay. I'm talking about the second number 2 under new business.
And actually, just real quickly, I would like to agree with Bonita. I noticed that on our street, in our immediate neighborhood, the house that's been under renovation for like 12 years or something has been recently purchased by an architect, and there's some new people moving in, starting families, and I'm hoping this is going to be sort of a turnaround in our neighborhood.
Okay. I'm a little bit upset about what I've been hearing which deals with the second number

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2. I remember all of us really wanting and waiting for both the Planning Commission and the city planner and then finally getting both. We were very excited. When we voted in this new City Council, we were very excited as well.

And the ordinances that were passed by you, I don't know that much about ordinances, I don't pretend to, but they seem to be going in the right direction. Maybe they've had some problems. Again, not my area of expertise.

So we have the city planner who is to enforce these ordinances that you people passed. The businesses who have been able to do pretty much anything for the last 20 years -- and I've lived here long enough to see things go downhill greatly -- are not happy with this. But generally, people are not happy with having to stop what they're doing and to be interrupted. A two-year-old with a crayon isn't happy when you say "You have to put the crayon down now. We can't color every wall in the house."

Now, to me, you passed these ordinances. If you don't like 'em, tweak 'em, change 'em, run them through the Planning Commission; that's fine. But we as residents deserve representation. We're the ones who maybe don't help much financially, but we can give

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you all the support you need in every other way, and we do. And we voted you in, and our futures are in your hands. I mean this is pretty serious stuff.

The city planner is enforcing the ordinances that you voted in. To get rid of him is not going to get rid of the problem. If you don't like him, if you don't like what he's doing, talk to him; work it out. I've had many people I've had to work with over the years but I didn't like but got along with. But for God's sake, don't get rid of him.

MAYOR JENKINS: Thank you.

Next?

MR. O'CONNOR: Good evening, Mayor and Council.

I'm up here -- I'm not speaking for, but I've talked to everyone on the Planning Commission, and to the man, we all support Scott. He's been doing a wonderful job, and I just can't understand it.

If you-all passed C-1 and C-2, there's a remedy, and it isn't firing Mr. Haeberlin. It's get four of you together and redo it. Write your own.

We see it every time when we're sitting on the Planning Commission. Seven to nine pawn shops are in town. Nobody knows. How did they come in? I don't know. They just come in at night and that's the

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end of it? Well, when the planning staff gets around to looking, they find these things, they bring it up, and all of a sudden, there's problems.

It isn't Mr. Haeberlin's problem. This is something that's been left for years just festering. I mean more massage parlors, liquor stores that weren't supposed to be there. Yet the funny thing is there's not even a funeral parlor in this town, so if you die, they got to ship you out of town.

Now you can get massage in town. Don't worry about that, you know. Pawn everything you own. Maybe your relatives can run out. But don't ever think you're going to get a little viewing here in town. It just seems like it's, you know, like after a marathon when they had the big war and the guy runs 26 miles and they're wanting to kill him because of the message.

Don't kill the messenger, Scott, that these things need to be done; rather, help him. I don't want to go back to the old west that we had before we had a city manager -- or a city planner, and we just want to give -- I want to give him my full support. Thank you.

MAYOR JENKINS: Thank you, sir.

- - -

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(Applause)

- - -

MAYOR JENKINS: Next? Nobody else? Come on up.

MS. FRAYSSE: Susan Fraysse.

Since 2004 when I retired from my career as a librarian, I have been involved with the city and especially interested in the planning aspects of the city. I was involved with the initial group of planners and was so excited when we finally got a planning commission, and we've been doing well with that.

When we got Scott as a planner, it really ramped things up quite a bit. There was the focus, there was the professional expertise, and I have been very supportive of him throughout the time that I have been involved.

I go to Planning Commission meetings, I go to the Council meetings, I try to read the documents that are posted. It is so much better than it used to be. You used to not be able to find out anything. I don't know how decisions were made. But it wasn't out in the open, it didn't involve the public, and we didn't have any professional leadership.

I've been involved with several ways of

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1 planning -- the LCI and the Comp Plan, and the
2 attempts to rewrite the zoning ordinance -- and we all
3 start out in love with the planner, and within a short
4 period of time, everybody wants to stab him in the
5 back. And I think I see that happening again, and
6 it's just natural human nature.
7 There are complaints arising from, as
8 Mr. O'Connor said, the changes that need to happen.
9 The changes need to happen. Change is going to
10 happen; change is difficult.
11 The points I want to make are that in my
12 opinion, having watched as closely as I could, with
13 close attention, Scott is doing a professional job
14 under the supervision of the duly-elected Mayor of the
15 city. And even though we have little fights and
16 battles at different times, and power struggles, that
17 remains the fact: he's a professional. It's not
18 personal, it's not petty; he's applying what he knows.
19 And if you-all write ordinances, he has no choice but
20 to enforce those ordinances as written.
21 I read Ms. Fleming's suit against the City,
22 a bizarre occurrence that a Council member should be
23 suing the City and involving a City employee to this
24 degree, and I think that undermines the City. I
25 didn't see any credible evidence of any lack of

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1 professionalism or any conflict of interest.
2 COUNCILMEMBER FLEMING: Excuse me,
3 Ms. Fraysse --
4 MS. FRAYSSE: I'm just making --
5 COUNCILMEMBER FLEMING: -- but that
6 particular case --
7 MS. FRAYSSE: -- a statement.
8 COUNCILMEMBER FLEMING: -- has not been
9 heard yet and should not be --
10 MS. FRAYSSE: I won't refer --
11 COUNCILMEMBER FLEMING: -- spoken about --
12 MS. FRAYSSE: -- to any details --
13 COUNCILMEMBER FLEMING: -- at this --
14 MS. FRAYSSE: -- about that.
15 COUNCILMEMBER FLEMING: -- point in time.
16 MS. FRAYSSE: I would like to say that I see
17 a kernel of the problem, why there's such a disconnect
18 in terms of whether you view him as professional, or
19 you don't. I know that you don't view him as profes-
20 sional.
21 I've also read the investigative report of
22 the charges about the hostile work environment, and I
23 thought it was very, very revealing that when you were
24 asked by the investigator whether you thought
25 Mr. Haeberlin was following the ordinance with regard

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1 to C-1 and C-2 as it is currently written, you didn't
2 answer. You left the room with your attorney and you
3 consulted and you came back in, and what you said was
4 that you believe Mr. Haeberlin's interpretation is not
5 in accordance with the intent of the ordinance.
6 This scares me a lot, that you expect a City
7 employee to imagine what the intent of the ordinance
8 was as something separate than the ordinance itself,
9 and I disagree with that. I think it's illegal. I
10 don't want any City employee doing that.
11 So I'm very strongly in support of him and
12 professionalism and letting professionals do their
13 professional work.
14 MAYOR JENKINS: Thank you.
15 - - -
16 (Applause)
17 - - -
18 MS. GILMAN: Carol Gilman. Mayor, Council,
19 I'm here to voice my support for the Planning
20 Commission, the work it does, and my support for
21 Mr. Haeberlin.
22 If it wasn't for Mr. Haeberlin and the
23 Planning Commission and your subsequent support, my
24 own residence would still be in a state of chaos.
25 Mr. Haeberlin led the effort, a very professional

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1 effort, to correct many deficiencies that took place
2 during the initial planning and construction of my own
3 condominium development. And I appreciate his work,
4 and I certainly appreciate your support of him in that
5 instance, and I would like your support of him now.
6 I just returned from vacation in
7 Bal Harbour, and I was in one of those shops where you
8 can buy all kinds of trinkets and souvenirs. And
9 there was this one shop that had this great supply of
10 funny little sayings and signs, and I read one, and I
11 thought -- I was reminded of some of what's going on
12 here, and it read "The beatings will continue until
13 morale improves."
14 For goodness sakes, what we have here, I
15 believe, in somebody else's famous words, is a failure
16 to communicate. Let's bring in a group of people who
17 can privately, professionally, and with dignity, talk
18 about the issues that exist here and that have to do
19 with this second number 2. Please, let's not hang our
20 dirty laundry out for the public to see.
21 Right now we've got so many consultants and
22 we've got the LCI study going on. We have people
23 looking at us. And you know they're looking at this.
24 They are laughing at us, for goodness sakes. They're
25 laughing at me. I am Doraville. I want to be

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1 Doraville. I don't use Atlanta 30340 as my address.
2 I use Doraville.
3 And I want all of us to grow together and
4 succeed together and I want all of our employees to
5 feel like they're in a pleasant, respectful working
6 environment. That doesn't mean they're not held to a
7 certain standard of performance based on their job
8 description, their position description; doesn't mean
9 that they don't receive periodic appraisals about
10 their performance. You-all do every election year.
11 I would ask that this item really be removed
12 from the agenda and in its place that we work
13 together, put on the agenda a program where we have a
14 form of communication to address these issues before
15 they escalate to the level that this one has.
16 We have many educated and caring and
17 wonderful people living in the city of Doraville, some
18 who communicate a lot better than I do about
19 personnel-type issues, and I'd like to have that
20 advisory committee put in place.
21 MAYOR JENKINS: Thank you.
22 - - -
23 (Applause)
24 - - -
25 MAYOR JENKINS: Come on up.

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1 MR. HART: I wanted to talk about a couple
2 things.
3 One was Dennis, I hope you find a new home
4 there with John's leadership where hopefully the dogs
5 and animals and the city will see the respect that you
6 have richly deserved over the years. You're doing
7 probably the hardest job in the city, having to deal
8 with these damaged and hurt animals, and so you
9 deserve a lot better than you're getting.
10 And so I think that we can move together,
11 and I think that the city with volunteers and that
12 sort of thing can really do something as far as
13 veterinary medicine for the city and a place for the
14 dogs and cats to go, and people once again in the town
15 center can have a place to go. I think that something
16 really unique could be made out of this whole thing,
17 so congratulations.
18 Secondly is considering personnel complaint.
19 I looked through this personnel complaint. People
20 have been sending me all kind of stuff, and they asked
21 me if I was going to bring Channel 2 or 11 over here,
22 bring the TV cameras in here and do all this stuff.
23 And I said, well, I've looked through the complaint
24 and I noticed that my name wasn't in there, and if
25 anybody's got a complaint about Scott Haeberlin, it's

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1 probably me. And I didn't see my name on the list.
2 What I saw was it looks like when the kids
3 are in the back and they're arguing about, you know,
4 who's got the window and who's got the hair brush. It
5 was kind of like in the same order.
6 You know, Scott and I don't get along, and
7 for a variety of reasons. But one thing that he is
8 doing --
9 And it's a very hard job, and it's very
10 similar to what Chuck Entsminger had to do when he was
11 here. All day long you have to wear a striped shirt
12 and you have to have a whistle, a gun and a chair
13 because virtually every word that comes out of your
14 mouth on a daily basis: "No, no, and don't even think
15 about it," because they come out, "Well, how come I
16 can't put my house on top of my barn?" You know, "How
17 come I can't, you know, run a three-ring circus in my
18 front yard?" It's all day long, and say, "No, don't
19 think about it."
20 And an example -- Yeshiva High School is an
21 example or the sidewalk project out here. That
22 sidewalk project plus or minus as to what happened is
23 not Scott Haeberlin's fault. He objected to that.
24 The GM site planning is not Scott Haeberlin's fault.
25 Buford Highway is not Scott Haeberlin's fault. These

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1 are the faults of the City Council and other people in
2 this government. They're not the planner's fault,
3 because he has nothing to do with it.
4 As a matter of fact, Scott and I agree on a
5 number of issues, and I know it's a big shock to some
6 people, but he understands in the conversation what
7 has to be done there. This road project out here
8 would not have happened if Scott had been involved in
9 it, or, for that matter, if John Calcaterra had been
10 involved in it.
11 So I agree totally with what you had to say,
12 that this thing needs to -- the dirty laundry needs to
13 be taken back to the back room, figure out what's
14 going on here and stop embarrassing the city. Thank
15 you.
16 - - -
17 (Applause)
18 - - -
19 MS. STEERING: Jean Steering, Chestnut
20 Place.
21 I also support the planning committee and
22 Scott Haeberlin. I'm working for three local
23 businesses here in Doraville and also in Chamblee.
24 I've butted heads, you know, several times in trying
25 to get, you know, permits pulled. And it may not

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always be what I want to hear, but he's just doing his job, and it's in the best interests. There's lots of times that we want to have things done, and it may not be what the overall community wants but it's what I want, but it doesn't mean that's what's going to happen. So I do support him. Thank you.

MAYOR JENKINS: Thank you.

- - -

(Applause)

- - -

MS. KELLY: Nancy Kelly, 3334 Chestnut Woods Circle, Chestnut Place in Doraville.

I don't come to these meetings very often, but I made a special point to make my way through the traffic out there on 85, with the airplane sitting there, to get to this meeting to voice my support for Scott Haeberlin. Thank you.

- - -

(Applause)

- - -

COUNCILMEMBER ROCHE: Stuart Anderson, clearly the lone dissenter. What can I say?

This is a two-year ongoing thing. I certainly support the Planning Commission. If anybody knows me, I study zoning. It's something I do.

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We've had no end of difficulties since Mr. Haeberlin has come.

I'll read a small excerpt from an e-mail I sent. Ms. Fleming sent to Ray Jenkins a personnel complaint against Scott, listing 25 incidences. These incidences and all these discussions tonight should be going on in Executive Session. That's why I wasn't going to stand up and say anything until there's been such an onslaught of this 25 incidences of insub-ordination, insulting treatment of the Council and various levels of business/personnel application/ zoning persons, causing the City to go back and review/fix ordinances and lose business to other cities. This has cost untold thousands of people hours and untold tens of thousands of dollars to the citizens, to business people, et cetera. It's ongoing.

The Mayor refused to hear Ms. Fleming's personnel complaint. She had to put it on the agenda tonight to be heard. It didn't have to be on an agenda item. It could have been a personnel complaint; it would have been handled in Executive Session, which it still should be.

I've read the complaint, and I don't understand Murray's comments on -- which I think it's

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Murray's comments, not the Mayor's -- refusal to hear her personnel complaint.

Scott Haeberlin's personnel complaint, his counter-complaint against Ms. Fleming was subsequently -- I say Pam's personnel complaint was dismissed in a tone -- in a tone of letter.

However, Scott's counter-personnel-complaint was investigated by an outside private investigator hired by Mr. Weed at considerable cost to the City, the City's cost of several thousands of dollars of taxpayer money. Fleming was found to be in compliance with her rights and her duties and not in violation of any EEOC complaints against her, yet the City has chosen to spend taxpayer moneys investigating her and not investigating Mr. Haeberlin.

This whole thing -- I appreciate your support for Mr. Haeberlin, and certainly the city planner needs to be supported, but this whole thing should not be a public discussion. It should be a personnel issue, which is Executive Session.

Thank you.

MAYOR JENKINS: Thank you.

MR. CRAWFORD: Mayor, City Council. Ben Crawford, Oakcliff Estate.

I too like Joe am on the Planning

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Commission, but I'm not up here as somebody that's a member of the Planning Commission but just a citizen at large.

But my support is for the work that I've seen that's Scott's done, and I'm not going to get into some of the things that Stuart talked about and kind of put 'em in his own words, because I also, too, read that document but I'm not going to bring that up now. I actually read all the documents, and I'm not going to bring any of them up right now. I don't see that's pertinent.

What I do see is pertinent is that we do have zoning that needs to be enforced, and I've seen the city planner work with City Council on drafting zoning changes for the city, which you requested. I've seen them be approved. I've seen the businesses get upset.

I've seen the businesses -- And I've actually seen e-mails that I won't like get into specifics about but that are kind of interesting. But I've seen the businesses get upset. They want the city planner's head on a platter. Wouldn't matter if it was Scott Haeberlin, is my contention, or it be any city planner, because there's a select group of businesses, not a large group -- because I did walk

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around when we were trying to get the Planning Commission set up, and I actually went to residents but I also went to businesses, and I can produce the original list of businesses that signed up because they wanted to see a planning commission -- and this is a small part of the businesses that are complaining that want the city planner's job, and I don't think that's right.

I'm not going to stand for it as a citizen. I think there's a lot of allegations being made, but they should be substantiated. And I don't see them as a bar. I work as a supervisor, and I don't see them as being a -- as a bar for dismissal. If there are some things to work out, I agree they should be worked out. But from what I understand, unless you follow the City Charter and you choose to disengage the employment of a City employee, I would think the City Council would defer to the Mayor and let the Mayor do his job, which is manage the City employees.

I mean I've seen a lot of good and I've heard a lot of rumors, and it seems like we as a city respond to the rumors. And I would like to key on something Chief King said tonight. I choose to be optimistic about the city too.

And I hope City Council will be optimistic

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about the city and work to resolve this problem, keep our dirty laundry out from Channel 46 like it gets brought out all the time. And I got a real disparaging remark from the cameraman one time when I tried to talk to him about the good news, and I won't repeat what he said.

But anyhow, I'd like to see us do a better job, and I think we can all do a better job by working together. And I have seen positive movements. I was excited with City Council, I was excited with a city planner, I was excited with the Planning Commission.

I've been working my heart out to try to help this city, as well as a lot of other people in the community, both businesses and residents, and I'd like to see that continue. I think we patched the divide between the businesses, and I think this is one step further. Thank you for your time.

MAYOR JENKINS: Thank you.

- - -

(Applause)

- - -

MAYOR JENKINS: Next? Come on up. No one else. Okay.

First item on old business, sanitation RFPs, Maria Alexander.

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COUNCILMEMBER ALEXANDER: Yes, sir. I got some feedback from a couple of Council members last night. This is the suggestions.

One change that was left over from the previous example was the containers at Honeysuckle Park, the recycling containers, are pulled once per week when they're full, so I modified that language on the proposal response form.

Councilman Bates had suggested modifying the form to show a monthly charge and then an upcharge for twice-a-week service to make it easier for us to review, and I think that's a great suggestion and I'll incorporate that.

He also requested that we add a question to the criteria which is who owns the landfill where the solid waste will be deposited. I think that's a very good question to ask also, because a private landfill does not have to adhere to the State laws regarding recycling yard waste. Yard waste cannot be put into a municipal landfill; it has to be recycled. So I think that's a good point, that that would encourage recycling of yard waste.

And then also adding another bullet, number 9, what has the offeror done or proposes to do to reduce the amount of solid waste going into the

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landfill? So what are they going to do to encourage citizens to recycle? I think those are good points.

And then Ms. Pachuta had some questions, one of which was can we -- because when we had the presentation from the middle school students at Sequoyah, a lot of them wanted recycling in the apartments, so that's included in our RFP. And I had checked with Mr. Weed to see if we could institute such a policy, having our city contractor go onto private property, and he said yes, there was no issue with that.

As far as we decided, I guess -- in talking up here, we decided to do an RFP for two years and five years. We're currently under a five-year contract that expires at the end of the year.

Does Council have any feeling of doing more than just the two- and the five-year for a comparison or --

COUNCILMEMBER FLEMING: I'm not comfortable with a five-year contract --

COUNCILMEMBER ALEXANDER: So the two-year and then the five-year on the chart.

COUNCILMEMBER FLEMING: -- because I believe that and the reason being is that we've had so much discussion about going over into another council, that having it five years, it would be possibly a complete

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1 new council, and I would think two years.
2 COUNCILMEMBER ALEXANDER: Because even if we
3 do a two-year, we'll still be going into another
4 council --
5 COUNCILMEMBER FLEMING: Correct.
6 COUNCILMEMBER ALEXANDER: -- because next
7 year's another --
8 COUNCILMEMBER FLEMING: Right.
9 COUNCILMEMBER ALEXANDER: -- election cycle.
10 COUNCILMEMBER FLEMING: But that's just --
11 COUNCILMEMBER ALEXANDER: Okay.
12 COUNCILMEMBER FLEMING: -- my comment.
13 COUNCILMEMBER ALEXANDER: So we'll leave the
14 two options there, the two- and the five-year.
15 Also I assumed, I guess, that Council was
16 going to review the proposals. Do we want to assign
17 staff to do that, or what's anybody's opinion on that
18 -- the responses that we get?
19 COUNCILMEMBER ROCHE: I think Council should
20 definitely review the proposals.
21 COUNCILMEMBER ALEXANDER: Okay. Ms. Pachuta
22 also raised a point about white goods. Typically the
23 City has been handling our white goods pickup, and we
24 had talked -- I know at budget time we discussed the
25 loaning of the city dump truck to residents and

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1 possibly charging residents a fee, at least collecting
2 the dumping fees that the City's paying for these
3 loads.
4 I spoke to another municipality, and they
5 actually charge a dumping fee and they also charge an
6 hourly wage for the city employees to deliver the
7 truck and pick it up and dump it. I think it's like
8 $38 an hour or something like that.
9 I didn't know if Council had any opinion on
10 that, but I didn't necessarily want to include that in
11 the RFP for the trash services. I think that's a
12 separate budgetary issue that we need to handle I
13 guess whenever have another budget meeting, because we
14 never -- We discussed it and we got some figures, but
15 we never took any action on it.
16 So if everyone is okay with the suggestions
17 by Councilman Bates, I will make those changes. And
18 then I was going to e-mail the RFP to Mr. Weed; he was
19 going to attach a sample contract and then get it to
20 Mr. Howe for posting on October 1.
21 And Ms. Blackmon, I would like that posted
22 on the web and also on the GLGA web site, if we could,
23 so it gets -- it gets way out there.
24 CLERK BLACKMON: Okay.
25 COUNCILMEMBER ROCHE: We need to also make

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1 sure that the County's aware of this, because, you
2 know, as you know, they also provide these services.
3 COUNCILMEMBER ALEXANDER: And it'll be
4 posted on the GLGA web site, which is the Georgia
5 Municipal Association web site, and I believe that
6 goes to all counties and governments.
7 MAYOR JENKINS: Do you need a motion?
8 COUNCILMEMBER ALEXANDER: Do we need a
9 motion to do that, Mr. Weed, or --
10 ATTORNEY WEED: A motion never hurts.
11 You know, for example, I don't think you
12 have to have a motion to go out for an RFP. I don't
13 think it's required by the charter or the ordinances,
14 but it can do no harm, and you've established a record
15 that way.
16 COUNCILMEMBER ALEXANDER: Okay.
17 MAYOR JENKINS: You make the motion, Maria?
18 COUNCILMEMBER ALEXANDER: I'm trying to
19 figure out how I'm going to word it.
20 I'm going to make the changes we've
21 discussed, and I will forward a copy of the RFP to
22 Attorney Weed who will then --
23 I make a motion Attorney Weed will then
24 attach a sample contract and forward to Luke Howe for
25 internet posting.

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1 MAYOR JENKINS: Second?
2 COUNCILMEMBER PACHUTA: Second.
3 COUNCILMEMBER PITTMAN: Second.
4 MAYOR JENKINS: Any more discussion?
5 COUNCILMEMBER ALEXANDER: Can I add October
6 1st to that date, please, for posting? I'm sorry,
7 because that's in the time table in the RFP.
8 MAYOR JENKINS: Okay. Any more discussion?
9 - - -
10 (No response)
11 - - -
12 MAYOR JENKINS: Call the roll.
13 CLERK BLACKMON: Councilmember Alexander?
14 COUNCILMEMBER ALEXANDER: Yes.
15 CLERK BLACKMON: Councilmember Bates?
16 COUNCILMEMBER BATES: Yes.
17 CLERK BLACKMON: Councilmember Fleming?
18 COUNCILMEMBER FLEMING: Yes.
19 CLERK BLACKMON: Councilmember Pachuta?
20 COUNCILMEMBER PACHUTA: Yes.
21 CLERK BLACKMON: Councilmember Pittman?
22 COUNCILMEMBER PITTMAN: Yes.
23 CLERK BLACKMON: Councilmember Roche?
24 COUNCILMEMBER ROCHE: Yes.
25 MAYOR JENKINS: Okay. Driveway limitations,

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1 grandfather gravel driveways, Pam Fleming and Brian
2 Bates.
3 COUNCILMEMBER BATES: Thank you, Mayor.
4 Ms. Fleming and I had a good conversation
5 today regarding this. There are some ideas that we
6 have floating back and forth regarding how to go about
7 best addressing this. We came to the conclusion that
8 we're talking about something that we don't have good
9 information on as far as the number of driveways that
10 are out there and being discussed.
11 So we're going to ask that quality of life
12 go out and do an audit of the existing driveways,
13 photograph them to ascertain the number and the
14 condition before we move forward with any discussions
15 regarding exemptions, grandfathering, enforcement of
16 the existing ordinance, et cetera.
17 It seems to be prudent to have a good, firm
18 understanding of what you're talking about as far as
19 the potential impact before you move forward. So we
20 are going to withdraw this and will repost this at a
21 later date when we have sufficient information.
22 COUNCILMEMBER FLEMING: Mr. Bates, did you
23 notify or request that of Chief King or --
24 COUNCILMEMBER BATES: I was hoping to talk
25 to him but he --

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1 COUNCILMEMBER FLEMING: -- or Chief
2 Atkinson?
3 COUNCILMEMBER BATES: Major Atkinson, can
4 you work on that?
5 MAJOR ATKINSON: Yes, sir. You want photo-
6 graphs also?
7 COUNCILMEMBER BATES: A photograph of the
8 driveway, and the address, just so we've got a
9 complete record of where we've got existing gravel
10 driveways. And that would apply to secondary drive-
11 ways and parking pads as well. Thank you, Major.
12 COUNCILMEMBER FLEMING: So we're -- Make a
13 motion?
14 COUNCILMEMBER BATES: I --
15 COUNCILMEMBER FLEMING: No. We're just --
16 COUNCILMEMBER BATES: We're just with-
17 drawing.
18 COUNCILMEMBER FLEMING: Withdrawing for a
19 later date.
20 COUNCILMEMBER BATES: Yes, ma'am.
21 COUNCILMEMBER PACHUTA: And it's just resi-
22 dential, right?
23 COUNCILMEMBER BATES: Yes.
24 MAYOR JENKINS: Want it on the next agenda?
25 COUNCILMEMBER BATES: No, sir. I don't know

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1 that we'll have that information.
2 MAYOR JENKINS: Oh, okay.
3 COUNCILMEMBER BATES: Rhonda, we'll add it
4 to the agenda --
5 CLERK BLACKMON: Yeah. I just put postpone
6 it to no specific date.
7 COUNCILMEMBER BATES: Yes.
8 COUNCILMEMBER ROCHE: So what's the status
9 now of people that have gravel driveways? Do they
10 have to take them up by next month? I mean we --
11 COUNCILMEMBER FLEMING: No. It's March of
12 2011.
13 COUNCILMEMBER ROCHE: Okay. So the vote
14 that we did that we passed a couple meetings ago, is
15 that still in effect? I mean that was the motion.
16 COUNCILMEMBER BATES: We never voted on the
17 ordinance. We made a motion and a vote here. So I
18 guess technically --
19 ATTORNEY WEED: Technically, the status quo
20 will remain.
21 Council based upon your previous policy
22 decided to authorize me to write ordinances. I wrote
23 ordinances but the ordinances have not been passed;
24 therefore, the ordinance in the book remains the same,
25 and the clock is ticking.

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1 COUNCILMEMBER BATES: We will have that
2 information much quicker than April.
3 MAYOR JENKINS: Okay. Is that all on that,
4 number 2?
5 COUNCILMEMBER BATES: Yes, sir.
6 MAYOR JENKINS: Okay. Item number 3 is
7 Karen Pachuta, update permits and regulatory fees.
8 COUNCILMEMBER PACHUTA: Yeah. This is an
9 item -- I have sent some questions to Scott Haeberlin
10 and also to Mr. Weed, and I believe Mr. Bates has also
11 done the same, not even yet discussing the amounts for
12 fees, but I just had general questions. I'm still
13 waiting on those.
14 And I guess we can bring up some questions
15 now, but in thinking about it also, I don't know if we
16 should start it now or if it is a better discussion
17 for a work session to sit around and have some depart-
18 ment heads and the code book.
19 COUNCILMEMBER BATES: Well --
20 COUNCILMEMBER PACHUTA: Or we can go over
21 some of our questions now.
22 COUNCILMEMBER BATES: I think the big one --
23 and again, Ms. Fleming and I talked about this today
24 -- is the draft that was provided to us on June 30th
25 identified proposed or changed --

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1 COUNCILMEMBER PACHUTA: Right.
2 COUNCILMEMBER BATES: -- fees. And what
3 wasn't clear was whether or not it was a proposed new
4 fee or if it was a change to an existing fee.
5 So I think before we can get into evaluating
6 the fees that are on the June 30th list in red, we
7 need to get an understanding of whether or not it's an
8 existing fee that is being proposed to be changed or
9 if it's a new fee that's being proposed by a
10 department head, et cetera. So that would be my
11 preference that we go back and get a revised list that
12 identifies whether or not it's an existing versus a
13 modification of -- modification of an existing or a
14 new fee.
15 COUNCILMEMBER PACHUTA: Yeah, no. And I --
16 Mr. Haeberlin corrected me today. The items in red
17 don't just reflect fees that are missing. It's fees
18 that are missing or suggested changes.
19 COUNCILMEMBER FLEMING: Correct.
20 COUNCILMEMBER PACHUTA: And one of the
21 things I'd ask Mr. Weed for too is I know he's gone
22 over it a million times, the difference between
23 regulatory fees versus license fees versus just fees
24 such as going to the pool, you know, the different
25 types of fees and what we could charge for each one.

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1 Do we want to go over the questions or do we
2 want to have a work session? I think there's a lot of
3 issues outside of just how much should we charged. I
4 think there are things we need to think about adding
5 such as picking up -- you know, when public works goes
6 around and picks up large items, you know, they're
7 paying a landfill fee. I think that's a fee we need
8 to add.
9 So there are -- and there are things on here
10 that I'm not even sure what they are. Administrative
11 permit. I have no idea what that is. That's one of
12 my questions today. And I think we just probably need
13 to set down and go through all these and do have that
14 list of what's being charged now. I don't know.
15 COUNCILMEMBER PITTMAN: My preference would
16 be a work session because we need to get together.
17 COUNCILMEMBER ALEXANDER: Well, I sent
18 Ms. Fleming an e-mail today and I discussed with
19 Councilman Bates, when I was going through my stacks
20 of paper, I found this document (indicating). There
21 is no date on it, but it specifically lists our
22 Charter, codes, the chapters, and fees in handwriting.
23 I don't know if these are fees we are
24 currently charging or not, but I don't know that all
25 of Council -- I mean Councilman Bates remembered

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1 seeing his copy, but I think it may be prudent for me
2 to loan my copy and copies be made and distributed to
3 Council. I think that would help us with our
4 discussions, because whomever supplied this actually
5 had questions of their own on this document. And like
6 I said, I don't have --
7 ATTORNEY WEED: I can help with the origin
8 of the document if that is useful.
9 COUNCILMEMBER PACHUTA: Not the new one.
10 ATTORNEY WEED: I'm the one who provided --
11 COUNCILMEMBER ALEXANDER: Oh, okay.
12 ATTORNEY WEED: -- it to you, yeah.
13 The origin of that document is that previous
14 counsel in connection with either this clerk or a
15 prior clerk, as a project, attempted to go through the
16 code book and identify every area where you had a fee,
17 and the clerk and the previous council tried to
18 identify what that fee was. Apparently, they weren't
19 able to complete that document. That document was
20 given to me, and that document was filed in regulatory
21 fee file when we began trying to work on zoning fees,
22 which that part of the ordinance was corrected, and to
23 date the regulatory fees have not been finished being
24 addressed. So that's the origin of that document.
25 COUNCILMEMBER ALEXANDER: Okay.

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1 COUNCILMEMBER ROCHE: So I think people were
2 trying to identify -- I mean apparently we may be
3 charging fees for which there's no ordinance --
4 ATTORNEY WEED: I'm sure --
5 COUNCILMEMBER ROCHE: -- associated with
6 that.
7 ATTORNEY WEED: -- we are. I mean in fact
8 we know that we are. For example, the fee for the
9 pool, there's no ordinance that corresponds with that.
10 COUNCILMEMBER ROCHE: No, but I'm talking
11 about other fees, obviously, so -- But we don't know.
12 ATTORNEY WEED: There may be.
13 COUNCILMEMBER ROCHE: That's the whole point
14 is we don't know. There are probably -- you know, I'm
15 sure there are fees that were being charged or raised
16 that aren't in the ordinance. We may be illegally
17 charging fees.
18 ATTORNEY WEED: I think that's entirely
19 possible, which is why staff recommended the adoption
20 of a regulatory fee ordinance. And if you adopted a
21 regulatory fee ordinance even if it was simply as a
22 placeholder until you could do further research that
23 would resolve the question, and that's my advice.
24 COUNCILMEMBER ROCHE: But I think it would
25 be helpful to start off with finding out what the

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1 original ordinances were and what the original fees
2 were.
3 I know I keep bringing this up and it keeps
4 getting, you know, shut down, but --
5 COUNCILMEMBER ALEXANDER: So I think you
6 just sort of confused me. So you're saying we have
7 initiated regulatory fees but we don't have an
8 ordinance giving us permission to do so?
9 ATTORNEY WEED: No, ma'am, that's not what I
10 said.
11 COUNCILMEMBER ALEXANDER: Okay.
12 ATTORNEY WEED: What Councilman Roche asked
13 me was or intimated was that there may be regulatory
14 fees being charged which do not have a corresponding
15 ordinance, and I suspect that that may very well be
16 true. I do not know that as a fact, but I think logic
17 would dictate, because this hasn't been addressed in a
18 number of years, that that's entirely possible.
19 COUNCILMEMBER ALEXANDER: But in the current
20 pawn shop ordinance, there is regulatory fee language;
21 correct?
22 ATTORNEY WEED: In the current pawn shop
23 ordinance?
24 COUNCILMEMBER ALEXANDER: Yes.
25 ATTORNEY WEED: I don't know. I'll --

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1 COUNCILMEMBER ALEXANDER: Okay.
2 ATTORNEY WEED: -- be happy to look.
3 COUNCILMEMBER ALEXANDER: Because what --
4 ATTORNEY WEED: I have it here.
5 COUNCILMEMBER ALEXANDER: -- caught my
6 attention is there is not a regulatory fee on this
7 document regarding pawn shops. There is a pawn shop
8 application permit but there's not a regulatory fee
9 listed.
10 ATTORNEY WEED: I can look.
11 COUNCILMEMBER ROCHE: So anyone doing
12 business with the City that's being charged a fee
13 could challenge that and say show me the ordinance.
14 COUNCILMEMBER PACHUTA: I have the
15 ordinance. The ordinance just says, "The proposed
16 applicant shall pay the cost of administrating the
17 section and issuance of the permit but such cost shall
18 not exceed an amount determined by the City Council
19 and listed in the schedule of fees and charges
20 maintained in the City Clerk's office." I believe
21 that last part is the part that has fallen behind.
22 Ideally, we would come up with one sched- --
23 at some point, have one schedule of fees, and it would
24 be an ordinance in and of itself, and other future
25 ordinances would then refer back to that schedule of

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1 fees.
2 I was not here for last Monday's meeting, I
3 know, to discuss the pawn shop regulatory fees. I
4 don't know if we want to go ahead and try and set that
5 or have Mr. Weed draw up whatever he needs to do set
6 that, and then at some point incorporate that back
7 into the larger fee schedule.
8 COUNCILMEMBER ALEXANDER: I think we've
9 already got one application, I believe, for a pawn
10 shop. Is that correct, Mr. Haeberlin?
11 MR. HAEBERLIN: Yes.
12 COUNCILMEMBER ALEXANDER: Okay.
13 COUNCILMEMBER FLEMING: We discussed and
14 reviewed -- per Ms. Alexander's information that she
15 provided from other cities, we reviewed some of their
16 recommended or the fees that they're charging for pawn
17 shops and various other fee, the businesses that are
18 allowed to have a regulatory fee, though we did not
19 make a decision as to what the regulatory fee would
20 be.
21 COUNCILMEMBER PACHUTA: And I believe once
22 they apply for the conditional use, assuming the
23 conditional use is granted, then they apply for the
24 occupational tax license and then also go through the
25 regulatory process at that time?

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1 ATTORNEY WEED: Correct. Nothing outlines
2 the particular order in which a business would do
3 what. In other words, they could come in and pay
4 occupation tax on a prospective business. There's
5 nothing that defines what order you do it in, but all
6 those things would occur, that's correct.
7 COUNCILMEMBER PACHUTA: Does Council want to
8 move forward with a pawn shop regulatory fee? I don't
9 know if we could do that as a separate --
10 ATTORNEY WEED: Sure, absolutely.
11 COUNCILMEMBER PACHUTA: -- ordinance fee --
12 ATTORNEY WEED: You can --
13 COUNCILMEMBER PACHUTA: -- and then at some
14 point --
15 ATTORNEY WEED: You can do (overspeaking)
16 COUNCILMEMBER PACHUTA: -- just incorporate
17 it --
18 ATTORNEY WEED: (Overspeaking)
19 THE REPORTER: I'm sorry. I can't take you
20 both at once. Could you both start over?
21 COUNCILMEMBER PACHUTA: I'm sorry.
22 And then at some point, incorporate it back
23 into a larger fee schedule ordinance.
24 ATTORNEY WEED: And I opined that yes, that
25 would be legal. You could do it individually; you

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1 could do it as a group.
2 COUNCILMEMBER BATES: Well, I'm fine if we
3 want to tackle some of the regulatory fees now, at
4 least get some movement on them.
5 This is going to be, pardon the expression,
6 but like eating an elephant. We got to do it in
7 little bites. And if we tackle some of them that we
8 know that we've got, now, then it makes it less
9 daunting down the road.
10 I e-mailed Council out last night a proposed
11 list. There were 10 items that had been identified as
12 potential regulatory fees. I added an 11th onto that
13 list.
14 So I'll just start off with throwing out the
15 pawn shop with or without precious metals, and my
16 proposal recommendation was it be a thousand dollars,
17 an annual regulatory fee. That was consistent with
18 other municipalities which ranged from $100 to I found
19 several that were in the $1500 to $1800 range.
20 ATTORNEY WEED: And Council, if I could, I
21 would turn to Major Atkinson.
22 Does $1,000 -- does that seem, in your
23 opinion based upon your research, as to fairly and
24 accurately reflect the costs of your department
25 regulating that business?

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1 MAJOR ATKINSON: Yeah. Chief King has had
2 some discussion with several members of Council about
3 this, and yeah, I would assume, yes, that that would
4 be a sufficient fee for us to tackle, you know, the
5 applications, and doing the backgrounds and things
6 like that.
7 ATTORNEY WEED: Thank you.
8 MAYOR JENKINS: Do you want that in --
9 COUNCILMEMBER PACHUTA: I guess my
10 suggestion had been the range between a thousand and
11 $1500.
12 Is my understanding correct if they're a
13 pawn shop and a precious metal dealer there are two
14 different regulatory procedures that they have to go
15 through?
16 ATTORNEY WEED: Yes, ma'am, that's correct.
17 COUNCILMEMBER PACHUTA: So it's appropriate
18 if we have one fee for pawn shop, one fee for precious
19 metal, and then if it's a combined business at the
20 same location, pawn shop/precious metal, it's maybe
21 less than the two combined? I don't know.
22 COUNCILMEMBER BATES: And I just threw those
23 -- threw those numbers out there to stimulate a
24 discussion, at least to have a starting point for
25 Council to have this conversation.

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1 COUNCILMEMBER ALEXANDER: And I guess my
2 thing on the precious metals is they don't have the --
3 I don't think they have the extent of the reporting
4 issues that a pawn shop has. So that's why in my
5 suggestion I made them half of what a pawn shop was:
6 because they don't have to keep up with the firearms
7 and things of that nature.
8 COUNCILMEMBER PACHUTA: That's . . .
9 MAYOR JENKINS: Brian, do you need to make a
10 motion on each --
11 COUNCILMEMBER BATES: Well, I was --
12 MAYOR JENKINS: -- each of those, or how --
13 COUNCILMEMBER FLEMING: I don't have a copy.
14 I can't find it. I don't have a copy of Brian's
15 e-mail.
16 COUNCILMEMBER BATES: Pam, we're making a
17 copy.
18 CLERK BLACKMON: How many?
19 COUNCILMEMBER BATES: Two or three, five.
20 MAYOR JENKINS: We're going to take a
21 10-minute break.
22 - - -
23 (Brief recess)
24 - - -
25 MAYOR JENKINS: Meeting come to order.

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1 Brian, you got the floor; right?
2 COUNCILMEMBER PACHUTA: Where did we leave
3 it? Your e-mail.
4 COUNCILMEMBER BATES: We left it with the
5 discussion of whether or not we could or should charge
6 different regulatory fees for pawn shop with precious
7 metals versus pawn shop without.
8 COUNCILMEMBER PACHUTA: Or just add them
9 together is fine.
10 But I agree with Maria. Those, I think,
11 fewer regulations in place, although -- and I guess
12 the same risks are there in that precious metal
13 dealers can melt down items. But do we have a
14 precious -- I mean our precious metal codes are not as
15 robust as our pawn shop?
16 ATTORNEY WEED: That would be fair to say.
17 COUNCILMEMBER PACHUTA: Okay. So until we
18 change that, I don't think there's much for the police
19 department to do as far as precious metal dealers.
20 So I would propose $1,000 for pawn shop
21 regulations and $500 -- Maria suggested $500 for the
22 precious metal dealers.
23 COUNCILMEMBER FLEMING: I can't hear you.
24 COUNCILMEMBER PACHUTA: Oh, I'm sorry.
25 $1,000 for pawn shops and $500 for precious metal

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1 dealers.
2 COUNCILMEMBER ROCHE: Is that a motion?
3 COUNCILMEMBER PACHUTA: Sure, it's in the
4 form of a motion.
5 COUNCILMEMBER ROCHE: I'll second it.
6 MAYOR JENKINS: More discussion?
7 - - -
8 (No response)
9 - - -
10 MAYOR JENKINS: Call the roll.
11 CLERK BLACKMON: Councilmember Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 CLERK BLACKMON: Councilmember Bates?
14 COUNCILMEMBER BATES: Yes.
15 CLERK BLACKMON: Councilmember Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 CLERK BLACKMON: Councilmember Pachuta?
18 COUNCILMEMBER PACHUTA: Yes.
19 CLERK BLACKMON: Councilmember Pittman?
20 COUNCILMEMBER PITTMAN: Yes.
21 CLERK BLACKMON: Councilmember Roche?
22 COUNCILMEMBER ROCHE: Yes.
23 MAYOR JENKINS: Okay.
24 COUNCILMEMBER FLEMING: Mayor, you asked for
25 discussion, and I should have spoken up then. Are we

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1 going to take title pawns separately? I mean that was
2 the question, and I didn't know whether we had
3 answered it.
4 COUNCILMEMBER PITTMAN: We did.
5 COUNCILMEMBER BATES: And Murray, you sort
6 of responded to us today. Can we treat title pawn
7 differently than regular pawn?
8 ATTORNEY WEED: Well, I think I would say
9 the answer is no, because the title pawn regulations
10 are actually in the same area as the State law on pawn
11 shops.
12 But when I say no, that doesn't mean to say
13 that you would be prohibited from having some
14 additional regulation. The case law is pretty clear
15 that if the regulation has got a clearly reasonable
16 governmental purpose, it's designed, for example, to
17 fight crime. That's a good example that's used in case
18 law. If it is designed to strengthen the State law,
19 if it's designed to create processes for the use of
20 particular forms to get information, I think those
21 things are defensible, and the cases that I've read to
22 date seem to say that's fine.
23 So I wouldn't say you can treat them
24 differently, but I think the same State laws that
25 apply give the authority to have additional regulation

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1 for both.
2 COUNCILMEMBER BATES: Let me ask this
3 question: The State law allows a title pawn person/
4 entity/business to charge 25 percent interest for the
5 first three months and then some lesser interest for
6 the subsequent months for a total annual interest
7 charge of 187 percent. Can we further regulate or
8 limit the amount of interest, as a local municipality,
9 of what a business can charge?
10 ATTORNEY WEED: My initial response is
11 probably not. I think that level of detail in the
12 State law would create a presumption that local
13 ordinance would be preempted.
14 COUNCILMEMBER BATES: Can we require
15 additional signage going into a business, advising
16 potential customers that that is what the title pawn
17 is allowed to charge?
18 ATTORNEY WEED: Based upon what I've read
19 today, I think probably yes. I don't think that would
20 be preempted. And that would be what I think -- and
21 this is out of the case law -- that would strengthen
22 the State law.
23 COUNCILMEMBER PACHUTA: Yeah, like a
24 requirement that there's a sign, "If you're borrowing
25 $1,000, this is what you're going to pay," just like

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1 the credit card bills do now: This is the total
2 you're going to end up paying.
3 COUNCILMEMBER BATES: Right; basically
4 advising that you may be subjected to an annual
5 interest charge of up to 187 percent or whatever the
6 -- I think that's what the law allows.
7 ATTORNEY WEED: I will tell you that, you
8 know, it's untested out there, that particular
9 element, whether it's preempted or not. But based
10 upon what I've read today, I think yes, I think you
11 can do it
12 COUNCILMEMBER BATES: But we can't charge
13 them separate fees, or can we?
14 ATTORNEY WEED: You can if you can demon-
15 strate that the amount of regulation required to
16 regulate one as opposed to the other requires more
17 fees than the other.
18 COUNCILMEMBER PACHUTA: At this point,
19 though, with what we have, if someone came in with a
20 title pawn, they would fall under the pawn shop
21 regulation and pawn shop regulatory fee --
22 ATTORNEY WEED: Yes.
23 COUNCILMEMBER PACHUTA: -- unless we somehow
24 distinguish that out?
25 ATTORNEY WEED: Yes, because that's how the

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1 State law does it. They treat -- You know, title
2 pawns are underneath the pawn shop State law.
3 COUNCILMEMBER FLEMING: I want to ask it
4 from a point of occupational tax identifier number.
5 Do you have any idea whether they're separate?
6 ATTORNEY WEED: I don't know. That's a good
7 question. If Sandra were here, she could probably
8 tell you off the top of her head.
9 COUNCILMEMBER FLEMING: I'd like --
10 ATTORNEY WEED: And I know how to find out.
11 I can tell you tomorrow, but I don't know.
12 COUNCILMEMBER FLEMING: I'd like to ask that
13 if you don't mind finding out, Ms. Blackmon, because
14 maybe we can -- with that having a separate identifier
15 in the occupational tax codes that we use, we could
16 then separate them in the ordinance to read pawn shops
17 and then title pawns so that, you know, they'd be
18 separated and we might be able to regulate them or
19 have a separate dollar figure for them.
20 COUNCILMEMBER BATES: Major Atkinson,
21 this'll be for you. From a regulatory standpoint,
22 what do you guys do or are you charged with with a
23 title pawn business versus a regular pawn shop?
24 I know with a pawn shop, you know, they have
25 to register their inventory with you guys every day.

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1 And this is where I'm ignorant of the business.
2 Do title pawns -- when they repossess a
3 vehicle, do they bring it to their location here or do
4 they go to some clearing location lot somewhere? Do
5 we have any inventory control over vehicles that they
6 may be in possession of?
7 MAJOR ATKINSON: No. It's totally -- it's
8 totally different than the regular pawn shops. Like
9 you say, regular pawn shops send us an inventory of
10 what they bring in and what they -- what they put out
11 daily. But title pawns, to my knowledge, I've never
12 seen an inventory sheet.
13 Now, if someone is coming into the city to
14 repossess a vehicle, there are laws and regulations
15 that they have to follow by notifying us at the police
16 department, but that's not if there's a title pawn
17 company here going outside of the city.
18 COUNCILMEMBER BATES: Let me go this angle,
19 then, Mr. Weed. Would there be a prohibition of the
20 City requiring a title pawn shop providing a list of
21 the titles that they are in possession of?
22 ATTORNEY WEED: I would say no. I think
23 that would probably be okay.
24 COUNCILMEMBER BATES: Before you go there,
25 if we were able to do that, would the police

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1 department be able to run those titles to verify that
2 they were not stolen vehicles?
3 COUNCILMEMBER PACHUTA: Or would it even
4 pull up other warrants, or is that going too far?
5 ATTORNEY WEED: Once again, I think based
6 upon the two cases that are out there on the subject
7 -- and as I said, there's not a lot of law on this;
8 and these cases are like from 2005 and 2007, so it's
9 very, very new -- we would be kind of exploring new
10 woods and finding out, you know, what's out there, but
11 I think that's probably okay.
12 COUNCILMEMBER ROCHE: I mean if you're
13 pawning a ring or pawning an automobile title, you
14 still have to report it to the police department.
15 ATTORNEY WEED: I agree.
16 COUNCILMEMBER ROCHE: So maybe they're not
17 in compliance, but I would think that they need to be
18 in compliance.
19 COUNCILMEMBER ALEXANDER: I don't think they
20 were around when -- the last time our pawn shop
21 ordinance was --
22 ATTORNEY WEED: No. That's true.
23 COUNCILMEMBER ALEXANDER: -- written and
24 revised. But I would be curious, as Councilman Bates
25 said, if he could run the VINs.

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1 MAJOR ATKINSON: That's my concern also.
2 And I would need to check with probably GCIC just to
3 make sure, because once we run that VIN and it comes
4 back stolen, they're going to want to know where that
5 car is.
6 COUNCILMEMBER ALEXANDER: Uh-huh.
7 MAJOR ATKINSON: And if I don't have
8 possession of that car, they're going to want to know
9 why I ran it.
10 COUNCILMEMBER ALEXANDER: I understand.
11 COUNCILMEMBER BATES: Right, right.
12 MAJOR ATKINSON: So I have to have a good
13 reason to run it. So I'd like to check with GCIC
14 before we --
15 COUNCILMEMBER ALEXANDER: Okay.
16 ATTORNEY WEED: And bear in mind, their
17 rules are different than -- The GCIC rules are
18 different than the State law with regard to pawn shops
19 and title pawn.
20 COUNCILMEMBER BATES: I --
21 ATTORNEY WEED: So even though I think we
22 might be able to regulate it here, that doesn't mean
23 to say that they're going to let us run it through --
24 COUNCILMEMBER ALEXANDER: Right.
25 ATTORNEY WEED: -- their system.

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COUNCILMEMBER BATES: Right.
COUNCILMEMBER ALEXANDER: I guess that was my --
ATTORNEY WEED: Two different things.
COUNCILMEMBER ALEXANDER: When you go back to your cost, your regulatory fee has to justify your cost, well, if all he gets is a report and he can't do anything with the data such as verify the vehicle's stolen, then --
You understand what I'm saying?
ATTORNEY WEED: I do, yes.
COUNCILMEMBER ALEXANDER: Okay.
ATTORNEY WEED: I mean do we get any other kind of hot sheet, Major, on stolen vehicles?
MAJOR ATKINSON: No, sir.
ATTORNEY WEED: I probably shouldn't have asked you that question in public, should I.
COUNCILMEMBER FLEMING: So my comment is I would like to make sure that on your e-mail list, that title pawns -- if we're going to call them that in our codes or whatever the code might be if it's separated; I'd like to call it whatever it is in the Georgia codes -- that there would be an item of a regulatory fee for them, a standalone regulatory fee for title.
COUNCILMEMBER BATES: As it stands right now

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with the motion that we just passed, it would be $1,000.
But I think based upon some further investigation by Major Atkinson and Attorney Weed, if we can segment out those and put some additional requirements on there, I absolutely concur that there would need to be --
COUNCILMEMBER FLEMING: Thank you.
COUNCILMEMBER BATES: -- a secondary fee.
MAJOR ATKINSON: And would their reporting be the same as pawn shops, at the end of each evening they fax us a list of --
COUNCILMEMBER BATES: The titles that they were in possession of that day.
MAJOR ATKINSON: Right, okay.
COUNCILMEMBER FLEMING: May I also ask -- We're still on this, is that correct?
With that, you had identification cards for both the precious metals as well as the pawn shops. So we're going to have applications for the IDs and so forth for that, and what is the fee for that?
COUNCILMEMBER BATES: I don't know what the alcohol identification fee is off the top of my head. That's why -- if I had it, I would have identified it.
COUNCILMEMBER ALEXANDER: I think it's $50

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for a server permit.
COUNCILMEMBER ALEXANDER: Well, this old -- this list that I don't know where it came from, it says $100 per owner/applicant.
COUNCILMEMBER BATES: And Ms. Pachuta is pointing out that in the June 30th list, it's $50, so I would -- Because the process would be the same.
COUNCILMEMBER PACHUTA: And I believe this is taking fingerprints or just the police department produces the IDs?
I guess these would be similar to like tanker IDs?
MAJOR ATKINSON: Tanker and alcohol.
COUNCILMEMBER PACHUTA: And what do we charge for the tanker driver IDs?
MAJOR ATKINSON: I believe it's $100, because it went -- because when we changed to --
COUNCILMEMBER PACHUTA: It is $100.
MAJOR ATKINSON: -- two years, but the alcohol is $50.
COUNCILMEMBER PACHUTA: And that's for a year.
MAJOR ATKINSON: Right.
COUNCILMEMBER FLEMING: Okay. Excuse me for interrupting. I had questioned that for budget

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purposes, and I received an e-mail from Lauren Randall (ph), and the alcohol permit application fee is $25 and the permit fee is $25 but it was not broken down by whether it was the server or --
This was the e-mail dated 6/22, and actually it was originally from Rodney Brinkley, and also from Lauren Randall, and you were -- it was sent to you, Chuck, on that date?
MAJOR ATKINSON: Yes.
COUNCILMEMBER FLEMING: So I don't know whether it's, like I said, the owner application or whether it is the server-permit type thing.
So I asked for these for budget, so that's what I'm going by right now.
ATTORNEY WEED: Well, if this is helpful, under 3-99, which is the alcohol beverage code, it's got in Subsection 2, "There is hereby imposed on all licensees an annual admin fee of $100 per year," and then also in Subsection 3, "Each new applicant shall submit with the application a nonrefundable fee of $25 for a background investigation." And I haven't located employee fees yet but I'll keep looking.
COUNCILMEMBER FLEMING: So that's a question that can be answered later. It was just one of those that I was curious if we were just stopping at this

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point on the pawn regulations.
COUNCILMEMBER BATES: I'm good to go either way, further on or we can move on to --
COUNCILMEMBER PACHUTA: My initial impression would be $50 for the --
COUNCILMEMBER BATES: For the ID card?
COUNCILMEMBER PACHUTA: Right. They're going to make the ID cards.
COUNCILMEMBER FLEMING: For each pawn operator? For each employee?
COUNCILMEMBER BATES: Because that's what it is for the alcohol. For a server, it's $50 per employee.
COUNCILMEMBER FLEMING: Yeah, but they're personally serving, and the owner of the company does the report at the end of the day.
COUNCILMEMBER BATES: But the employee would be personally receiving pawned goods.
COUNCILMEMBER FLEMING: Okay. All right.
COUNCILMEMBER BATES: So I'll make the motion that the pawn shop and the precious metal dealers' employee ID cards would be $50 per employee annually.
COUNCILMEMBER ALEXANDER: I'll second that.
MAYOR JENKINS: Discussion? Any more

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discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: I'm just not comfortable with that right now. No.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
ATTORNEY WEED: The answer to the question under the ordinance is 3-110, Employee Permit, Subsection 4, "The employee will pay an application fee in an amount to be determined by the Council and listed in the schedules of fees and charges maintained in the Clerk's office."
COUNCILMEMBER FLEMING: So there's no --

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it's not there.
ATTORNEY WEED: Hence, the reason behind the regulatory fee ordinance request.
COUNCILMEMBER BATES: So now there is one.
And Council, I'm good to move forward or we can move on to the next agenda item. It's really ...
COUNCILMEMBER ROCHE: I think I'd like to address some of these --
COUNCILMEMBER BATES: Sure.
COUNCILMEMBER ROCHE: -- because some of these are apparently big changes.
First of all, just a general question, fees having to do with zoning and --
COUNCILMEMBER BATES: And I'm sorry, Bob, to interrupt. Are you wanting to go on the regulatory fees or are you wanting to start on the list of June 30th? That one? Okay. Great.
COUNCILMEMBER ROCHE: Yeah.
COUNCILMEMBER BATES: Thank you.
COUNCILMEMBER ROCHE: The one with the red ones.
COUNCILMEMBER BATES: Got it.
COUNCILMEMBER ROCHE: My first general question is do we have to advertise and go through the whole thing if we're going to change a zoning fee?

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ATTORNEY WEED: Yes. The zoning fees were pretty specifically laid out I think in the zoning code and they're also in Chapter 2. I believe out of an abundance of caution, we adopted them by virtue of zoning ordinances and we advertised those. I believe it's 2-260 that's in the code, but I think we treated them as zoning ordinances, I believe.
COUNCILMEMBER ROCHE: They're all kind of mixed in here, and I would think it might not be a bad idea to handle them separately since it's a separate process to modify them, particularly when they've really gone up, or the request is for some pretty big increases.
ATTORNEY WEED: Out of an abundance of caution, I would prefer that they be adopted with regard to a zoning ordinance on the zoning fees.
COUNCILMEMBER ROCHE: So you mean separately than this list.
ATTORNEY WEED: Yes.
COUNCILMEMBER FLEMING: But I thought our original discussion was to get them out of both city and zone and put them in one spot so that if we ever chose to increase them, we wouldn't have to go through a public hearing.
ATTORNEY WEED: That was discussed, and

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that's also -- if you want to move them out, that's fine, too. But if we're going to treat them as --

The way we treated them in the past was we treated them as part of zoning and we ran an ad and we went through that process. So I think you're going to need to have to pick one process or the other. If we're going to leave them in zoning, then we've got to treat them as zoning, and if we take them out completely, then you can act upon them separately. So --

COUNCILMEMBER PACHUTA: So if we take them out --

ATTORNEY WEED: -- it's a choice.

COUNCILMEMBER PACHUTA: If we take them out, though, we'll need to advertise a meeting and go through the whole process to take them out and move them --

ATTORNEY WEED: That is what --

COUNCILMEMBER PACHUTA: -- to like a --

ATTORNEY WEED: -- we've done with --

COUNCILMEMBER PACHUTA: -- regulatory --

ATTORNEY WEED: -- other deletions.

COUNCILMEMBER PACHUTA: -- fee schedule. Okay.

ATTORNEY WEED: You know, like the conservation subdivision ordinance --

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COUNCILMEMBER PACHUTA: Right.

ATTORNEY WEED: -- we've -- the ordinance has only been one line long, but that's how we've done it with regard to the zoning ordinance, deleting it.

COUNCILMEMBER BATES: Ms. Fleming, that would be my preference would be to have a list of fees in one place, that if we needed to modify them, that we wouldn't have to go through the two-week/three-month advertising process to change a fee. I would concur with that.

ATTORNEY WEED: Now, to be helpful, in the code -- it's 2-260 -- there are building inspection fees, and then also 2-261 are the zoning processing fees, and that's what's in your code currently.

And then there's a catch-all provision for other building or inspection fees that aren't otherwise set out. You adopted an ordinance in 2009 that covered that as well, and that's what you've got so far.

COUNCILMEMBER FLEMING: And so for 2-260 and -61, those are the fees that are listed --

ATTORNEY WEED: For --

COUNCILMEMBER FLEMING: -- for variances and all of that, or it's just the --

ATTORNEY WEED: 260 deals with inspections

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and reinspections and 261 dealt with annexation, rezoning, variances --

COUNCILMEMBER FLEMING: CUPs?

ATTORNEY WEED: -- appeals.

COUNCILMEMBER FLEMING: Conditional use permits?

ATTORNEY WEED: Yes. And zoning certification letters.

COUNCILMEMBER FLEMING: And -- I'm sorry?

ATTORNEY WEED: And zoning certification letters.

COUNCILMEMBER ROCHE: My concern is that -- and I'll try to find it here. Relatively not that long ago, 2009. I'll see if I can find it.

We went through a lot of work to try to bring some of the fees down for buildings and inspections and conditional use permit applications and for appeals, et cetera, et cetera, and I think the idea was that we recognized that the economy was going down and we wanted to encourage businesses and we wanted to encourage people to come in and improve their properties, and that's why we reduced these fees. This was back on -- wasn't all that long ago. It was the beginning of last year, I think.

ATTORNEY WEED: The ordinances were

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ordinance number 2009-03 adopted 3/2/09, and ordinance number 2009-20, apparently adopted August 17th, 2009.

COUNCILMEMBER ROCHE: Okay. The one I'm looking at is February 17th, 2009.

COUNCILMEMBER FLEMING: It's probably the March.

MR. HAEBERLIN: It's first reading.

ATTORNEY WEED: Yeah. There's --

COUNCILMEMBER ROCHE: That's fine, but still --

ATTORNEY WEED: Those seem to be correct. It would have been March, and then it was amended again in August.

COUNCILMEMBER ROCHE: It would just seem to me that the whole point was to try to encourage people to improve their properties, to build more things here in Doraville, to increase the property values, because once they build and increase the property values, obviously the tax base goes up and obviously our revenue goes up.

And that was why, like I said, we did a lot of hard work to try to bring these fees under control, and now it looks like we want to reverse that progress by increasing them again. Some of them are fairly significant, some of the changes are.

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It's kind of difficult to tell how much we're changing these because it just has the proposed fee instead of the original fee. So it's not in -- you know, maybe some of these have even gone down, but I'm not sure which ones that would be. It's kind of difficult to make decisions when we have to go and research all of these.

2009, was this handled as a zoning ordinance?

ATTORNEY WEED: My memory was that it was. If you've got the ordinance there --

COUNCILMEMBER ROCHE: Chapter 5.

ATTORNEY WEED: -- the hard copy, I could tell you just by looking at the title, the preamble.

COUNCILMEMBER FLEMING: That one was to delete, delete from the building codes and --

COUNCILMEMBER ROCHE: Yeah.

COUNCILMEMBER FLEMING: -- put it into zoning.

COUNCILMEMBER ROCHE: Yeah, to put it into the --

ATTORNEY WEED: If the whereas clauses reflect the zoning standards such as "This ordinance will not negatively impact traffic or pedestrian usage," if those standards are in the whereas clauses,

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then it was adopted as zoning, and if they are not there, then it was not adopted as zoning.

COUNCILMEMBER ROCHE: Well, it talks about assessed fees -- addressed fees assessed by the City in the performance of its planning, zoning inspection and other administrative processes, to capture fair and reasonably ascertained costs of the City.

Because I remember that was about the time that I think Sandy Springs actually started waiving all their fees because they wanted to encourage businesses to move into town. And again, like I said before, more construction, more home improvements, more building improvements, et cetera, et cetera, and a lot of these fee changes seem to be going the wrong way.

So I think that we should probably just leave anything having to do with zoning alone. I think we should leave those fees as they are.

Obviously, things like pawn shops, and escort and dating services and whatever, maybe we need to look at, but --

COUNCILMEMBER BATES: Well, if we could get staff to take a look at the items that are in red and let us know if that is a new fee or if it's a change from an existing and let us know what the existing is,

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that would be beneficial in moving forward.

COUNCILMEMBER PACHUTA: And I think -- I hate to add a work session, but my goal is to have a fee schedule in place by the start of the new year when businesses are applying, like a January 1st start date. So if at some point we can get that information from staff, and like I've sent questions to staff and just sit down, have a work session and go through each item at some point, maybe in October.

COUNCILMEMBER BATES: Mr. Roche, were there any specifics that you wanted to comment on?

COUNCILMEMBER ROCHE: Well, conditional use request has gone up from like $150. The appeal has gone up, I think it was like $400 to $750. And even if it's considered a good appeal and the Council wants to waive the appeal cost, the Council couldn't waive the first $200 if I'm reading this correctly.

COUNCILMEMBER BATES: So --

COUNCILMEMBER ROCHE: So if someone wants to build a porch on their house, and they say no, and then they bring it to the Council, they got to gamble with $750 that the Council might, you know, look upon it favorably, and even then, you still lose $200. So if someone wants to, you know, replace their driveway or like I said, enclose their -- you know, whatever,

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like I said, I just -- a lot of these fees just seem to be going way up. And I think that charging people to come and live in Doraville and to do business in Doraville and to improve their properties in Doraville is not the way to bring people into Doraville.

So first of all, I would think that we would want to separate any fees that have anything to do with zoning ordinances, because we did have to go through the process to do this in the first place, and I think we should continue that. And secondly, I would be against probably raising any fees that are going to discourage people from coming and doing businesses in Doraville unless, of course, they happen to be title pawns.

COUNCILMEMBER BATES: Yeah. If we could get staff to look at the existing fees and provide us a comparative list on what was provided on June 30th, that would be helpful.

COUNCILMEMBER ALEXANDER: In that note --

COUNCILMEMBER ROCHE: Excuse me. I think we'll probably have to get a motion because I have requested information recently and was told that I could not have that information because we did not have a majority of the Council. So if you'd like to make that in the form of a motion, Mr. Bates, I'll be

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more than happy to second it.
COUNCILMEMBER BATES: Sure. I'll make a motion to ask staff to provide us with a list of the existing fees on the June 30th fee schedule that are in red.
COUNCILMEMBER ROCHE: And I'll second that.
MAYOR JENKINS: More discussion?
COUNCILMEMBER ALEXANDER: Yes, sir. Some of the fees listed in the document previously supplied are not on the June 30th document.
COUNCILMEMBER BATES: Is there an example?
COUNCILMEMBER ALEXANDER: Coin operated vending machines. I didn't see that.
COUNCILMEMBER PACHUTA: It's under regulatory.
ATTORNEY WEED: Well, that's because we can't regulate that any longer.
COUNCILMEMBER ALEXANDER: Okay.
COUNCILMEMBER BATES: But it's listed under the --
COUNCILMEMBER ALEXANDER: Yeah, it is listed.
COUNCILMEMBER BATES: the regulatory fees.
ATTORNEY WEED: It needs to come off.
COUNCILMEMBER ALEXANDER: Okay.

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COUNCILMEMBER BATES: The coin operated amusement devices?
ATTORNEY WEED: Yes, sir.
COUNCILMEMBER ALEXANDER: So we can't regulate the quote/unquote gambling machines, video machines?
ATTORNEY WEED: There's a State law preempting it.
COUNCILMEMBER ALEXANDER: Okay.
ATTORNEY WEED: You've got to register all those things with the State and get a State license. They get the money.
COUNCILMEMBER BATES: If we could get -- I'll amend my motion to have staff combine the previously submitted list, undated, from 2008/2009 and combine that with the June 30th list so we've got the beginnings of a consolidated list, that would help.
COUNCILMEMBER ROCHE: And I'll still second that.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?

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COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER BATES: Do you want to do that?
COUNCILMEMBER ALEXANDER: I guess we can.
COUNCILMEMBER BATES: I'm going to make another motion regarding the pawn fees that we just passed and that that be effective from today through December 31, 2011.
COUNCILMEMBER PACHUTA: Just for the regulatory.
COUNCILMEMBER BATES: Just for the regulatory fees.
COUNCILMEMBER FLEMING: Second.
MAYOR JENKINS: More discussion?
COUNCILMEMBER FLEMING: Yes, sir.

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Mr. Bates, I'm sorry.
COUNCILMEMBER BATES: Yeah.
COUNCILMEMBER FLEMING: Annually thereafter.
COUNCILMEMBER BATES: Annually thereafter, yes.
MAYOR JENKINS: More discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Anything else, Brian, on that?
COUNCILMEMBER BATES: No, sir.

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MAYOR JENKINS: Okay.
COUNCILMEMBER BATES: Karen?
COUNCILMEMBER PACHUTA: Yes. Pawn shop regulations. Last meeting, we directed Mr. Weed to review the pawn shop regulation that was according -- it was primarily adopted in, I think, 1981. He reviewed it to see if it conflicted with any updates in State law.
And I believe you pointed out there's only one section where we -- I'm sorry. Where is it in here?
ATTORNEY WEED: It is.
COUNCILMEMBER PACHUTA: -- State law holds it.
ATTORNEY WEED: It's 30 days in the State law and ours says 40. I think that may be going too far underneath the current case law. I think that 30 -- I think they meant 30 days when they said 30 days, so I don't feel that we've got enough room to wiggle on that to change it.
COUNCILMEMBER PACHUTA: Okay. And I believe the only other thing that we talked about adding to the ordinance was to adopt limitations -- did you look into that at all? -- for distance, for population.
ATTORNEY WEED: Yes. I believe that we can

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do that.
COUNCILMEMBER BATES: Based --
ATTORNEY WEED: State law doesn't address that all.
COUNCILMEMBER BATES: Based upon population? distance? either?
ATTORNEY WEED: I would prefer distance. I'm just not very -- I do not feel very confident about population measures.
COUNCILMEMBER BATES: Based upon?
ATTORNEY WEED: Based upon a comparison of what has been vetted by a number of cases. Distance regulations have been vetted clearly in alcohol beverage cases -- there's been a lot of litigation about that -- and also with regard to distance regulations in zoning. So I feel very, very confident about applying distance regulations. I don't feel anywhere near as confident in applying population based.
COUNCILMEMBER BATES: Is there any case law that says that population-based won't work?
ATTORNEY WEED: There's nothing directly on point that I'm aware of. I just think the better process is distance regulation.
COUNCILMEMBER BATES: Thank you.

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COUNCILMEMBER FLEMING: Well, when we get into distance regulations, that means that the person has to supply a site plan and, you know --
COUNCILMEMBER BATES: A distance survey.
COUNCILMEMBER FLEMING: -- all these surveys and everything else, and I'm just really not comfortable with distance regulations even on the massage parlors that -- that's in that one that we're still working on.
I think we were fine with the labor pools, doing it by population. I think that -- I believe that we're allowed three in the city based on our population.
Right now, distance regulations, if we apply that to this ordinance, there are several located in the very same shopping center, and I have problems with that. I mean who are we going to say yes to the conditional use and who are we going to say "Oh, well, no, you can't, because you are the second one in line and you're right next door to the one that we just approved?"
COUNCILMEMBER PACHUTA: I think those are grandfathered; correct?
ATTORNEY WEED: What I would advise you to do would be create a grandfather situation for those

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that exist now with regard to distance regulations and apply distance regulations to anybody after a certain date.
COUNCILMEMBER FLEMING: I'll still go on record that I don't like the distance regulations. I would prefer it by population.
COUNCILMEMBER ROCHE: I'm just concerned that, frankly, if we have to have pawn shops, I'd rather they all be in one little place instead of scattered all over town, you know. That's just the way I see it.
And you're saying that they'd have to be a certain distance from each other. And so that would mean that if we open new ones, if I assume we allowed them in, there would be one every couple of hundred yards or something instead of all grouped together.
COUNCILMEMBER ALEXANDER: I did some research on this item yesterday, and I understand the concerns regarding distance; also looked at a Federal Reserve report regarding population.
People, censuses are very important. Don't underestimate the power of a census.
But one of the things I did like about the distance in some of the proposed ordinances I read from other cities is they also included distance, a

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150-foot buffer between facility and a residential area, and I did like that. I don't know that very many of our existing establishments meet -- currently meet that requirement.

But it's really interesting when you start reading about pawn shops and check cashing places. They had not addressed -- the Federal Reserve had not addressed the title pawn issue yet, and it's -- it's really interesting about the demographics and the study of the education and the median income of the areas where these things are located.

I was looking at just doing a regulation trying to -- I didn't do well trying to do the calculation based on our square mileage. I was trying to analyze what we want to -- specific areas we want to improve.

And doing a rough calculation inside our city limits, there's about 2.14 miles of Buford Highway from city limits, and so I was suggesting 2,640 feet, which is half a mile. That would limit the total number on Buford Highway to be four.

Again, I'm like everyone else. I don't want us to be oversaturated with items, but I don't know --

If you have a suggestion on doing it on population.

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According to the last estimates on the pawn shops in Dekalb County -- and this is based on the 2000 census -- there is between 37 to 75 per one million people in Dekalb County, the number of pawn shops. So we're definitely not as high as some of the other counties in the metro area.

ATTORNEY WEED: And the concern with -- a concern I have with the population base is you have to demonstrate what is the rational relationship between the ordinance and what you're trying to regulate and the public benefit and goal that you're trying to achieve.

If it's purely population-based, essentially the market itself will dictate how many pawn shops the community needs. That's the reasoning that I'm afraid that the opposition would say that "Who are you to decide how many pawn shops you need based upon population? The market will determine that."

However, with regard to just distance measurements, that argument's been made and ruled in favor of the government. By that I mean to say it's already been argued that, you know, distances between locations in zoning is allowed. You're allowed to make that determination. There's no doubt about it now. It's no longer a question.

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Same thing with alcohol beverages. It's been litigated time and time again, you are clearly allowed to make the differentiation based upon distance.

So those things, there's clearly a rational relationship, and based on tested case law with regard to that regulation. So I would really rather you do distances than population base. That's the best opinion I can give you on that matter.

COUNCILMEMBER ROCHE: But I do like the idea of buffers. Like I said, I'm just concerned that if we have to have them, it's better to have them in one place than -- if I drive down Buford Highway, I don't want to see there is one, and then there's one, and there's one and there's one. It would be nicer if they're all in one spot.

I absolutely agree with the idea of a distance from residential areas, that sort of thing. Maybe there should be a distance between liquor stores and pawn shops so if you run out --

ATTORNEY WEED: And that's --

COUNCILMEMBER ROCHE: If you run out of -- if you're drinking and you run out of money, you don't go to the pawn shop and pawn your watch. I don't know if that's possible.

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COUNCILMEMBER PACHUTA: Okay. Well, I'll make a motion that we go ahead and direct Mr. Weed to update the ordinance to change the 40 days to 30 days, to come up with some distance to limit the number of pawn shops by distance, grandfathering in the current, existing pawn shops, and to also come up with some distance regulations to the residential -- distance from the residential areas.

COUNCILMEMBER ALEXANDER: I had one more thing that I noticed in our existing ordinances. We do not regulate the hours, so in theory, we could have pawn shops that operated 24 hours a day. I didn't know if that's something we wanted to address or not.

COUNCILMEMBER PACHUTA: I'll amend my motion to add hours of operation.

COUNCILMEMBER ROCHE: I'll second it.

MAYOR JENKINS: More discussion?

COUNCILMEMBER BATES: Just for clarification, this would be inclusive of title pawn as well?

COUNCILMEMBER PACHUTA: Yes.

ATTORNEY WEED: I think it is inherently under State law.

COUNCILMEMBER BATES: Okay. Thank you.

MAYOR JENKINS: Any more discussion?

- - -

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(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: All right. Item number 5.
COUNCILMEMBER ROCHE: I'm sorry. One last thing briefly on the pawn shop regulations with regard to title pawns. Is it possible to have -- The thing about a pawn shop is typically we take something there and pawn it; they sell it there usually. I mean I assume. You can go in there and buy a watch or whatever.
Whereas the things that -- At least what I've read about title pawns is, you know, if you

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default on a loan, the last thing in the world they want is for you to have any opportunity to get your automobile back, say like instantly transfer title or sell it someplace else.
I didn't know if there was any way of -- Is it possible to explore that to say, make some sort of a rule that if you're going to run a title pawn and you're going to title pawn cars, you have to sell those cars on the same lot that you're running your title pawn?
ATTORNEY WEED: I don't know.
COUNCILMEMBER ROCHE: It's a crazy idea. I have no idea if it makes any sense at all from a legal standpoint.
ATTORNEY WEED: When I read the statute, I didn't explore that particularly, so I'll look and report back.
COUNCILMEMBER ROCHE: Thank you.
COUNCILMEMBER FLEMING: And just as an adder to that, I think when we were discussing number of parking spaces, I brought that up when we were discussing the Title Maxes and the number of parking spaces that were required for a specific building and if they're going to sell them on their -- they then become a car lot --

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COUNCILMEMBER BATES: Right, and then they --
COUNCILMEMBER FLEMING: -- and they need to be in -- and they'd need to be in three miles, three acres or something.
COUNCILMEMBER PACHUTA: Yes.
ATTORNEY WEED: Yes. I agree with all that. I don't think that's -- I don't remember reading anything today that would make me think that the State law preempted our regulation of the number of parking spaces and, you know, if they started selling them there, that they'd have to meet, you know, a used car lot term or meet that zoning. I feel very confident that they would.
COUNCILMEMBER ROCHE: Well, it's worth a try.
COUNCILMEMBER FLEMING: I just --
COUNCILMEMBER ROCHE: I don't know if it's worth --
COUNCILMEMBER FLEMING: You can look into --
COUNCILMEMBER ROCHE: You know, like I said, it's a crazy idea.
COUNCILMEMBER FLEMING: -- it, but I personally don't want to have any other car lots in Doraville either, so --

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ATTORNEY WEED: I will look at that. I don't think that's a problem but I'll make sure and report back if it is.
MAYOR JENKINS: Item number 5, City Clerk, procedures for employees' complaints.
CLERK BLACKMON: Yes, sir. This was just for the ordinance that was previously passed, for Council to pass it to be included into the Employee Manual, to update the Employee Manual.
MAYOR JENKINS: Okay. Have you got the ordinance, Murray?
ATTORNEY WEED: I do, yes, sir.
MAYOR JENKINS: Does anybody need an explanation on that?
COUNCILMEMBER ROCHE: I would request a change on paragraph 7. And we just -- we ran into this just very recently when we had a -- when we had a hearing here about another employee who was subsequently rehired.
Paragraph 7 is talking about the procedures, for the people that may not have been able to see this, "Employee is allowed to testify and present any witness testimony that he or she can." But then it says, "Irrelevant testimony about an employee's general character or general work habits will not be

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1 allowed," and then it says, "Testimony shall be
2 restricted to that which directly bears upon the
3 alleged offense upon which the termination or forced
4 resignation is based."
5 First of all, to me, testimony about an
6 employee's general character or general work habits in
7 an appeal as to whether or not we should continue to
8 hire that person -- or rehire that person or continue
9 their employment, I don't think that's irrelevant at
10 all. I think that their general character and general
11 work habits is very, very important, and just for the
12 life of me, I can't understand why we would ever
13 consider saying that, you know, this is not -- you
14 know, shouldn't be part of this.
15 And then the idea that "Testimony should be
16 restricted to that which directly bears upon the
17 alleged offense upon which the termination or forced
18 resignation is based." Basically what we're saying is
19 you can do one thing and get fired, but no matter what
20 else you've done up till that point -- you can make
21 one mistake one day, and that's it: you're gone. We
22 can't look at the fact that you worked here for a
23 long, long time. Or conversely, you know, we can't
24 look at the fact that maybe you had marginal
25 performance, you know, for a long, long time, either.

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1 And I think that when we're making a
2 decision, we have to look at all of the facts. We
3 have to look at all of the information when it comes
4 to making personnel decision, because if we're not
5 doing that, in my opinion, that's malpractice. You're
6 not being fair to the employee, you're not being fair
7 to the city.
8 I'd like to make a motion that we modify
9 paragraph 7 by deleting the sentence beginning
10 "Irrelevant testimony about an employee's general
11 character" throughout the rest of the paragraph.
12 COUNCILMEMBER FLEMING: Second.
13 MAYOR JENKINS: Any more discussion?
14 - - -
15 (No response)
16 - - -
17 MAYOR JENKINS: Call the roll.
18 CLERK BLACKMON: Councilmember Alexander?
19 COUNCILMEMBER ALEXANDER: No.
20 CLERK BLACKMON: Councilmember Bates?
21 COUNCILMEMBER BATES: Yes.
22 CLERK BLACKMON: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK BLACKMON: Councilmember Pachuta?
25 COUNCILMEMBER PACHUTA: No.

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1 CLERK BLACKMON: Councilmember Pittman?
2 COUNCILMEMBER PITTMAN: No.
3 CLERK BLACKMON: Councilmember Roche?
4 COUNCILMEMBER ROCHE: Yes.
5 CLERK BLACKMON: It's a tie, sir.
6 MAYOR JENKINS: No.
7 CLERK BLACKMON: Motion denied.
8 ATTORNEY WEED: If you want to adopt the
9 ordinance, it's already been read one time, so we need
10 to pass a motion to adopt the ordinance.
11 MAYOR JENKINS: It's the first reading?
12 ATTORNEY WEED: No, sir. It's the second
13 reading.
14 MAYOR JENKINS: Second reading.
15 COUNCILMEMBER PACHUTA: Okay.
16 MAYOR JENKINS: Go ahead. Excuse me.
17 COUNCILMEMBER PACHUTA: I make a motion to
18 pass the ordinance regarding hearing procedures that
19 reflect our previously adopted hearing procedures into
20 the Employee Manual.
21 COUNCILMEMBER PITTMAN: Second.
22 MAYOR JENKINS: More discussion?
23 COUNCILMEMBER ROCHE: There's no way I could
24 -- you know, there's no way I can support this. This
25 is just . . . Words escape me. For the reasons

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1 previously stated, there's no way I could support this
2 ordinance in this present form. It's unfair and it's
3 probably going to get us sued, but anyway.
4 MAYOR JENKINS: Any more discussion?
5 - - -
6 (No response)
7 - - -
8 MAYOR JENKINS: Call the roll.
9 CLERK BLACKMON: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BLACKMON: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BLACKMON: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: No.
15 CLERK BLACKMON: Councilmember Pachuta?
16 COUNCILMEMBER PACHUTA: Yes.
17 CLERK BLACKMON: Councilmember Pittman?
18 COUNCILMEMBER PITTMAN: Yes.
19 CLERK BLACKMON: Councilmember Roche?
20 COUNCILMEMBER ROCHE: No.
21 CLERK BLACKMON: Motion carried.
22 MAYOR JENKINS: Motion carried.
23 Murray, item number 6, I believe.
24 ATTORNEY WEED: Mr. Mayor, it's actually
25 Mr. Strickland's item. Councilmember Fleming assigned

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1 Mr. Strickland to review the conservation subdivision
2 ordinance and report back. He did submit a report to
3 Council, I did get a copy of that, and that's all I
4 can tell you.
5 MAYOR JENKINS: It has been taken care of?
6 ATTORNEY WEED: Councilmember Fleming asked
7 Mr. Strickland to do a report. He did a report. It
8 was sent to Council, I do believe. Yeah, I received a
9 copy of it. And that's all I can tell you about it,
10 Mr. Mayor.
11 COUNCILMEMBER ALEXANDER: So is it your
12 opinion that Mr. Strickland was supposed to answer
13 questions or you? Because Mr. Haeberlin sent a
14 question about a figure.
15 ATTORNEY WEED: No, ma'am, I was under no
16 instructions. I mean I'll answer whatever questions
17 that you have to the best of my ability.
18 My only role in this has been to draft the
19 ordinance at the request of, I assume, Mr. Haeberlin.
20 The background of this is that Mr. Haeberlin wanted to
21 get the conservation subdivision regulations removed
22 from the zoning code, and, in his opinion -- and he's
23 here; he can state for himself, of course -- put them
24 more appropriately into the building code, where, for
25 example, subdivision regulations are.

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1 I have on his request drafted the ordinance.
2 There are two different ordinances, one ordinance
3 deleting it from the zoning code and another ordinance
4 that would adopt it into the regular code.
5 This came before Council previously.
6 Councilmember Fleming asked Mr. Strickland to review
7 the ordinance and issue a report. He did that.
8 That's literally everything I know with regard to this
9 matter.
10 If you want an opinion from me as to whether
11 I think it's -- you know, whether the ordinance should
12 be moved from zoning to building, I could render an
13 opinion on that, but other than that, that's all I can
14 provide for you. I didn't author the report, wasn't
15 asked to author the report. Mr. Strickland isn't
16 here. Mr. Haeberlin can speak for himself.
17 COUNCILMEMBER ALEXANDER: Okay.
18 ATTORNEY WEED: I'll answer any questions I
19 can legally.
20 COUNCILMEMBER ALEXANDER: So on page 3,
21 under calculation, Mr. Haeberlin questioned was 108 a
22 typo.
23 ATTORNEY WEED: What I'm doing is I'm going
24 to look up the original ordinance and I'll tell you in
25 just one second.

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1 Mr. Haeberlin, if you know off the top of
2 your head, you know, please answer the question.
3 MR. HAEBERLIN: I think it's a typo because
4 I have the original conservation subdivision, and I
5 apologize, I don't have it with me tonight, but I
6 think it was a typo. I couldn't see where it fit into
7 the text.
8 COUNCILMEMBER FLEMING: And I think there
9 was also a discussion about duplexes, was there not?
10 MR. HAEBERLIN: That is correct. The
11 conservation subdivision that's on the books today is
12 for R-1, which is single-family, and for duplex and
13 for PUDs. We don't have PUD any more. We still have
14 duplex, which is R-2, and we still have R-1, which is
15 single-family detached.
16 And remember, that's a departure from the
17 past when it used to say uses common to residential
18 districts. R-1 and R-2 allowed all sorts of things
19 that really didn't fit in the matrix. R-1 should be
20 single-family attached, R-2 should be duplex, but
21 before, it was all mixed together -- multi-family and
22 all sorts of things in there.
23 COUNCILMEMBER ROCHE: So we're not just
24 moving the ordinance from one place to another. We're
25 actually modifying the ordinance too.

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1 MR. HAEBERLIN: It's the recommendation of
2 the staff, not only myself but Mr. Strickland, but
3 there are some things that should be looked at.
4 COUNCILMEMBER FLEMING: But the document
5 that we're looking at is not ready for it to be
6 approved because -- isn't that correct? -- because
7 Mr. Strickland indicated that he agreed with you that
8 the conservation should be limited to R-1. He also
9 questioned the 40 percent open space requirement --
10 MR. HAEBERLIN: Correct.
11 COUNCILMEMBER FLEMING: -- as I believe the
12 industry standard is around 20 percent, and he makes a
13 comment, and I'm quoting him: "Looking at the big
14 picture, I question the need for this ordinance in
15 Doraville other than it is something the State wants
16 everyone to adopt that participates in the Governor's
17 Green Space program. CSRs are used for raw wooded
18 land to save open space. Doraville's future construc-
19 tion will be almost entirely redevelopment with
20 engineered green space and new plantings."
21 And let's see what Scott's comments were.
22 ATTORNEY WEED: No, ma'am, it is not a typo.
23 COUNCILMEMBER FLEMING: Sorry?
24 ATTORNEY WEED: It is not a typo.
25 COUNCILMEMBER BATES: What does it mean?

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ATTORNEY WEED: I'm absolutely sure it is not a typo.
COUNCILMEMBER BATES: What does it mean?
ATTORNEY WEED: I'm not the zoning --
MR. HAEBERLIN: Yeah. I don't --
ATTORNEY WEED: -- person.
MR. HAEBERLIN: -- know what it means, so if I didn't understand --
ATTORNEY WEED: I'll give you my best guess.
COUNCILMEMBER ALEXANDER: I'm sorry, Mr. Haeberlin?
MR. HAEBERLIN: I didn't understand what it means, so that's why I thought it might be a typo. I mean I read through the document and I just didn't see how it fit in the matrix of the document.
Maybe I'm misunderstanding that. Again, I was not here when it was written.
COUNCILMEMBER PACHUTA: Boil it down to me in the most simplistic form possible. What does this ordinance do and why do we need it?
MR. HAEBERLIN: I'll be honest with you -- and I think Steven shares this -- that we really don't necessarily think we need it any more. We just don't want it in zoning.
COUNCILMEMBER BATES: And let's take out the

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need, whether you guys need it.
Let's address what does it do and what are the benefits of having it on the books.
MR. HAEBERLIN: The benefits would be if you had lots of raw, undeveloped land with all sorts of natural features such as rocks and streams and geysers and maybe, you know, lakes, you know, that you could develop those properties and conserve those natural resource areas and then cluster the houses together.
I think we can kind of do this under RCH, which is residential cluster housing. So I think we already have zoning on the book that kind of provides for this.
So it was a zoning type, Councilman Bates. Now it's moved from a zoning type to a development regulation if that's the desire of the Council.
And we have nothing zoned -- we have nothing zoned CSR, I mean, just so we know that.
COUNCILMEMBER FLEMING: I'm sorry. Say again?
MR. HAEBERLIN: We have nothing zoned CSR. I have never seen any indication that CSR was ever included on the zoning map or that we ever zoned a property CSR.
ATTORNEY WEED: I can go back to the

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original zoning ordinance, but Municipal Code Corp also picked it up as 108, which makes me think that the original zoning ordinance says 108.
I would agree with you that there's no context for what that means other than the preceding sentence: that the following shall not be included in the total area of the parcel for the calculation, and it says 108.
We would have to go back to the original ordinance to see if there's any other context we can glean from that, but I suspect it probably just says 108.
COUNCILMEMBER ALEXANDER: Because --
COUNCILMEMBER FLEMING: Not inches or feet or miles or --
ATTORNEY WEED: I wasn't here when the original zoning ordinance was adopted. It's a typo from then, and it's carried on until today.
COUNCILMEMBER PACHUTA: Should we maybe refer this -- I mean your recommendation and Mr. Strickland's recommendation is that we probably don't even need this in the zoning ordinance.
MR. HAEBERLIN: Correct.
COUNCILMEMBER FLEMING: Say again, Karen? I didn't hear you.

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COUNCILMEMBER PACHUTA: Is that we probably don't need this in the zoning ordinance. But is this something we maybe want to give to the Planning Commission to look at in more detail?
COUNCILMEMBER BATES: But the Planning Commission only deals with zoning.
COUNCILMEMBER PACHUTA: Well, that's where it is currently; right?
MR. HAEBERLIN: The Planning Commission will be dealing with the removal from the zoning ordinance. Excuse me. Strike that.
You recall that the Planning Commission has already dealt with this specific one, but then you folks delayed it in terms of zoning action. So we as the Council have not taken action on the zoning deletion yet, it's going to come up on Monday.
COUNCILMEMBER BATES: Has the Planning Commission heard the reasons for removal from --
MR. HAEBERLIN: Correct.
COUNCILMEMBER BATES: -- zoning? They have.
MR. HAEBERLIN: And they recommended that we delete it from zoning as well.
COUNCILMEMBER BATES: But there wasn't a recommendation as to whether or not to keep it as a building reg.

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1 MR. HAEBERLIN: There were some who were
2 interested in keeping it and wanted to explore it
3 more, and there was references made to the Carver
4 Hills area, that that might be the reason why we
5 needed it, but that was the extent of the discussion
6 we had.
7 COUNCILMEMBER FLEMING: And Mr. Bates,
8 again, Mr. Strickland indicated he really questioned
9 the fact of the need for Doraville having the
10 ordinance other than it is something the State wants
11 everyone to adopt that participates in the Governor's
12 Green Space Program.
13 And we're doing that to the best of your
14 knowledge?
15 MR. HAEBERLIN: As far as I know, we don't
16 have any properties that are part of the Governor's
17 program for green space.
18 COUNCILMEMBER FLEMING: Okay.
19 ATTORNEY WEED: We own some green space but
20 I don't think --
21 MR. HAEBERLIN: Correct.
22 ATTORNEY WEED: -- it's part of the Green
23 Space Program. We just paid for it directly.
24 COUNCILMEMBER FLEMING: I'm sorry?
25 ATTORNEY WEED: We own some green space

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1 historically. We've had it for a long time. But
2 apparently we didn't get -- I don't know if we got
3 money as a grant to buy that green space. I just know
4 that we have some.
5 MR. HAEBERLIN: It's adjacent to Yeshiva
6 High School.
7 COUNCILMEMBER PACHUTA: Yeah.
8 MR. HAEBERLIN: The Mayor would know better
9 about that.
10 COUNCILMEMBER PACHUTA: I think the money
11 came from Dekalb for us to purchase that as green
12 space, if my memory serves correct.
13 MAYOR JENKINS: Yes.
14 COUNCILMEMBER BATES: I'm not comfortable
15 voting on this tonight. I'd like to see what we can
16 figure out about what the 108 means.
17 COUNCILMEMBER ALEXANDER: Or delete it.
18 ATTORNEY WEED: I imagine it means just
19 that, but we'll -- and we'd have to go back to whoever
20 was here at the time to try and figure it out, but
21 we'll --
22 COUNCILMEMBER BATES: I'd like to get a
23 little bit more input from the inspector, from you
24 guys, as to give -- And this is only for me, and I'll
25 let the rest of the Council chime in. If we were to

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1 delete this, what are the potential unintended
2 consequences that we may face?
3 And I'm thinking purely over in my neck of
4 the woods, and that's the property there off of
5 Stewart Road. The old Yarn -- Dr. Yarn's (ph)
6 property. You know, that's wooded acreage there in
7 between Stewart and Wilton right there at Stewart
8 Court.
9 MR. HAEBERLIN: Okay. I know where you're
10 talking about.
11 COUNCILMEMBER BATES: You know, would that
12 be impacted by this if we were to remove it?
13 So I'd like a little bit more information as
14 to pros and cons, keeping it/removing it, but I'll
15 defer to the rest of Council.
16 COUNCILMEMBER ALEXANDER: I guess that's one
17 of my concerns also, specifically because
18 Mr. Strickland mentions the Governor's Green Space
19 Program. I would hate for us to delete this item and
20 then lose an ability to file -- you know, to apply for
21 grants in the future based on something like that. So
22 that would be one of my concerns also. Hopefully, the
23 State'll have money to give grants in the future.
24 COUNCILMEMBER ROCHE: I'll chime in with
25 that too. I mean I have woods on my land, you know,

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1 and trees, and so does my whole homeowners'
2 association all the way down there. So I'd be very
3 concerned about changing any ordinances at this point
4 having to do with this.
5 MAYOR JENKINS: Brian, do you want to table
6 it or how do you want to handle it?
7 COUNCILMEMBER BATES: That would be -- my
8 preference would be to postpone it.
9 I'll make a motion to postpone it till the
10 next agenda.
11 COUNCILMEMBER PACHUTA: Second.
12 MAYOR JENKINS: Any more discussion?
13 - - -
14 (No response)
15 - - -
16 MAYOR JENKINS: Call the roll.
17 CLERK BLACKMON: Councilmember Alexander?
18 COUNCILMEMBER ALEXANDER: Yes.
19 CLERK BLACKMON: Councilmember Bates?
20 COUNCILMEMBER BATES: Yes.
21 CLERK BLACKMON: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BLACKMON: Councilmember Pachuta?
24 COUNCILMEMBER PACHUTA: Yes.
25 CLERK BLACKMON: Councilmember Pittman?

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COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: All right. New business. Service delivery strategy, Dekalb County Services, opt out.
Murray, you got a lot of information on that as far as did you get all the information we need or do we need to --
ATTORNEY WEED: Well, the police department kindly responded to my request for the department heads. That was the main response that I got other than Council's responses.
Essentially, in accordance with the statute that was adopted to help alleviate double taxation, we have the responsibility by September 30th to adopt a resolution and notify Dekalb County of the same as to whether we're going to opt in or opt out of basic police services, nonbasic police services, parks-recreation area program and facilities, street and road maintenance, or not. We either are going to opt in or opt out of those things.
If we're going to opt out, then we have to send them a resolution, and I wanted to bring this up to the Council. And I've previously sent you an

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e-mail about it explaining, you know, where we're at with this, and it's got to be done by September the 30th.
COUNCILMEMBER BATES: And is the resolution for the things that we are opting out of?
ATTORNEY WEED: Correct.
COUNCILMEMBER BATES: Okay.
COUNCILMEMBER ROCHE: So we can't opt out on anything else other than what's on this list, the four items.
ATTORNEY WEED: Correct. Under the statute, it's basic police, nonbasic police, street maintenance and recreation.
COUNCILMEMBER ROCHE: If we opted out of, for instance, street maintenance, would we be getting money back from the County since they wouldn't be doing the maintenance?
ATTORNEY WEED: Yes. There's a --
COUNCILMEMBER ROCHE: Do we know how much money that would be?
ATTORNEY WEED: No, sir. There's a formula but there's no -- It's a, you know, very broad formula that would have to be applied based upon our local tax contributions.
COUNCILMEMBER ROCHE: So we have to make a

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decision all of these services without having any idea how much money we would save or how much it would cost us.
ATTORNEY WEED: Well, I think it would be appropriate for you to assign the financial director to perhaps do an analysis of whether there would be a cost savings in opting out. I certainly think that would be appropriate.
COUNCILMEMBER ROCHE: I think so too. I mean this is -- we're talking about money here. We're talking -- That's what the Council does or at least is supposed to be doing is we have fiduciary responsibility. So I would think before we make a decision about something like this, we should have the numbers available to us.
COUNCILMEMBER ALEXANDER: On --
ATTORNEY WEED: Makes sense to me.
I would make a motion to -- Sorry.
COUNCILMEMBER ALEXANDER: Can I make a comment? Personally, on my house, it's only $27.74 a year.
COUNCILMEMBER FLEMING: What is?
COUNCILMEMBER ALEXANDER: The tax.
COUNCILMEMBER FLEMING: For?
COUNCILMEMBER ALEXANDER: For the special

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tax districts. $27.74 on my house.
The millage rate, the last information I have, this law has gone through some many different convoluted paths, the last millage rate -- Again, I don't understand how they calculate this. They really didn't have a good explanation. Chamblee pays a 13 percent and we pay an 18 percent millage rate, and that was effective January 1 of 1996.
But again, they are not very forthcoming in how they calculate that, because with us being relatively the same size and having the same amount of people, I don't understand why our millage rate is higher than Chamblee's -- no offense to our brethren, but that's just a question.
COUNCILMEMBER FLEMING: And we have all the service except streets and roads. We handle all of it except for streets and roads, and we're being charged for everything that we are doing ourselves.
COUNCILMEMBER ALEXANDER: And so that's why this just got passed, Bill 1508 got passed, to allow us to opt out of the items we've been paying for that we've been doing.
COUNCILMEMBER BATES: Yeah. This basically is a double taxation --
COUNCILMEMBER FLEMING: Right.

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1 COUNCILMEMBER BATES: -- correction. And if
2 we choose to opt out of these, we will in essence only
3 be paying for the items once versus now where we're
4 paying for the items twice -- first through the local
5 City tax as well as the County tax.
6 COUNCILMEMBER FLEMING: Can we send them a
7 bill for all their overbillings? Send them an invoice
8 for all of their overbilling?
9 COUNCILMEMBER ALEXANDER: I think that's
10 still in litigation.
11 COUNCILMEMBER PACHUTA: I'm sure it will
12 come with our HOST money.
13 COUNCILMEMBER ROCHE: Well, I notice, for
14 instance, that the jail was -- you know, jail services
15 is not on this list. I mean why wouldn't that be on
16 the list?
17 ATTORNEY WEED: It's not in the statute.
18 COUNCILMEMBER ROCHE: Okay. So we're
19 basically -- we are paying for jail services now.
20 COUNCILMEMBER ALEXANDER: That was a --
21 COUNCILMEMBER ROCHE: Even though we have
22 our own jail, we're still paying full price, and we
23 have a jail available to us at any time if we want to
24 use their jail facilities.
25 COUNCILMEMBER ALEXANDER: That was a bond

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1 referendum I believe that was passed, I think, in
2 1982.
3 But one thing we have to remember is we have
4 a holding facility that has a 72-hour limit on it, and
5 after 72 hours, prisoners are transferred to Dekalb
6 County.
7 COUNCILMEMBER ROCHE: But that wasn't my
8 question. My question is that right now, we are
9 paying for jail services --
10 COUNCILMEMBER ALEXANDER: Because that was a
11 bond.
12 COUNCILMEMBER ROCHE: -- with Dekalb --
13 I'll start over. My question is -- Never
14 mind. I'll just --
15 COUNCILMEMBER ALEXANDER: No. I'm just
16 saying it was a --
17 COUNCILMEMBER ROCHE: I'm going to get
18 interrupted over and over again.
19 COUNCILMEMBER ALEXANDER: I apologize. It
20 was just a bond. It was a referendum that --
21 COUNCILMEMBER ROCHE: I got that. That's
22 not my question. Jesus.
23 COUNCILMEMBER BATES: Well, what is your
24 question?
25 COUNCILMEMBER ROCHE: Well, my question is

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1 and the statement I'm trying to get at is that we are
2 currently paying and we currently have full jail
3 services so that any time someone gets arrested in
4 Doraville, they could be taken down to Dekalb County.
5 COUNCILMEMBER BATES: And -- and --
6 COUNCILMEMBER ROCHE: And if that's the
7 case, then we have to wonder why we're paying whatever
8 it is we're paying for a jail here --
9 COUNCILMEMBER BATES: And if you'll --
10 COUNCILMEMBER ROCHE: -- because that's a
11 duplicative effort.
12 But the question that I have is that if
13 someone gets arrested here in Doraville, do we already
14 have, are we already paying for, is it already being
15 provided for us full jail facilities by Dekalb County?
16 ATTORNEY WEED: And I believe the answer to
17 that question is probably yes.
18 COUNCILMEMBER ROCHE: Thank you very much.
19 ATTORNEY WEED: But please bear in mind I am
20 not the finance director --
21 COUNCILMEMBER ROCHE: I understand.
22 ATTORNEY WEED: -- and sometimes the
23 appropriate staff may or may not be here. You know, I
24 can't -- I'm not here every day, but I believe the
25 answer to your question is yes.

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1 COUNCILMEMBER ROCHE: Thank you.
2 ATTORNEY WEED: I don't work the numbers.
3 MAYOR JENKINS: Our facilities is not a
4 full-time jail. If we opt out on the Dekalb County
5 jail, we'll have to put in --
6 COUNCILMEMBER PACHUTA: We can't.
7 MAYOR JENKINS: -- restaurants and every-
8 thing.
9 COUNCILMEMBER PACHUTA: We can't.
10 ATTORNEY WEED: We can't anyway. I mean we
11 can't, not via this mechanism.
12 COUNCILMEMBER ROCHE: Well, no. I under-
13 stand that we can't opt out. That's my point is so
14 that we're -- we're essentially double taxing our-
15 selves --
16 MAYOR JENKINS: That's right.
17 COUNCILMEMBER ROCHE: -- because we are --
18 ATTORNEY WEED: Whether we close --
19 COUNCILMEMBER ROCHE: -- paying for our --
20 ATTORNEY WEED: -- the jail or not.
21 COUNCILMEMBER ROCHE: -- own jail plus we're
22 also paying for the jail that Dekalb County provides
23 for us.
24 MAYOR JENKINS: That's exactly --
25 COUNCILMEMBER ROCHE: So we're double taxing

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1 ourselves. That's my point.
2 MAYOR JENKINS: That's the whole purpose of
3 the whole service delivery strategy is double
4 taxation. It always has been. We pay double on
5 everything when we deal with the County.
6 COUNCILMEMBER BATES: So Murray, we need to
7 make a decision on if there are any of the four items
8 that we want to opt out of.
9 ATTORNEY WEED: That is correct. My main
10 purposes is -- and you'll notice that I don't even
11 have obviously a complete resolution on this, because
12 you have to make that decision. So I've done a
13 baseline draft of, you know, the form for it, of
14 course, but you'll have to figure out which ones you
15 want to opt out on.
16 Obviously, the chief of police has indicated
17 that he wants to opt out on both basic and nonbasic
18 police services, and he's the only person at the
19 department head level I've heard from.
20 COUNCILMEMBER ROCHE: Assuming we opt out
21 today, when would the next -- I mean how long does
22 that last? Is this forever and ever or --?
23 ATTORNEY WEED: No, sir. According to the
24 statute, if we have an oh-my-gosh moment and decided
25 we made a terrible mistake, we can seek to get back in

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1 with a written request. The governing body in any
2 Dekalb municipality may request that the County
3 perform a previously-declined governmental service by
4 forwarding a written request to the Chief Executive
5 Officer identifying what we want back in on prior to
6 5:00 p.m. on or before June the 30th, essentially, of
7 the next year.
8 COUNCILMEMBER ROCHE: So every year we could
9 have the option of opting back in.
10 ATTORNEY WEED: Yes, sir; if they agree to
11 have us back, essentially. They get to decide.
12 COUNCILMEMBER ROCHE: Because I mean I think
13 -- I don't think we want to take over our own street
14 and road maintenance because I have no idea what it
15 would cost us. And you're saying we basically have to
16 have this resolution passed by the end of this month.
17 ATTORNEY WEED: It must be in their hands --
18 it must be in their hands by 5:00 p.m. on September
19 30th, 2010, and it's very specific about how we have
20 to get it to them. It's got to be -- it's got to go
21 to the CEO and each Commissioner. So I don't want to
22 cut the deadline too short, so if you have to have a
23 special meeting or whatever it is we need to do, you
24 know, today is the 20th. That's how long you've got.
25 COUNCILMEMBER PACHUTA: We have the zoning

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1 meeting next Monday, so if we decide tonight what to
2 opt out of, then you can draw the resolution, we'll
3 put it on the agenda for the zoning meeting --
4 ATTORNEY WEED: Absolutely.
5 COUNCILMEMBER PACHUTA: -- next Monday?
6 COUNCILMEMBER ROCHE: Well, I'll just make -
7 - I think that -- I'm assuming that everyone would go
8 along with opting out of basic police, nonbasic
9 police, which is the SWAT dogs and all that, and we
10 have our own parks and recreation. I don't think we
11 want to opt out of street and road maintenance.
12 COUNCILMEMBER BATES: Is that a motion?
13 COUNCILMEMBER ROCHE: I'll make that in the
14 form of a motion: that we opt out of basic police,
15 nonbasic police such as SWAT and dogs, and parks and
16 recreation, and retain street and road maintenance.
17 COUNCILMEMBER BATES: Second.
18 MAYOR JENKINS: More discussion?
19 - - -
20 (No response)
21 - - -
22 MAYOR JENKINS: Call the roll.
23 CLERK BLACKMON: Councilmember Alexander?
24 COUNCILMEMBER ALEXANDER: Yes.
25 CLERK BLACKMON: Councilmember Bates?

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1 COUNCILMEMBER BATES: Yes.
2 CLERK BLACKMON: Councilmember Fleming?
3 COUNCILMEMBER FLEMING: Yes.
4 CLERK BLACKMON: Councilmember Pachuta?
5 COUNCILMEMBER PACHUTA: Yes.
6 CLERK BLACKMON: Councilmember Pittman?
7 COUNCILMEMBER PITTMAN: Yes.
8 CLERK BLACKMON: Councilmember Roche?
9 COUNCILMEMBER ROCHE: Yes. Thank you.
10 MAYOR JENKINS: I need a motion to either
11 extend the meeting or a motion to adjourn.
12 COUNCILMEMBER PITTMAN: I make a motion to
13 extend the meeting to finish the agenda.
14 MAYOR JENKINS: How long do you want to
15 extend it to?
16 COUNCILMEMBER PITTMAN: Till it's complete.
17 MAYOR JENKINS: Second?
18 COUNCILMEMBER BATES: Second.
19 MAYOR JENKINS: Discussion?
20 COUNCILMEMBER ROCHE: I am just not feeling
21 good tonight. I'd prefer not to finish this out
22 tonight. I think we've got some big things for next
23 time around.
24 MAYOR JENKINS: More discussion?
25 - - -

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(No response)
- - -
MAYOR JENKINS: We got a motion and a second; is that correct?
CLERK BLACKMON: Yes, sir.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander.
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: No.
MAYOR JENKINS: All right. The next item on the agenda is --
ATTORNEY WEED: VIII-2, Mr. Mayor. I've got

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David Cole with me from our offices.
As you recall, last summer, with a lot of work on behalf of the Council, Council adopted a Personnel Manual. Essentially, the manual has been in effect for a year, and working with the City Clerk and department heads, things have come up over the year that we have of course dealt with.
And in looking at the law that has changed in the year and looking at the actual procedures in the Personnel Manual, we thought it would be time to do a review. Mr. Cole and I did that review, and he is here to make a report to you with regard to that review, and I also suggest some recommended changes.
MR. COLE: All right. Well, the most recent version that we should be working off of is Draft No. 3 of the ordinance which sets forth the proposed revisions in the manual, and I thought I would just walk you through --
COUNCILMEMBER ALEXANDER: I have Draft 2.
COUNCILMEMBER FLEMING: I have Draft 2.
ATTORNEY WEED: And my secretary sent you Draft 3 late this afternoon, and Mr. Cole and I met about 4 o'clock and decided that the best thing we could do is provide to you another draft.
Apparently you have not received that.

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That's okay. Mr. Cole, we are prepared for that eventuality. We have his original notes here that reflect the prior Draft 2 and the changes to Draft 3, and we can work our way through those. The changes are not terribly dramatic.
MR. COLE: Okay. So the Council does not have a copy of this Draft 3?
ATTORNEY WEED: Apparently not. It was sent to them by Penny but apparently they don't have it.
MR. COLE: My apologies. I thought we had brought hard copies to distribute.
Okay. Well, the first change we recommend is with regard to Section 2.4, and I believe that was in your Draft 2, so no changes are made to that.
This introduces an Americans with Disabilities Act provision into the City's EEO policy. It's not that this was not addressed in the existing policy. During the course of the year, we felt -- working with other clients and then in reviewing our own policies, we felt it was good practice to flush out exactly a good procedure for employees to request accommodations in the workplace based on their disabilities.
So that's what this policy does. It instructs employees that if they have a disability

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that they feel needs to be accommodated in the workplace, that they need to file a -- complete a request form explaining what the accommodation they desire is, and explaining that that's available in the City Clerk's office; that we need to engage in interactive dialogue with the employee about the nature of his or her disability and what accommodation they need, that we might request paperwork; and if any employee feels that he or she is not being given an accommodation that they deserve or need, that they should follow the complaint procedure that's set forth in the EEO policy.
So we just think it's a good practice to have a more detailed explanation of the procedure employees should follow with respect to requests, and that's what 2.4 does.
The next revision, I do not believe that you have this in your packet -- this is one we caught today -- would be a revision to Section 3.1 which deals with employment qualifications. Currently there is a sentence which states that employment candidates may be required to undergo a drug test. And as we'll discuss in the subsequent section here, we're actually recommending that that sentence be deleted because we believe that mandatory drug testing for all applicants

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for city employment would not pass the constitutional challenge.

So in the event that we do amend that provision, then the sentence in the qualifications section of employment under 3.1.2 would need to be amended.

COUNCILMEMBER PACHUTA: What about for police departments?

MR. COLE: Yes. There would be an exception for public safety people and individuals who carry firearms, and I'll discuss that in another section with a little more detail coming up.

COUNCILMEMBER ALEXANDER: And you said that was in the existing policy?

ATTORNEY WEED: Yes.

MR. COLE: Yes. The existing policy does provide for drug testing of all applicants. And after further review, we believe that it would be in the City's best interest to amend that policy so that only certain categories of employees or applicants for employment would be subject to drug testing at the start of their employment as opposed to a blanket rule that all applicants for employment be subject to drug testing.

COUNCILMEMBER BATES: And that was Section

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3.1?

ATTORNEY WEED: The actual -- the substance abuse testing procedures on page 41 of the existing policy, it's 3.5.2, it deals with Subsection A, pre-employment testing.

MR. COLE: Yeah. And the issue was there was basically a reference to that policy in another section of the handbook. So if we're going to change it in one place, we have to make the change in the other.

COUNCILMEMBER BATES: Got it.

MR. COLE: The next change -- and I do not know if this is in your version or not. I believe it is -- was a change to Section 3.5. It's actually not a change but really an addition of a Section 3.5, which just basically explains the different categories of employment that the City might have -- full-time, part-time or seasonal.

This is just something that we added or that I think would be good practice to add because of some issues that have come up this year about what terminology in the handbook meant when it refers in various places to full-time employees or part-time employees. If you just define what you mean by that, then that resolves the ambiguity.

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And so our understanding is part-time employees for the City's purposes are usually considered employees who work 30 hours or less, full-time are those who work usually 40 hours or more, and so we're just including the description of what those terms mean based on those hours of work.

The next revision is with respect to Section 4.3.2, overtime compensation. This was a minor change in Section A, and the change occurs in the second sentence where it reads, "Only hours actually worked count toward computing weekly overtime." Previously that's where the sentence ended.

What we're recommending is that we add the parenthetical,"i.e., PTO, compensatory time off and holidays do not count towards hours worked." We're recommending this because during the course of the year there are issues, I believe primarily within the police department, where some employees were under the misperception that if they worked a 40-hour work week Monday through Thursday and then took Friday off and took eight hours of PTO on Friday, they were under the misperception that that meant they worked 48 hours that week and should then get eight hours of overtime when in fact they only worked 40 hours and took eight hours of PTO.

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And so the law is and the policy, it's being clarified to state that only the hours you actually work count towards overtime. So if you work 40 and then take eight hours of PTO, you don't get to count the eight hours of PTO as overtime and get paid time-and-half or accumulate compensatory time off for that time.

COUNCILMEMBER ROCHE: What about like travel time, like you're traveling to training or something like that? Is that also included as PTO? I'm sorry. As hours worked?

MR. COLE: Yes. And there are detailed regulations that explain what sort of travel time counts as hours worked. So for example, the regulations say that ordinary home-to-work traveling, that does not count as hours worked, but if you travel from job site to job site during the day, that travel time in between does count as hours worked.

Earlier we were talking about the animal safety. I forget the official title.

CLERK BLACKMON: Animal control?

MR. COLE: Animal control being possibly called back to duty after being sent home outside of regular work hours. That travel time would qualify as hours worked. So there's a long list of regulations

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about when travel time constitutes hours worked.
But the basic answer to your question is yes. As long as travel time fits within the definition of hours worked, then it could and would count towards overtime.
COUNCILMEMBER PITTMAN: Major, I'm sorry. Is that the way that you guys work the overtime? He said the 40 hours or the new --
MAJOR ATKINSON: Yeah. I don't know about that exactly, but the example that we had was someone who works Monday through Friday eight hours a day, if they take off on Friday, they've only worked for 32 hours and they've taken eight hours either comp or PTO. For whatever reason, they get called out and they're here 12 hours on Saturday, they've got to make up for those eight hours PTO and then they only get four hours overtime. Is that how --
CLERK BLACKMON: That's correct.
ATTORNEY WEED: Yes.
MAJOR ATKINSON: All right. So 32 hours, eight hours of PTO on Friday, they work seven hours on Saturday. So they only have one hour PTO?
CLERK BLACKMON: Right.
MR. COLE: Well, so in your example, they worked 32 hours, Monday through Thursday --

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MAJOR ATKINSON: Right.
MR. COLE: -- and took eight hours of PTO and then worked seven hours on Saturday. So in that week, they've only worked 39 hours.
MAJOR ATKINSON: Right.
MR. COLE: 32 Monday through Thursday and then the seven on Saturday.
MAJOR ATKINSON: Right.
MR. COLE: So they do not get any overtime pay that week because --
MAJOR ATKINSON: Right.
MR. COLE: -- they've not exceeded 40 hours.
MAJOR ATKINSON: So we only have that one hour PTO.
COUNCILMEMBER PACHUTA: No. They still get seven hours PTO --
MR. COLE: Yeah, they still --
COUNCILMEMBER PACHUTA: -- for that day.
MR. COLE: -- get the eight hours or seven hours of PTO for the time they took off on Friday. They're paid for that time.
COUNCILMEMBER PACHUTA: But it would just all be straight time.
MR. COLE: Yes. They're paid for that time under their PTO, but at the end of the week when

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you're calculating whether or not they're owed overtime, you don't count that PTO.
And so that's what the parenthetical is supposed to clarify: that initially only hours worked count towards computing overtime. That's the policy set originally. And to clarify, we're saying, "i.e., PTO, compensatory time off and holidays do not count toward hours worked." So that's what that's all about.
COUNCILMEMBER PACHUTA: And I just want to clarify for the record. When you say "regulations," you're referring to like the Fair Labor Standards Act?
MR. COLE: Yes.
COUNCILMEMBER PACHUTA: Okay.
MR. COLE: The next revision is just slightly related, and this is actually one area where the Council I believe will need to make a decision between two options. This is dealing with Section 5.2.4 regarding carryover of paid time off.
If you remember, the Council adopted a policy that employees can carry over eight days of unused accrued PTO at the end of each year. If they still have additional, unused accrued PTO left after that point, then they can be paid for up to an additional eight days.

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This creates kind of an interesting situation we hadn't thought about with respect to exempt salaried employees. When an employee is exempt, that means they do not get paid overtime for hours worked over 40 in a week, and that's why they're paid a salary.
The question has arisen, if an employee is paid a salary, does he or she also have the right to be paid for up to eight additional days of PTO carried over at the end of the year? Because if they are -- let's say that employee earns a $50,000-a-year salary, that's their salary for the year. But under this provision, technically, at the end of the year if they didn't take all their PTO, they could be paid for up to an additional eight days of PTO, which then would require an additional payment above and beyond their normal salary of up to an equivalent of eight days of PTO.
If the Council wants to do that, that's fine, and there's no legal problem with that, but it's also not a requirement since an employee who is exempt and salaried is not required to be paid that.
And so if the Council wants that to be the case, for salaried employees to be able to receive that extra payment as sort of a bonus at the end of

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1 the year if they don't take all their vacation, then
2 we would need to include additional language to I
3 think clarify that that's the interpretation we want
4 in this policy, and if not, then we would need to
5 clarify the language to state that only nonexempt
6 hourly employees would be entitled to the payment of
7 up to eight additional days of PTO.
8 So it's the decision -- the policy decision
9 on which way to go, and then whatever decision is
10 made, we just, you know, plug in some additional
11 language to clarify that into the provision.
12 COUNCILMEMBER ALEXANDER: So they would be
13 able to carry over days but not get paid for that.
14 MR. COLE: Yes. So if the City were not to
15 have salaried employees be able to carry over -- get
16 paid for days, the policy would read that they could
17 carry over up to eight days unused, and that's it.
18 Then for nonexempt employees, once they
19 carry over eight days, the policy would be: in
20 addition, you nonexempt employees could be paid for up
21 to an additional eight days.
22 COUNCILMEMBER FLEMING: I think it needs to
23 be consistent for exempt as well as nonexempt.
24 MR. COLE: And there's no legal consequences
25 that we see either way, and so that's -- that's fine.

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1 COUNCILMEMBER FLEMING: Consistent being not
2 paid but carry over.
3 MR. COLE: Well --
4 COUNCILMEMBER ALEXANDER: Now they can be
5 paid for up to eight days and carry over eight.
6 COUNCILMEMBER FLEMING: I know.
7 COUNCILMEMBER ALEXANDER: So you want to
8 eliminate the eight days paid out to hourly?
9 COUNCILMEMBER FLEMING: If they don't use
10 their vacation time, whether they're salaried -- and I
11 don't understand your philosophy here -- whether
12 they're salaried or hourly, they've been given that
13 time, even a salaried person, okay? So that means
14 they either use it or possibly lose it. Or the same
15 for salaried people. They should be able to be paid
16 out or carry -- and/or carry over.
17 But I can't see where they're getting eight
18 hours additional, eight days, eight days additional
19 pay, though.
20 ATTORNEY WEED: Well --
21 COUNCILMEMBER PACHUTA: So you're saying use
22 it -- use it or lose it or --
23 COUNCILMEMBER BATES: Carry it over.
24 COUNCILMEMBER PACHUTA: -- carry it over.
25 COUNCILMEMBER FLEMING: I can't see how

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1 you're getting additional weeks in here. There's only
2 52 weeks in a year. An hourly person that gets three
3 weeks vacation is not getting paid for 55 weeks of
4 salary.
5 MR. COLE: Right. And I was referring to
6 salaried employee. So if an employee is paid a flat
7 salary of $50,000, that is intended to compensate that
8 employee for all 52 weeks, however many hours they
9 work during the year.
10 ATTORNEY WEED: And bear in mind that a
11 salaried employee could work 10 hours in one five-day
12 work week, they could work 100 hours in one five-day
13 work week. Because they're salaried, it doesn't
14 matter how long they work; they're working for a
15 salary.
16 COUNCILMEMBER FLEMING: But they still get
17 the same number of days PTO. Okay? They're not
18 getting 52 weeks plus three weeks extra pay.
19 MR. COLE: Well, what I'm saying is if at
20 the end of the year, you all have paid the salaried
21 employee $50,000 or their salary. And then if they
22 have enough time to carry over, to be paid for up to
23 additional eight days, you might end up paying them an
24 extra thousand dollars to pay them for eight days or
25 however many it is they're getting paid for. So in

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1 effect, you'll pay the $50,000 salaried employee
2 $51,000 at the end of the year.
3 COUNCILMEMBER FLEMING: But you're doing
4 that with the hourly people as well.
5 MR. COLE: Well, it's just different
6 circumstances when you're paying one employee a salary
7 which is designed to compensate for a full year in one
8 sum versus an hourly employee where you're paying as
9 you go and these benefits are paid.
10 COUNCILMEMBER FLEMING: When we originally
11 -- and I'll stop talking here in a second. When we
12 were originally were discussing the Personnel Manual,
13 we never -- I do not believe that we ever intended to
14 pay greater than 52 weeks worth of salary whether the
15 person was exempt or nonexempt.
16 Now, if they were given three weeks PTO
17 time, okay, then it wasn't in addition to the 52
18 weeks. Now, you can say that however you want it on
19 here, but that's what I understood when we were
20 discussing this policy.
21 Now, if Council wants to pay them 55 weeks,
22 we can vote on it, but I don't believe there's any
23 company or other municipality that's giving anything
24 other than 52 weeks' and here you get three weeks --
25 not "here" being here in Doraville, but they get 52

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1 weeks salary or hourly, whichever -- you work 52 weeks
2 a year -- and then on top of that, get an additional
3 three weeks salary for PTO time.
4 MR. COLE: Well, I don't know if the intent
5 is necessarily to make a decision about this one way
6 or the other tonight.
7 ATTORNEY WEED: You can certainly think
8 about it or you can decide tonight, either one.
9 MR. COLE: Yeah.
10 COUNCILMEMBER ALEXANDER: So are you telling
11 us that we can't word it the way we intended it to be?
12 Is that what I'm gathering here?
13 ATTORNEY WEED: Well --
14 COUNCILMEMBER ALEXANDER: Because we never
15 intended -- as Ms. Fleming said, you budget for 52
16 weeks; you don't budget for 55.
17 So I'm trying to figure out, we cannot make
18 the language to do what we intended it to do is my
19 question.
20 MR. COLE: My opinion is that actually the
21 language as written accomplished exactly what you
22 wanted it to do, which was that an employee is given
23 let's say three weeks of PTO each year, and as
24 incentive for them to use that vacation during the
25 year, we've limited the amount that they can carry

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1 over year after year, so we limit. Say if you have 21
2 days of PTO each year, use it, because at the end of
3 the year, we're only going to let you carry over eight
4 days of unused time.
5 And then after some further discussions, the
6 Council felt a little bad and said, well, we don't
7 want them to lose all that time, so we'll let them
8 carry over eight days, and then if there's still some
9 time left, we'll let them get paid for up to an
10 additional eight days. And so that accounted for 16
11 days, eight to carry over and eight to be paid, and
12 then anything that you haven't used in excess of that
13 is lost. That's what the Council wanted, so that's
14 what it does.
15 And so the question was, okay, well, if
16 someone carries over eight days and still has eight
17 more days to be paid, do we pay that for even a
18 salaried employee who is supposed to just get a flat
19 amount every year? Because if you do that, then the
20 salaried employee is going to get a little hunk of
21 money at the end of the year or not.
22 COUNCILMEMBER FLEMING: So does the hourly
23 person.
24 MR. COLE: Yeah.
25 COUNCILMEMBER PACHUTA: Yeah. It's almost

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1 like a bonus that we're not budgeting.
2 COUNCILMEMBER FLEMING: Correct. And that's
3 why I'm really uncomfortable about payouts at the end
4 of the year, and I was very concerned about this when
5 we were discussing it to begin with.
6 MR. COLE: So I think what I'm hearing
7 Councilwoman Fleming suggest is that maybe we stop the
8 payout of eight days of additional PTO for all
9 employees and just let them carry over up to eight
10 days, and then if there's other time they didn't use,
11 then it's just lost; that's just the way it is.
12 And the reason that the Council limited the
13 carryover of PTO was to prevent employees from not
14 taking any vacation all year and just carrying over
15 three weeks year after year after year, and then just
16 banking this massive amount of time that's a liability
17 to the City. We'll let them carry over increments but
18 encourage them to use it during the year while not
19 incurring a huge bank of liability for the City to pay
20 out later.
21 COUNCILMEMBER ROCHE: How many employees do
22 we have classified as salaried employees now?
23 ATTORNEY WEED: I believe it is eight. I
24 can -- It's about eight. Give me a second and I can
25 give you a better number, but I'm pretty sure it's

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1 pretty close.
2 COUNCILMEMBER ROCHE: Well, who are they? I
3 guess is my question.
4 ATTORNEY WEED: Give me a second.
5 COUNCILMEMBER FLEMING: Way back when, way
6 back when we were kids, probably, we all had real
7 vacations. You know, we went somewhere on vacation.
8 Now we're all working, and so, you know, taking weeks
9 at a time is virtually impossible for a lot of us and
10 for a lot of our employees as well.
11 So calling it PTO, that's fine, because then
12 it doesn't force them to take a week at a time. They
13 can take a day -- 21 days during the year, or whatever
14 the total number is that they're allowed, they can
15 take it one day at a time. They don't, you know,
16 consider it vacation. It we need to get vacation out
17 of it and say PTO and let them know that you can take
18 one day at a time; you aren't required to take weeks
19 at a time.
20 ATTORNEY WEED: I believe it's -- I believe
21 eight is correct. It's the chief of police, the court
22 clerk, the city clerk, the planner, the soil and
23 erosion control/arborist person, the library director,
24 the recreation director, public works director.
25 COUNCILMEMBER ROCHE: Thank you.

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1 COUNCILMEMBER ALEXANDER: And the Mayor?
2 ATTORNEY WEED: And the Mayor. No offense,
3 Mayor.
4 COUNCILMEMBER FLEMING: The Mayor is --
5 ATTORNEY WEED: No, he's not a department-
6 head level employee. You could make him that, but
7 he's not right now.
8 MR. COLE: Would you like to discuss this
9 issue any further or should I move on to the next?
10 Okay. The next revision that we're -- and I
11 don't think this is in your version, but we recommend
12 adding a Section 5.4.7, which is to the FMLA policy.
13 COUNCILMEMBER FLEMING: I'm sorry. I was
14 talking. What did you say?
15 MR. COLE: It's a revision to the FMLA
16 policy. And we just recommend putting in a new
17 paragraph that says if an employee believes that he or
18 she has had their rights violated or infringed upon
19 under the FLMA, that they should use the complaint
20 procedure set forth under the City's EEO policy.
21 And this was consistent with our overall
22 objective when we were reviewing the handbook last
23 time was that all sorts of employee complaints about
24 discrimination or rights, we wanted to funnel them all
25 through a uniform complaint procedure which is set

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1 forth in the EEO policy. And so we didn't have a
2 complaint procedure line item under the FMLA policy,
3 so we recommend adding that in to tell people to go to
4 with the EEO policy to complain.
5 COUNCILMEMBER FLEMING: And could you give
6 me that section number again, please.
7 MR. COLE: Sure. The new complaint
8 procedure reference would be Section 5.4.7.
9 COUNCILMEMBER FLEMING: Thank you.
10 ATTORNEY WEED: And the EEOC policy is I
11 think 2.6. It's on page 4.
12 MR. COLE: The next revision is under
13 Section 6.6, and it would be titled Domestic
14 Partnerships. This is because, as I understand it,
15 the City actually has adopted an ordinance extending
16 benefits to certain domestic partnerships, and we felt
17 that it was important to reference that under the
18 benefits section of the Employee Handbook just to
19 clarify that that's there and to point employees
20 toward the ordinance that would govern that, that
21 issue.
22 COUNCILMEMBER BATES: It was in our Draft 2,
23 Section 5.3.5.
24 COUNCILMEMBER ALEXANDER: Yeah. Some of
25 these don't match up to the actual manual.

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1 MR. COLE: Section 5.3.5 I believe is
2 dealing with --
3 COUNCILMEMBER BATES: It was ADA, FMLA and
4 other leave.
5 MR. COLE: Yes. Oh, I might have skipped
6 over that one. I'm sorry.
7 That previously stated that employees may be
8 eligible for leave pursuant to Federal or State law
9 and should apply for such leave as allowed by law or
10 in the City's EEO policy.
11 What I would recommend changing that to is
12 that they should apply for such leave in accordance
13 with the applicable policy here. And the reason for
14 that is because the application procedure for FMLA
15 leave is different than the application procedure for
16 other types of leave, so it's actually incorrect for
17 it to tell all employees to apply for leave in
18 accordance with the EEO policy. They should apply for
19 leave in accordance with the ADA policy that we're
20 amending, the FMLA policy, so we're just changing it
21 to the applicable policy to cover it all. That's
22 5.3.5.
23 COUNCILMEMBER ALEXANDER: So the existing
24 now says, "Employees may be eligible for leave
25 pursuant to Federal or State law and should apply for

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1 such leave as allowed by law," period, and then we got
2 the revision that had this EEO language --
3 MR. COLE: Yes.
4 COUNCILMEMBER ALEXANDER: -- and you don't
5 want this now.
6 MR. COLE: Right. So Revision 3 takes out
7 "as allowed by law" or "in the City's EEO policy" and
8 just says employee should apply for such leave
9 pursuant to the applicable policy here.
10 And then Section 6.6 is the policy regarding
11 domestic partnerships that I just described.
12 Section 7.2.2 has two revisions clarifying
13 the rules for reimbursement of employees for meal
14 expenses and travel expenses. I'm unaware of the
15 reason that necessitated these changes, but --
16 ATTORNEY WEED: That language came from the
17 finance director. She wanted to bring the City in
18 line with what the State did, and that's directly at
19 her request.
20 COUNCILMEMBER ROCHE: Well, currently you do
21 have to file a travel expense report, right, to get
22 reimbursement?
23 CLERK BLACKMON: Yeah. What she's changing
24 is that we all ask for our travel in advance --
25 ATTORNEY WEED: It's an advance. This --

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1 CLERK BLACKMON: -- because --
2 ATTORNEY WEED: -- would prevent that.
3 CLERK BLACKMON: Right. She's wanting us to
4 not do that any more.
5 MR. COLE: Section 9.6 just a simple clari-
6 fication to the title. I think it used to say Use of
7 Technology Resources. We're retitling that to Use of
8 City Technology Resources to better clarify that this
9 section is dealing with use of like City computers and
10 City-issued cell phones and things like that.
11 Okay. This is a section that you will not
12 have in your Version 2, but it deals with the drug
13 testing I mentioned earlier. So in Draft 3, we're
14 recommending revisions to Section 9.5.2 which deals
15 with substance abuse testing.
16 Currently under pre-employment testing, the
17 policy says that all applicants for City employment
18 will be subject to mandatory drug testing after
19 they're offered a job but before they start work.
20 Case law is continuing to clarify and courts
21 around the country, that that's going to be overbroad.
22 There was a decision in the Northern District of
23 Georgia, which is the Federal court here in Atlanta,
24 which actually struck down that same policy with
25 respect to State employees.

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1 There was a statute enacted that tried to
2 require all State employees to undergo -- State
3 applicants -- applicants for State employment to
4 undergo drug testing, and the State said, "Yeah. Our
5 reason for this policy is because we want a drug-free
6 workplace and to maintain the integrity of our work
7 force." And the court struck it down, citing
8 decisions from around the country that said that's
9 just not a sufficient interest, it's overbroad.
10 And the reason is the Fourth Amendment says
11 that individuals have to be -- are free from unrea-
12 sonable searches and seizures, and a drug test, since
13 it involves urinalysis or blood testing, is actually
14 considered a search under the constitution. And so in
15 order for the search to be reasonable, the State has
16 to have a compelling interest to justify that search
17 just the way a police officer would need reasonable
18 suspicion in order to conduct a search on a suspect.
19 And the case law is really looking that, you know,
20 just wanting a drug-free work force is not a
21 compelling enough interest to warrant suspicionless,
22 across-the-board testing of all applicants.
23 Like I said, the decision from the Atlanta
24 court dealt with a State employee policy, so it has
25 not specifically been extended to cities or county

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1 governments, but I really don't see any reason why if
2 it was challenged on a county or city level that the
3 court wouldn't treat it exactly the same. It's just
4 the nature of the facts in which that lawsuit arose.
5 But what the case law does say is okay is to
6 test public safety employees, employees that drive
7 motor vehicles that are going to carry passengers on
8 behalf of the government, or employees that otherwise
9 have to carry firearms. Those are important enough --
10 or the nature of the duties of those positions, the
11 courts say that's sufficient enough that it's okay;
12 you have a sufficient interest in wanting to drug test
13 those employees and make sure they're not under the
14 influence of drugs or alcohol.
15 COUNCILMEMBER PACHUTA: What about employees
16 that deal with heavy machinery like driving a dump
17 truck?
18 ATTORNEY WEED: David and I were talking
19 about that in detail today. Right now, we think that
20 it hasn't been specifically addressed by the law but
21 we're going to err on the side of we think that's more
22 akin to driving a bus than sitting at a desk and
23 processing paper.
24 COUNCILMEMBER BATES: Does the employee have
25 to have passengers for it to qualify, versus an

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1 employee that drives, you know, a City vehicle as a
2 function of their job description?
3 MR. COLE: Most cases really do actually
4 indicate that carrying passengers is a requirement.
5 It's basically a balancing test. The courts
6 say we're just going to weigh the interest of the
7 government in conducting the search against the
8 employees' privacy interests and being free from the
9 search and which one outweighs the other.
10 And so when they say an employee who carries
11 a firearm, that's a pretty compelling interest. An
12 employee who just works in an office, that's not that
13 great of an interest, and then when you're driving a
14 vehicle, yeah, that's more of an interest. But
15 really, to push it above the edge, most cases have
16 required carrying passengers, because then you're
17 putting other people's lives in your hands, in
18 jeopardy.
19 COUNCILMEMBER BATES: Versus the people that
20 you might hit.
21 ATTORNEY WEED: Well, we're --
22 MR. COLE: I understand.
23 ATTORNEY WEED: And it really is one of
24 those things where the court kind of -- they know it
25 when they see it. You know, they don't want to

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1 explain it necessarily in the cases, but they'll tell
2 you sooner or later, they'll know it when they feel
3 it. You know, law is not medicine. It's an inexact
4 science.
5 COUNCILMEMBER BATES: And what about
6 employees that work with children?
7 ATTORNEY WEED: Employees that do what? I'm
8 sorry.
9 COUNCILMEMBER BATES: That work with
10 children.
11 MR. COLE: You know, I think these are
12 compelling arguments that can be made in support of
13 drug testing in all these situations. There's just
14 not case law that really answers, of course, with
15 certainty, how a case like that would rule out.
16 So it's just a decision, I guess, the City
17 would have to make about how aggressive it wants to be
18 with the policy. And I say, legally, based on
19 existing case law, we know that driving vehicles with
20 passengers in it is probably good enough.
21 If you want to extend it to just driving
22 vehicles without passengers, I think there's an
23 argument for that but there's some uncertainty as to
24 how courts will rule.
25 People with children, I think that a very

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1 strong argument could be made in that regard, but
2 again, there's just not a clear answer, at least --
3 ATTORNEY WEED: Bus driver who drives kids,
4 yes. Secretary to the principal of the school,
5 probably not.
6 COUNCILMEMBER BATES: A camp counselor?
7 ATTORNEY WEED: Camp counselor, somewhere in
8 the middle. It's really not -- it's not definitive
9 yet.
10 COUNCILMEMBER PACHUTA: But the only part
11 you -- well, not the only, but you think definitely we
12 cannot do a blanket drug test.
13 ATTORNEY WEED: We're sure of that.
14 MR. COLE: Yes.
15 COUNCILMEMBER BATES: Okay.
16 COUNCILMEMBER FLEMING: But I want to
17 comment about something, because in regard to
18 substance abuse testing or drug testing for pre-
19 qualification for employment, to me, I think is as
20 necessary as would be a background check for police, a
21 credit check if they're in a position where they're
22 handling money all the time. And I don't see any
23 difference between a drug test versus a background
24 check -- because I mean that's my privacy too -- as
25 well as a credit bureau check.

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1 So I'm real sorry, I can't -- and I don't
2 want to get into this, "Well, let's weigh and let's do
3 an interpretation as we go along here." It's either
4 yes, we are or no, we're not.
5 ATTORNEY WEED: Well, then, our position
6 would be no, don't, because we know what the judges
7 think. We can all have our opinions but we know that
8 as currently written we think it's overly broad.
9 You know, you can do policemen, you can do
10 bus drivers if you have them, you can do firemen if
11 you have them. And where it gets iffy for the law
12 right now would be people who drive backhoes or heavy
13 equipment. But if you want to err on the side of
14 caution, no tests for them.
15 COUNCILMEMBER ALEXANDER: But some of those
16 people also drive City trucks with passengers in them.
17 ATTORNEY WEED: If they're driving with
18 passengers, we think you could test them, but if
19 they're driving them by themselves, probably not.
20 COUNCILMEMBER BATES: But to Ms. Fleming's
21 point, has the court ruled on credit checks or
22 background checks? Because I agree with her. That is
23 -- that is --
24 COUNCILMEMBER FLEMING: That's a privacy =
25 COUNCILMEMBER BATES: -- looking into --

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1 COUNCILMEMBER FLEMING: -- a privacy issue
2 as well.
3 COUNCILMEMBER BATES: That's looking into my
4 private activities as an individual.
5 ATTORNEY WEED: But there's a -- I think, as
6 I read the cases, and Dave can -- he'll chime in too
7 -- the cases are involving the Fourth Amendment of the
8 Constitution, and the Fourth Amendment deals with
9 illegal search and seizures and legal search and
10 seizures.
11 Something like a drug test, how do you find
12 out if a person's been using the drugs? Well, some-
13 times you can do it by I think a hair sample. You can
14 do it by a blood sample; you can do it by a urine
15 test. You physically have to act upon the person of
16 another human being to take something from them.
17 If you're doing a credit check, you don't
18 have to physically touch anybody to do that. Now,
19 philosophically, I might agree with you, but it's a
20 lot different than if I come and get something from
21 you physically than if I get information about you, at
22 least in the eyes of the court currently.
23 COUNCILMEMBER PACHUTA: You're actually
24 seizing something from the physical person.
25 COUNCILMEMBER BATES: Gotcha.

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1 COUNCILMEMBER ROCHE: Well, wouldn't a poly-
2 graph test, then, be part of that?
3 COUNCILMEMBER PACHUTA: You can't give poly-
4 graph tests for pre-employment.
5 MR. COLE: So as set forth in Revision 3,
6 the policy would be amended to state that "All
7 individuals who are offered employment by the City in
8 a public safety position, including police officers,
9 operators of heavy equipment, or drivers of vehicles
10 carrying passengers, or a position that otherwise
11 requires an individual to carry a firearm are required
12 to undergo testing for the presence of illegal
13 substances and alcohol as a condition of employment
14 prior to starting their employment with the City." So
15 that's what that would be.
16 COUNCILMEMBER FLEMING: Let me ask a
17 question while we're on the subject.
18 MR. COLE: Yes.
19 COUNCILMEMBER FLEMING: Is there somewhere
20 in here about the random drug testing?
21 ATTORNEY WEED: Yes, ma'am.
22 MR. COLE: Yes. It's --
23 COUNCILMEMBER FLEMING: Can that not be part
24 of everyone's employment --
25 MR. COLE: No.

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1 COUNCILMEMBER FLEMING: -- not just those
2 specific people that you put in 9.5.2?
3 MR. COLE: No, because the courts apply the
4 same rationale to random testing during employment as
5 it does to blanket testing all employees upon appli-
6 cation, and so the random testing provision in the
7 policy would have to be revised in the same manner to
8 say that only public safety, drivers, and firearm
9 employees would be subject to random testing.
10 Now, what you can do and what the policy
11 would continue to state is that all employees can be
12 subject to reasonable-suspicion testing if there's
13 reason to believe that they're at work under the
14 influence of something. Then you can test them,
15 because there's reasonable suspicion.
16 The next policy -- and we're getting to the
17 end here -- would be an additional section, 9.9,
18 which would be a social media policy. This is
19 actually something that Murray and I presented on at
20 the GMA conference earlier this summer.
21 And just with the increasing number of
22 employees who are on Twitter and Facebook and posting
23 things online, I think it's a good idea --
24 MAYOR JENKINS: Excuse me.
25 (To the audience) Please refrain from

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1 talking.
2 (To Mr. Cole) Go ahead.
3 MR. COLE: -- a good idea to establish some
4 expectations for employees' online activities.
5 Now, since the employees for the City are
6 public employees, they have First Amendment rights, so
7 you have to be careful that you're not curtailing
8 their freedom of expression.
9 But what this policy would try to accomplish
10 is to state that you don't want their Facebooking and
11 Twittering to interfere with their work duties. So
12 they're not supposed to be doing those sorts of things
13 on City computers during their work hours.
14 If they're going to do it outside of work,
15 we're asking the employees to put a disclaimer that if
16 they're going to identify themselves as a City
17 employee, that they clarify that the views and
18 opinions expressed there are their own and not
19 necessarily the City's, because the City does not want
20 to put itself in a position where an employee holds
21 him or herself out to be a City employee and then
22 makes some crazy statement and that, you know, someone
23 would try to attribute those to the City.
24 So basically the policy says put a
25 disclaimer out there. Use your best judgment and

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1 discretion when posting material online. Don't
2 display confidential or proprietary information of the
3 City.
4 And then a real important point of this is
5 to tell employees that when they are online, the City
6 expects them to continue meeting the requirements of
7 the EEO policy. And that means that harassment can
8 exist online just the way harassment can exist in the
9 workplace, and the City has an expectation that you
10 will not leave work and go on the internet and harass
11 or discriminate against a fellow employee just the
12 same as you would expect them not to do that in the
13 workplace.
14 And so this policy would state that
15 expectation for employees and it would also notify
16 them that if they violate these rules, that they can
17 be subject to disciplinary action.
18 COUNCILMEMBER BATES: On that note -- and I
19 don't want to get into a bunch of hypotheticals, so
20 I'll try to make this very brief -- how do you
21 classify whether or not someone is making
22 discriminatory remarks geared towards one of their
23 coworkers versus expressing their personal belief out
24 there in general?
25 MR. COLE: Right. I don't know if there's

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an answer. That's a tough call.
But one of the things that this policy does say is that if you feel discriminated against or harassed by comments online, that you should utilize the City's EEO policy and report it. So you know, maybe it's not up to the City to make the call as to what is or isn't personal expression versus harassment directed toward an employee. In many ways, it's up to the employee to let us know how he or she feels. And so this policy is put in place so that employees know they have the right to come forward to raise those concerns.
And the last policy is Section 9.10 addressing cell phones and other portable communication devices. This --
COUNCILMEMBER FLEMING: Whoa, whoa, whoa.
COUNCILMEMBER ROCHE: Let's back up a little bit.
MR. COLE: Okay.
COUNCILMEMBER FLEMING: What about all the 9.9s?
MR. COLE: I tried to describe that in general by saying -- because that's all part of the social media policy. So 9.91 is an introduction to the policy; 9.92 describes its applicability --

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COUNCILMEMBER FLEMING: Okay.
MR. COLE: -- which says we want it to apply to all web sites, not just Facebook or Twitter.
COUNCILMEMBER FLEMING: Okay.
COUNCILMEMBER ROCHE: Well, I guess, you know, my questions on this electronic policy, you know, one of the things that I was made aware of almost immediately -- in fact, from even just saying that I wanted to run for office -- was that suddenly I'm what's called a public figure, and so there was no recourse whatsoever. People could basically publish anything they wanted to -- you know, lies, whatever -- and they certainly did, and I had absolutely no recourse.
What about employees that would be considered at the public figure level? Would they have any kind of recourse here?
MR. COLE: Recourse for information posted about them?
COUNCILMEMBER ROCHE: Well, yeah, or maybe even by another employee.
MR. COLE: Well, their recourse would be --
ATTORNEY WEED: Yes.
MR. COLE: -- they're still protected from discrimination or harassment.

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ATTORNEY WEED: If someone says -- you know, we'll have a hypothetical employee who's a department head, and someone says something that, you know, that person can't function appropriately because they're not smart because they are gay.
Well, underneath your policy, that's a violation of 2.6. And really, if that complaint comes in from that employee, it will be investigated and responded to even if they're a public figure.
That's different than, oh, that employee doesn't know what they're doing, you know, because they don't understand their job. You know, it depends upon -- you know, it's a very fine line between what is slander as a public figure and what is a violation of someone's Equal Opportunity rights.
COUNCILMEMBER BATES: But this --
ATTORNEY WEED: And those definition are already in your policy --
COUNCILMEMBER BATES: But this --
ATTORNEY WEED: -- and they're pretty clear.
COUNCILMEMBER BATES: But this is only employee-to-employee. It has nothing to do with Joe Citizen out there --
MR. COLE: Correct.
COUNCILMEMBER BATES: -- who may say that

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that department head is incapable of doing their job because --
MR. COLE: That's exactly right. What you're referring to is the ability of someone, a public figure, to maintain an action for defamation. That's an entirely separate issue.
What the City is concerned about is protecting its employees from unlawful discrimination or harassment from employee to employee, but --
ATTORNEY WEED: Someone in the chain of command up or down, that type of thing.
MR. COLE: Yeah. But outside defamatory comments and whether you can maintain a claim for that is a separate --
COUNCILMEMBER BATES: Separate issue, got it.
MR. COLE: -- issue that's not really under the City's control.
COUNCILMEMBER ROCHE: But could an employee's actions or postings or statements expose the City to a defamation action?
MR. COLE: Yeah, I do think that's a possibility. And that's why it's important for our city to have policies like this and to be aware of its online activity. So the purpose of the policy in

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1 telling employees to put a disclaimer and disassociate
2 themselves from the City is to provide a layer of
3 protection so that if they're posting online, they're
4 supposed to say "I'm employed by Doraville, but these
5 are my own views, not the City's," and that's supposed
6 to give you a layer of protection that if they say
7 something slanderous or defamatory, that we could say
8 "That's not us talking. That's the employee."
9 COUNCILMEMBER ROCHE: I guess the other
10 question I have is that I didn't really see anything,
11 and maybe I'm missing it. But you know, I took a
12 class before on -- it was on personnel, and it was
13 talking about I think it was a police officer that had
14 a wild party and published pictures of it on their web
15 site. And there's nothing here that kind of warns
16 people that you could be liable or you could face
17 disciplinary action for what you do in your private
18 life if you make it public.
19 You see where I'm going with that?
20 MR. COLE: Yeah. The difficulty there is
21 that as public employees, they do have First Amendment
22 rights, and so as soon as you start trying to
23 discipline or limit employees for what speech they
24 make outside of work, you start encroaching on their
25 First Amendment rights.

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1 Now, some encroachment's allowed, but the
2 question is when you go too far. And it's difficult.
3 So when you're writing a policy, our approach and
4 recommendation is always to not write a blanket policy
5 that prohibits, you know, specific types of
6 expression, that it's probably better left to a case
7 by case where, look, if a police officer posts images
8 of him or herself, you know, getting drunk and
9 drinking online or doing something, you know, you
10 don't need a policy to say that that's conduct
11 unbecoming an officer. You kind of know it when you
12 see it. And it's probably best to deal with that on a
13 case by case basis rather than having a policy that
14 says you can't post any pictures of yourself, you
15 know, doing this or that.
16 COUNCILMEMBER ROCHE: Oh, I'm not saying
17 that.
18 MR. COLE: Yeah. So that's why the policy
19 is I think silent as to kind of this issue you're
20 touching on.
21 COUNCILMEMBER FLEMING: But the EEOC policy
22 or the EEO policy where you're using the terms harass-
23 ment, discrimination, retaliation and so forth, it's
24 in regards to race, color, creed, religious beliefs --
25 ATTORNEY WEED: The things that are --

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1 COUNCILMEMBER FLEMING: -- gender --
2 ATTORNEY WEED: -- in the definitions.
3 COUNCILMEMBER FLEMING: -- identity,
4 disabilities, et cetera, et cetera. So it's not -- I
5 mean it's all related to those specific items.
6 MR. COLE: Yes.
7 COUNCILMEMBER FLEMING: It's not, you know,
8 you just can't pull out a word from that statement --
9 MR. COLE: Right.
10 COUNCILMEMBER FLEMING: -- and extract it
11 from the balance of the sentence.
12 MR. COLE: Right. The EEO --
13 COUNCILMEMBER FLEMING: It's related to
14 race, creed, color, religious beliefs, et cetera,
15 et cetera, et cetera.
16 MR. COLE: Yes, that's right.
17 So, then, the last policy is Section 9.10.
18 This deals with cell phones. I don't think this was
19 in the handbook before, but I do think it's important
20 to have.
21 You know, the use of camera phones is more
22 often, and people are starting to take pictures and
23 they get posted online really quickly, and so the
24 policy was established that employees -- it is
25 expectation that they will not be taking pictures of

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1 the City's confidential information or trade secrets,
2 or of other employees or individuals.
3 And most importantly, though, is that we
4 want to establish rules for people when they're
5 driving on City business, that they're not talking on
6 their cell phone or texting while driving. There is
7 obviously the State law that addresses that, and so we
8 think it's important that that policy be reiterated in
9 the manual as well.
10 COUNCILMEMBER ALEXANDER: But for example,
11 our animal control officer or a police officer, they
12 can use their phone to take a photograph of evidence
13 or a situation or things like that.
14 MR. COLE: Uh-huh.
15 COUNCILMEMBER ALEXANDER: Okay.
16 MR. COLE: Yes, I mean --
17 COUNCILMEMBER ROCHE: What about personal
18 cell phones? I mean like a client I have now, they
19 have a policy against people bringing their personal -
20 you can have it but you can't use it at your desk.
21 MR. COLE: Yeah. And this policy would be
22 intended to apply not only to City-issued cell phones
23 but to personal cell phones.
24 COUNCILMEMBER ROCHE: Well, I guess it means
25 improper purposes. I mean you could sit there all day

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1 long and send text messages back and forth on your
2 personal cell phone. You know, apparently we've had
3 instances of that happening, but this doesn't really
4 address that.
5 COUNCILMEMBER PITTMAN: Are you talking
6 about employees not be able to do it or use it or --
7 COUNCILMEMBER ROCHE: I don't know. I'm
8 just saying.
9 COUNCILMEMBER PITTMAN: I think sometimes,
10 especially parents, that's the only contact that they
11 have all day long with their children, and I would not
12 agree with that.
13 MR. COLE: Yeah. So as written, the policy
14 does not prohibit employees from texting during the
15 workday. We could add that in, but --
16 COUNCILMEMBER PITTMAN: No.
17 MR. COLE: -- the policy doesn't currently
18 say that. It only just says you can't use it for
19 improper purposes, and then we're trying our best to
20 define those as we can.
21 But then again, while driving, whether a
22 City or a personal cell phone, it would be not allowed
23 to text or dial and so forth.
24 So those are the extent of the revisions
25 that we recommend.

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1 ATTORNEY WEED: It's literally been like
2 June 29th was when the original policy got adopted.
3 I'm sorry. June 15th. I'm sorry. June 29th, and
4 then the effective date was July 1.
5 We recommend that, you know, you talk about
6 these proposed changes. When you get home tonight,
7 that Version 3 should have been sent to you
8 electronically about 5 o'clock or 5:30 today, so
9 you'll have that. And we'd like you to go ahead and
10 make some decisions if you'd like to make these
11 changes or not -- the sooner, preferably, the better.
12 If you want to send questions to Dave or I
13 electronically, that's fine. If you'd like Mr. Cole
14 here to ask him further questions, we'll certainly
15 make arrangements for that. He's got a regular Monday
16 Sunday school meeting or church something-or-other he
17 does, but we'll make sure he's here. But if you'd
18 give me a little bit of advance notice so he and I
19 could make those arrangements, we'd appreciate that.
20 MAYOR JENKINS: All right.
21 COUNCILMEMBER BATES: Thank you.
22 MAYOR JENKINS: We're going to take a five-
23 minute break. Five minute only. We'll be back in
24 session in five minutes.
25 - - -

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1 (Brief recess)
2 - - -
3 MAYOR JENKINS: Meeting come to order. The
4 last item on the agenda is Pam Fleming's personnel
5 complaint.
6 COUNCILMEMBER FLEMING: Yes, sir. Thank
7 you.
8 First of all, I want to make it very clear
9 that I am following the procedures set forth in the
10 Employee Manual that I have a right to appeal to
11 Council the decision that was made on the employee
12 complaint that I filed and resubmitted on August the
13 2nd. So I'm following the procedure, and I believe
14 the Mayor can tell you that I have indeed asked for --
15 as Ms. Gilman had commented, I have asked for a
16 mediator or a facilitator, and so now I am appealing
17 to Council to review the personnel complaint.
18 The reason given that the personnel
19 complaint was disregarded was because it did not
20 comply with the Council requirement of submitting the
21 concerns and complaints in writing on a dedicated form
22 within 15 days of the occurrence.
23 I placed this item on the agenda on
24 September the 7th. Then I learned that the employee
25 in question would be on vacation, so in good faith, I

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1 put it off until tonight's agenda, which gave the
2 Council or should have given the Council adequate time
3 to review the complaint as well as contact the
4 witnesses if necessary and also gave the employee an
5 opportunity to be present.
6 The issues in the complaint span almost a
7 two-year period. I don't believe that the employee
8 has been able to be a positive marketing professional
9 for the City and in my estimation has violated Section
10 10-2(g) of the Doraville Employee Manual,
11 unsatisfactory performance, and Section 10.2(i)
12 Violations of the Standards of Conduct Policy, and it
13 states "disrespect toward fellow employees, customers,
14 visitors, or members of the public."
15 I ask that this complaint receive the same
16 determination and scrutiny of a private investigator
17 that was afforded to the personnel complaints that
18 were filed against me. However, there is an error of
19 double standards being imposed on me at this time, and
20 due to the sensitivity of this matter, I'm asking that
21 the Council go into Executive Session to deliberate
22 this complaint.
23 ATTORNEY WEED: Are you submitting that into
24 the record, Councilman Fleming?
25 COUNCILMEMBER FLEMING: I'm sorry?

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1 ATTORNEY WEED: Are you submitting the
2 complaint you previously filed into the record?
3 Is that your intention tonight?
4 COUNCILMEMBER FLEMING: Yes, sir.
5 ATTORNEY WEED: All right. In that case, I
6 have a statement to make to the Council. I previously
7 made the statement to the Mayor of Doraville at the
8 appropriate points where the staff is leveled.
9 There are four statements in this document
10 relating to the office of the city attorney. I state
11 in my place they are not true, and I will be providing
12 a written statement to Ms. Fleming with regard to that
13 matter. I'm happy to identify them for the record now
14 or I can do so fully tomorrow. They are involving
15 paragraph 2 -- there are two in paragraph 2, there's
16 one in paragraph 6, one in paragraph 20, and I'll
17 state that for the record.
18 I also want to state that whether
19 Mr. Haeberlin remains employed here or not is
20 irrelevant to me; however, statements made about me
21 and my office will be responded to appropriately and
22 in a timely manner, and I want to make that statement
23 on the record.
24 COUNCILMEMBER ROCHE: I think Ms. Fleming
25 brings up a good point. Perhaps we should engage a

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1 private investigator to look into this and maybe get
2 an outside standard, an outside -- We did basically
3 the same thing when two complaints were filed against
4 Councilwoman Fleming. The City allowed I think it was
5 $1500 per, so I think we paid something like $3,000
6 for a private investigator.
7 So I would think that if we're going to be
8 fair and if we're going to treat everybody the same
9 way, that we would hire a private investigator to
10 investigate this and find out if any of these 25
11 different items was true or not.
12 ATTORNEY WEED: Well, that's talk about
13 that. The complaints with regard to Ms. Fleming were
14 filed by employees pursuant to 2.6 of the EEOC policy.
15 That policy provides an affirmative duty for the City
16 to investigate.
17 The attempted complaint that Ms. Fleming
18 filed informally and that she finally filed appro-
19 priately was filed in accordance with an ordinance
20 that this Council adopted, which is 2-63. That
21 ordinance does not mandate an investigation. That
22 ordinance provides the ability fully to the Mayor to
23 make an appropriate determination.
24 Those are simply the facts. That's why
25 there are two different procedures. Those different

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1 procedures were followed, and that's perfectly
2 appropriate.
3 COUNCILMEMBER ROCHE: Well, for the record,
4 do you want to tell us the results of the investi-
5 gation --
6 ATTORNEY WEED: My understanding --
7 COUNCILMEMBER ROCHE: -- both investigative
8 reports?
9 ATTORNEY WEED: My understanding of the
10 results of the investigation with regard to
11 Ms. Fleming were that the investigator found under 2.6
12 that the complaints did not meet the definition of
13 discriminatory behavior underneath the definitions
14 provided. In other words, there was no evidence that
15 the investigator found that pursuant to -- I'll be
16 happy to read the exact language.
17 COUNCILMEMBER ROCHE: "I did not find any
18 evidence to indicate that Councilwoman Fleming's
19 complaint against Mr. Haeberlin constitutes a
20 violation of the EEO policy as set forth in Section 2
21 of the Doraville Employee Manual."
22 ATTORNEY WEED: That's correct, and the
23 actual --
24 COUNCILMEMBER ROCHE: And it said --
25 ATTORNEY WEED: -- definition --

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1 COUNCILMEMBER ROCHE: It said something very
2 similar for the other one.
3 ATTORNEY WEED: Correct. And the actual
4 definition is 2.2 of the discrimination that's got to
5 be complained of must be related to "discrimination,
6 harassment, retaliation and/or improper conduct which
7 consists of -- or misconduct that includes unwelcome
8 conduct whether verbal, physical or visual that is
9 based upon a person's protected status such as race,
10 color, religion, sex, national origin, age,
11 disability, veteran, or familial status, sexual orien-
12 tation, gender identity or any other characteristic
13 protected by law. This relates to all aspects of
14 employment including but not limited to recruitment,
15 hiring, placement, promotion, demotion, transfer,
16 layoff, recall from layoff, compensation, benefits,
17 and educational, social or recreational programs of
18 the City."
19 My understanding is the investigator
20 determined that the complaint was filed under 2.6 that
21 dealt with an accusation of, I believe, harassment,
22 did not fall underneath the definitions of the
23 protected class.
24 COUNCILMEMBER ROCHE: Okay. So there's 25
25 different things here. Are we going to look at each

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one or --
COUNCILMEMBER FLEMING: Well, my suggestion is that we go into Executive Session to deliberate my personnel complaint.
ATTORNEY WEED: With regard to the law, if there's any evidence that the Council is going to consider, you must consider that evidence in a public meeting. You can deliberate on the evidence privately in an Executive Session. You must come out of the Executive Session to vote on any decision that you may render.
COUNCILMEMBER FLEMING: Well, since the public appears to have already received somehow the complaint that I have filed, unbeknownst to me, whether they received it via ORR or being hand-delivered --
COUNCILMEMBER PACHUTA: I believe's on the web site --
COUNCILMEMBER FLEMING: -- they're already aware.
I'm sorry?
COUNCILMEMBER PACHUTA: It was part of your agenda item, so it would be on the web site.
COUNCILMEMBER FLEMING: I'm sorry?
No, no, no. The previous comments that were

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made were indicating that they had received the complaints.
COUNCILMEMBER PACHUTA: These complaints.
COUNCILMEMBER FLEMING: Yes.
COUNCILMEMBER PACHUTA: Yeah. Well, it's on the web site because it's part of your agenda item.
CLERK BLACKMON: No, it's not on the web site.
COUNCILMEMBER PACHUTA: This isn't?
MAYOR JENKINS: No. Just the agenda item stating --
COUNCILMEMBER PACHUTA: Oh, we didn't --
CLERK BLACKMON: Neither is the --
COUNCILMEMBER PACHUTA: -- put the backup?
CLERK BLACKMON: -- sanitation RFP.
COUNCILMEMBER PACHUTA: We didn't put the backup with the agenda item on the web site?
CLERK BLACKMON: Two backup items from this agenda were not posted on the web site.
COUNCILMEMBER PACHUTA: And it is actually public record --
CLERK BLACKMON: Oh, yes.
COUNCILMEMBER PACHUTA: -- at the Dekalb County courthouse as an exhibit.
CLERK BLACKMON: It can be retrieved.

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COUNCILMEMBER PACHUTA: It is also an exhibit, public record, at the Dekalb County courthouse also.
ATTORNEY WEED: Yes.
COUNCILMEMBER FLEMING: What are you referring to?
COUNCILMEMBER PACHUTA: I'm just saying I mean it's already a public -- Obviously, it's open to Open Records but it is also a public document --
ATTORNEY WEED: Yes --
COUNCILMEMBER PACHUTA: -- in that it's --
ATTORNEY WEED: -- and yes.
COUNCILMEMBER FLEMING: So it's already public, and I don't need to go over it again.
COUNCILMEMBER PACHUTA: Mr. Weed, I'm not sure it being public versus having to bring everything out in the open, does that work as far as Executive Sessions in personnel matters?
ATTORNEY WEED: If Councilman Fleming intends to rely solely upon her previous complaint and has no intention of presenting any other evidence in the matter, I think that's fine. We could now deliberate in public.
However, if any attempt is made in Executive Session to present any other evidence, anything other

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than what is in that complaint currently, that would be a violation of the law in my opinion.
You can do that, but you got to do it here.
COUNCILMEMBER FLEMING: So at this point -- I mean I'm asking the Council, not Mr. Weed, I'm asking the Council to hear the appeal --
COUNCILMEMBER PACHUTA: In Executive Session?
COUNCILMEMBER FLEMING: -- is what I'm asking, because the determination of my personnel complaint that I filed was disregarded for the conditions of the fact that I didn't comply on the dedicated form and I didn't comply within 15 days of the occurrence.
Now, I understand the expediency in trying to indicate problems, but I did indeed e-mail several times on the date of things that were happening and received no responses.
So I don't know what procedure I can do any more to -- I mean are my hands tied in regards to commenting to the Mayor about issues that I have concerns of in the city? is what I'm trying to get at. And if that's the case, there is truly double standards in this city is what's happened.
COUNCILMEMBER ROCHE: Yeah. I mean I'll

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1 second that.
2 I mean we had the same situation a couple of
3 years ago with another employee where, you know, I
4 think someone mentioned, you know, why didn't we deal
5 with this in the background and all that?
6 Well, it's because that doesn't work. It's
7 because, you know, complaints happen; you know, people
8 write letters, people make phone calls. I get
9 letters, the City receives letters, you know, people
10 send e-mails, et cetera, et cetera. And the answer
11 and the response is always the same: no response
12 whatsoever.
13 There is no accountability for certain
14 employees here. And you know, again, with this 15-day
15 thing, I guess you can basically rob a bank, and as
16 long as no one knows about it for 15 days, you're
17 scott free. It's the shortest --
18 COUNCILMEMBER FLEMING: No pun intended.
19 COUNCILMEMBER ROCHE: Yeah.
20 Well, it's the shortest statute of limi-
21 tations I've ever seen anywhere, you know. I mean I
22 suppose you could pretty much embezzle money, but as
23 long as you get away with it in 15 days and no one
24 finds out about it, you're all set.
25 But again, you know, bringing it here, like

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1 I said, I had the same situation last year with a
2 similar long list of things, and it was a last resort
3 to bring it here and to bring it into the public.
4 And so I certainly feel that -- frankly, I
5 feel this is all pointless, because it wouldn't matter
6 what we brought up, it wouldn't matter what the
7 evidence was. If you're certain employees, you're
8 protected, and that's all there is to it. You know,
9 it's a corrupt system and, you know, we see that over
10 and over again, you know, but, you know, certain
11 people can get away with any imaginable offenses and
12 not have to worry about it, so -- But that's what we
13 have, and as long as we have the particular people
14 elected here, that's what we're going to continue to
15 have, I'm afraid, until --
16 COUNCILMEMBER BATES: Excuse me?
17 COUNCILMEMBER ROCHE: -- hopefully next --
18 ATTORNEY WEED: Councilman Roche, if I
19 could, okay, I'm here to represent the Council
20 including every member on the Council.
21 If you want to make a statement or provide
22 evidence -- What's on the agenda currently is a
23 personnel item. I assume you're acting in accordance
24 with your rights underneath the charter, which gives
25 this Council under 2.12 the power to generally super-

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1 vise, fire, or terminate or request to resign any
2 employee.
3 COUNCILMEMBER FLEMING: No, sir, I'm not.
4 ATTORNEY WEED: Okay. So you're acting
5 under 2.63, Councilman?
6 COUNCILMEMBER FLEMING: The Mayor advised me
7 that I had the right -- under our Employee/Personnel
8 Manual, that I had a right to appeal his decision to
9 the Council, and that is what I am doing.
10 ATTORNEY WEED: And the charter authority
11 for that is 2.12. That gives you the authority to
12 supersede his decision-making if four Council members
13 agree.
14 Reducing this down to the basics, if anyone
15 would like to make statements about the employee,
16 present evidence about the employee, now is the
17 appropriate time to do that.
18 If you want to rely upon Councilman
19 Fleming's complaint, it's her agenda item, she's in
20 charge of it.
21 If that's her intention and you have no
22 further evidence you want to put forward and you want
23 to move to Executive Session to deliberate, that
24 requires a motion and a second, and you may proceed to
25 do that.

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1 Councilman Roche, do you have particular
2 evidence against the particular employee that you'd
3 like to bring forward at this time?
4 COUNCILMEMBER ROCHE: Not that hasn't
5 already been presented here.
6 ATTORNEY WEED: All right. So where you are
7 procedurally is you have two decisions to make.
8 One, is there any further evidence you want
9 to put forward? Now would be the time to do that.
10 You have to do that in a public meeting pursuant to
11 Title 50 of the Georgia Code. Or if you want to stand
12 on the evidence that's been presented and you want to
13 discuss it and deliberate in Executive Session, that
14 requires a motion and a second, and that's where
15 you're at procedurally.
16 COUNCILMEMBER FLEMING: I'd like to make
17 another comment. And I appreciate the ten residents
18 that stood up and voiced their support for the
19 employee and their concerns about airing our dirty
20 laundry in public. I don't like this any more than
21 you do.
22 We did not see any business owners or
23 property owners get up and speak at that time.
24 There's a reason for that. There is a retaliation and
25 a "gotcha" going on in the city. Every time a

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1 business owner -- Excuse me. I won't use the term
2 "every time," okay.
3 It appears that we have made applications
4 too difficult for a business or a property owner to
5 apply for a business here or variances or whatever the
6 case may be. It has become extremely difficult in the
7 procedures, information that's been given or the lack
8 of.
9 But as I said, the property owners didn't
10 stand up. They were part of my complaint and
11 witnesses to the situations that they have gone
12 through, that could have been interviewed and were
13 not.
14 We have a January 12th Business Forum video
15 tape that offered, I would think, enough evidence that
16 could have provided more property owners some informa-
17 tion that they presently don't have, but they're not
18 here to try this particular case.
19 I am asking the Council for their opinion of
20 the appeal. My preference originally was to have a
21 mediator or a facilitator to hear the complaint, and I
22 was told that I needed to appeal to Council.
23 COUNCILMEMBER PITTMAN: So are you still
24 wanting to go into Executive Session? Are you making
25 a motion to do that?

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1 COUNCILMEMBER FLEMING: At this time, I
2 don't wish to call any witnesses, if that's what
3 Mr. Weed is, you know, inferring that I'm supposed to
4 be doing or anything. I don't wish --
5 I mean when you said "more evidence," so I
6 wasn't sure whether --
7 ATTORNEY WEED: Councilman, it's your agenda
8 item; it's your complaint. You issued a complaint,
9 and you're now presenting it to the Council for them
10 to make a decision, I assume. That's your agenda
11 item.
12 So what is it you'd like the Council to do?
13 COUNCILMEMBER FLEMING: But did you not tell
14 me what I was supposed to present additional evidence
15 at this time?
16 ATTORNEY WEED: No, ma'am. I said if you
17 care to, you may. I didn't say you had to.
18 Once again, you may stand on your complaint,
19 or if you want to bring forward additional evidence,
20 now would be the appropriate time to do that. That's
21 up to you.
22 COUNCILMEMBER FLEMING: My preference at
23 this time is not to put any other business owner or
24 property owner on the spot at this present time to be
25 called as any type of witness or testimony further

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1 than what I have already entered.
2 ATTORNEY WEED: Based upon that, as I stated
3 before, in my opinion, Council's got at least two
4 options.
5 One would be, if you care to, you could
6 deliberate in Executive Session underneath the
7 personnel exception. No further evidence would be
8 forthcoming to you; you'd rely upon what you've heard
9 tonight and what's in the complaint. You do not have
10 to do that; that's an option.
11 You could render your decision publicly now
12 by a motion or a second.
13 If you go into Executive Session, that
14 requires a motion and a second.
15 If you want to render a decision now, that
16 requires a motion and a second.
17 COUNCILMEMBER ROCHE: Did you want to go
18 into Executive Session? Seems like our only option at
19 this point --
20 COUNCILMEMBER FLEMING: I --
21 COUNCILMEMBER ROCHE: -- or the Council's
22 only option.
23 COUNCILMEMBER FLEMING: That was my request
24 at the end of my first statement.
25 COUNCILMEMBER PITTMAN: So is that a motion?

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1 COUNCILMEMBER FLEMING: I make a motion to
2 go into Executive Session to deliberate my personnel
3 complaint.
4 COUNCILMEMBER PACHUTA: And I have a
5 question for Murray.
6 ATTORNEY WEED: Yes, ma'am.
7 COUNCILMEMBER PACHUTA: And I guess this has
8 to do with what constitutes deliberation. I want to
9 think about it as doing jury deliberations.
10 For example, I think there's a couple of
11 factual errors on here. Does that need to be brought
12 here, or that can be discussed in deliberations?
13 ATTORNEY WEED: It can be discussed in
14 deliberations, in my opinion.
15 COUNCILMEMBER PACHUTA: Okay.
16 COUNCILMEMBER ROCHE: I second the motion.
17 MAYOR JENKINS: More discussion?
18 - - -
19 (No response)
20 - - -
21 MAYOR JENKINS: Call the roll.
22 CLERK BLACKMON: Councilmember Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK BLACKMON: Councilmember Bates?
25 COUNCILMEMBER BATES: Yes.

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1 CLERK BLACKMON: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BLACKMON: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 CLERK BLACKMON: Councilmember Pittman?
6 COUNCILMEMBER PITTMAN: Yes.
7 CLERK BLACKMON: Councilmember Roche?
8 COUNCILMEMBER ROCHE: Yes.
9 ATTORNEY WEED: Actually, Councilmen, I
10 think I've changed my mind about that. If you're -- I
11 want to clarify. I want to make sure exactly what
12 you're talking about.
13 If there's further evidence other than
14 what's already been heard with regard to the 25-issue
15 complaint that Councilman Fleming has put forward, if
16 there's evidence to counter that or elements of that
17 complaint other than things that have already been
18 mentioned, I think, on second thought, you better do
19 that in public because I think that's a fact issue
20 that would have to be discussed in public, and then
21 you can -- you can balance whether as a group you'll
22 decide if Councilman Fleming is right or whoever else
23 is right who's brought up some new evidence.
24 So in retrospect, I think I'd feel better
25 that you address any fact correction or, you know,

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1 fact evidence that you think is different than what's
2 been alleged other than what's already been discussed
3 out in public.
4 COUNCILMEMBER PACHUTA: Well, I think you
5 brought most of it up, but I just wanted to clarify.
6 Like number 2, it says "Halpern Properties sued the
7 City of Doraville over the wholesale use...Halpern won
8 the suit."
9 Is that correct? I'm not aware of Halpern
10 suing the City.
11 ATTORNEY WEED: That is not correct.
12 COUNCILMEMBER PACHUTA: Okay.
13 COUNCILMEMBER ROCHE: So what was the end of
14 that legal action brought by Halpern?
15 COUNCILMEMBER PACHUTA: There wasn't one.
16 COUNCILMEMBER ROCHE: But they brought no
17 legal action whatsoever; they threatened to.
18 ATTORNEY WEED: Yes, sir. That's different
19 than a suit, however.
20 COUNCILMEMBER ROCHE: Okay. They threatened
21 to --
22 ATTORNEY WEED: Different than a verdict.
23 COUNCILMEMBER ROCHE: -- and then we --
24 ATTORNEY WEED: The statement is not
25 correct.

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1 COUNCILMEMBER PACHUTA: The statement says
2 "Halpern sued the City of Doraville over the whole
3 sale use," and then it says "Halpern won the suit."
4 And Halpern did not sue the City, so they obviously
5 could not win a lawsuit.
6 COUNCILMEMBER ROCHE: Okay. So Halpern --
7 COUNCILMEMBER PACHUTA: I just want it
8 correct. That's what I wanted to correct --
9 COUNCILMEMBER ROCHE: I understand.
10 COUNCILMEMBER PACHUTA: -- the factual.
11 COUNCILMEMBER FLEMING: Thank you.
12 COUNCILMEMBER PACHUTA: Number 2, "Perez
13 Upholstery sued the City." Is that correct?
14 ATTORNEY WEED: That is not correct.
15 COUNCILMEMBER FLEMING: But they got what
16 they wanted. They got what was due them.
17 COUNCILMEMBER PACHUTA: They got --
18 COUNCILMEMBER FLEMING: By citing that they
19 would sue. There were --
20 COUNCILMEMBER PACHUTA: Council came to an
21 agreement.
22 COUNCILMEMBER FLEMING: You know, there were
23 -- on both of these, we never made a zoning decision.
24 The decisions never came to Council for a variance.
25 The decisions never came to the Council to make a

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1 decision in a public hearing. We went into Executive
2 Session to make a decision on possible or pending
3 litigation is what we went into Executive Session on
4 both of them for.
5 COUNCILMEMBER PACHUTA: Okay. But they did
6 not sue the City and did not win a lawsuit.
7 ATTORNEY WEED: That's correct.
8 COUNCILMEMBER ROCHE: But it was only
9 because we negotiated with them before they were able
10 to --
11 COUNCILMEMBER PACHUTA: I would --
12 COUNCILMEMBER ROCHE: -- file a lawsuit.
13 COUNCILMEMBER PACHUTA: -- disagree with
14 that statement.
15 ATTORNEY WEED: That's your --
16 COUNCILMEMBER PACHUTA: I don't know.
17 ATTORNEY WEED: -- opinion, sir.
18 COUNCILMEMBER ROCHE: Well, I mean we can't
19 go into Executive Session unless it's for current or
20 pending litigation. So that's why we were there:
21 because of litigation.
22 COUNCILMEMBER PACHUTA: Because of the
23 threat of, but --
24 COUNCILMEMBER ROCHE: The threat of
25 litigation. Okay.

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COUNCILMEMBER FLEMING: No. There was never any comment. It was pending litigation.
COUNCILMEMBER PACHUTA: But I'm correcting -- in both of your statements, you said they sued the City of Doraville.
COUNCILMEMBER PACHUTA: That is not true.
ATTORNEY WEED: That is --
COUNCILMEMBER FLEMING: You're absolutely --
ATTORNEY WEED: -- not true.
COUNCILMEMBER FLEMING: -- correct. I never saw the lawsuit.
COUNCILMEMBER PACHUTA: And I guess my question -- and this is procedurally too -- for example, number 3, "Mr. Haeberlin sent the QOL staff to Midori Spa...the Police Report shows the Quality of Life staff could not determine the reason for the visit."
I mean do we just put whatever weight, when we're in deliberations, we want to on the statement? I mean I don't know --
ATTORNEY WEED: Yes, ma'am.
COUNCILMEMBER PACHUTA: -- anything from Quality of Life. So just whatever weight we want to assign?
ATTORNEY WEED: Correct.

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COUNCILMEMBER PACHUTA: Okay.
ATTORNEY WEED: That would apply to each one of the complaints.
COUNCILMEMBER PACHUTA: And then you said you disagree with number 6. Could you clarify that?
ATTORNEY WEED: I believe number 6 says something that I told or I instructed Quality of Life to do something.
COUNCILMEMBER ROCHE: No. It says, "the City Attorney advised the Mayor and Council that the Mayor did not have the authority to interfere with the planner's directive."
ATTORNEY WEED: And first off, I think that breaches the attorney-client privilege, which the Councilman does not hold individually. It's held by a majority of Council. So that's my issue with that statement.
I'll have to look up my exact advice later.
COUNCILMEMBER PACHUTA: And then what was the other one? Number 20?
ATTORNEY WEED: And 20, with regard to me, deals with -- it says that I instructed Quality of Life to cite somebody.
I've never instructed Quality of Life to do anything. I'm not in their chain of command and have

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no authority of Quality of Life. That simply is not true and did not occur.
COUNCILMEMBER BATES: And just for clarification on number 16 --
ATTORNEY WEED: Now, bear in mind, my statements deal only with me. Statements that deal with Mr. Haeberlin, you know, if I don't have direct knowledge of it, I don't have direct knowledge of it.
COUNCILMEMBER BATES: On number 16, the CT zoning was purely mine. Mr. Haeberlin and Mr. Weed, that was not their solution. It was presented to them by me.
COUNCILMEMBER FLEMING: Correct.
COUNCILMEMBER BATES: So it should --
COUNCILMEMBER FLEMING: I need to correct that verbiage or some such?
COUNCILMEMBER BATES: It has nothing to do with Mr. Haeberlin or Mr. Weed. It was my proposal on addressing the business community's concerns regarding the roll-up doors.
COUNCILMEMBER PACHUTA: And also for clarification for when we go into Executive Session, for example, there's a section under here, who witnessed the event, and it lists witnesses. But since those witnesses are not testifying, we could not discuss in

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Executive Session what these witnesses may or may not have said; is that correct?
ATTORNEY WEED: That is correct, unless it was otherwise placed into the other parts of the complaint.
COUNCILMEMBER PACHUTA: And the same to the videotape of January 12 since that's not --
COUNCILMEMBER ROCHE: Well, we're the witnesses. We were there.
ATTORNEY WEED: You can discuss what you saw and heard because there's no --
COUNCILMEMBER FLEMING: You know what?
ATTORNEY WEED: -- there's no hearsay --
COUNCILMEMBER FLEMING: You know what?
ATTORNEY WEED: -- rule with regard to this.
COUNCILMEMBER FLEMING: Excuse me, Mr. Weed. There's no need to go into Executive Session, honestly no need to go into Executive Session.
I really feel that I gave -- I did this in good faith from the get-go. I have issued my concerns. They have not been -- I even received a comment from the Mayor that he's not even going to read it for the substance of my e-mails. And if that's the way that we --
Yes, sir. I got that.

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1 MAYOR JENKINS: Say that again?
2 COUNCILMEMBER FLEMING: That you would not
3 even read it for the substance because it didn't fall
4 into the 15-day thing. And all I can --
5 MAYOR JENKINS: I've read the thing 50
6 times.
7 COUNCILMEMBER FLEMING: No, sir. I'm not
8 talking about this one. I'm talking about my previous
9 e-mails.
10 MAYOR JENKINS: The previous e-mail, I also
11 answered you on it.
12 COUNCILMEMBER FLEMING: That's the one --
13 MAYOR JENKINS: You followed through on this
14 one. There was no reason to even go any further than
15 that unless you come to the Council. That's what I
16 told you.
17 COUNCILMEMBER FLEMING: You also told me and
18 made a comment in my three-hour interview that I had
19 -- I don't know how long he interviewed you, but you
20 made the comment that instead of me following the
21 procedure -- and Bob, you can pull that out -- instead
22 of following the procedure and filing a complaint and
23 issuing e-mails, that I should just get three other
24 Councilmembers --
25 MAYOR JENKINS: That's right.

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1 COUNCILMEMBER FLEMING: -- to vote whatever
2 I wanted them to vote.
3 I am not that type of a person. I try to
4 follow the procedure.
5 MAYOR JENKINS: My point on that was if you
6 did not have three other Councilmen, there's no
7 reason, because you didn't show me that I needed to
8 terminate Mr. Haeberlin, and that was my decision.
9 COUNCILMEMBER FLEMING: We have -- we do
10 have -- And Ms. Pachuta, in the very beginning of this
11 and at the end I have made a comment that supporting
12 documents of these statements do exist, and I was
13 never asked for them.
14 I was never asked for -- you're asking now
15 for information, and no, I did not bring all the
16 supporting documents with me. I was asking to review
17 this personnel complaint.
18 COUNCILMEMBER PACHUTA: Well, I'm just --
19 I'm just trying to clarify just because I want to make
20 sure that when we go into an Executive Session that we
21 do not discuss things or, you know, don't ask
22 questions about things that should have been said
23 publicly. And that is why I asked the question and
24 that's why I brought those up: because when I read
25 them, I did not think certain things were correct, and

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1 it was my understanding that I then needed to bring
2 them up now before we went into the back.
3 COUNCILMEMBER FLEMING: Now, if your
4 statement about the people that I have listed on the
5 back as far as witnesses to some of the occurrences,
6 if you need to hear from them, I would have to ask
7 them at this time whether they wanted to give testi-
8 mony.
9 COUNCILMEMBER PACHUTA: Because I mean it
10 doesn't matter whether I talk to them or not, because
11 it would have to be in a public meeting if we were
12 then going to deliberate about it in Executive
13 Session. So whether I talk to them in advance or not,
14 it doesn't matter, because then I could not use that,
15 not bringing it up in a public meeting, anyway.
16 ATTORNEY WEED: I believe the Councilman's
17 question to you, though, was if some people on her
18 quote/unquote, I guess, her witness list are here and
19 they're willing to testify, you know, they could
20 certainly -- she could ask them to do that, and you
21 could hear what they've got to say if you choose to.
22 COUNCILMEMBER ROCHE: I think there are --
23 COUNCILMEMBER PACHUTA: But that's up to
24 you. I mean it's your agenda item.
25 COUNCILMEMBER ROCHE: -- 16 witnesses here

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1 listed.
2 COUNCILMEMBER FLEMING: And again, we
3 wouldn't be here tonight -- I asked for a facilitator,
4 I asked for a mediator twice --
5 COUNCILMEMBER PACHUTA: Well, I think that's
6 a great idea.
7 COUNCILMEMBER FLEMING: -- and I was told
8 that my recourse was to appeal to the Council, and
9 that's why I'm doing it.
10 COUNCILMEMBER ROCHE: Well, the rest of
11 them, we tried a facilitator, we went through the
12 motions, but, you know, what we agreed to was not
13 actually put into practice.
14 I mean I think that the result there was
15 that the employee in question was supposed to be under
16 a performance improvement plan, and the City Council
17 voted unanimously three times to put that employee
18 under a performance improvement plan, and the Mayor
19 still, you know, refused to do so, and there's no
20 record of any performance improvement plan. So
21 mediating --
22 ATTORNEY WEED: Is that relevant --
23 COUNCILMEMBER ROCHE: -- doesn't really --
24 ATTORNEY WEED: -- to this employee --
25 COUNCILMEMBER ROCHE: -- work.

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1 ATTORNEY WEED: -- Councilman?
2 COUNCILMEMBER ROCHE: No. I'm saying in
3 general.
4 ATTORNEY WEED: If we could -- You are
5 having a hearing about a particular employee. If
6 you've got evidence about this employee, let it out,
7 let it be presented and let there be a judgement made
8 upon the evidence. But I'd ask you, for your sakes,
9 to try to limit your comments to questions and to
10 evidence regarding the particular employee.
11 COUNCILMEMBER ROCHE: It was a discussion
12 about how best to proceed with this situation.
13 ATTORNEY WEED: So was there any other
14 pertinent evidence you wanted to put forward,
15 Councilman Fleming? Would you like to call any
16 witnesses that are here tonight or anybody else from
17 Council?
18 COUNCILMEMBER FLEMING: If there are any
19 business owners, do I need to name them or may I just
20 -- may I just make a blanket statement at this moment?
21 If there are any business or property owners within
22 the city that would like to comment at this time about
23 their experiences that I've listed in this particular
24 complaint or presently have received, is that
25 acceptable?

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1 ATTORNEY WEED: Now would be the time to do
2 it, yes, ma'am. If they --
3 COUNCILMEMBER FLEMING: Then I'm asking --
4 ATTORNEY WEED: -- want to come forward and
5 testify, now is the time.
6 COUNCILMEMBER FLEMING: I'm not wanting to
7 put them on the spot, not going to call any names, but
8 if there are any business owners that would like to
9 share any information regarding their experiences
10 having dealt with the person regarding my personnel
11 complaint, feel free to come forward at this present
12 time, but I thoroughly understand the reasons why you
13 wouldn't.
14 MR. CUSHMAN: Jimmy Cushman. I'm with
15 Halpern Enterprises, obviously. I am not --
16 ATTORNEY WEED: Order, ladies and gentlemen,
17 please, in the audience.
18 And Mr. Cushman, if you'd speak up please.
19 MR. CUSHMAN: Yes, sir, absolutely.
20 I can't speak for the company in this regard
21 right now. I would like to reserve if either one of
22 the owners or at a higher office in the company would
23 like to speak, that they have an opportunity.
24 I just noticed that the eyes were coming to
25 me, and I can't say one way or the other on the

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1 record, you know, with this, but you know, at the same
2 time, if in the future there may be an opportunity --
3 COUNCILMEMBER FLEMING: Thank you.
4 ATTORNEY WEED: Mr. Haeberlin, would you
5 like to ask Mr. Cushman any questions?
6 MR. HAEBERLIN: No, sir, not at this time.
7 MR. ANDERSON: Stuart Anderson, d/b/a Psycle
8 Racing.
9 I agree with Mr. Cushman that if this is
10 going to be a process that the other 14 or whoever
11 business owners that made statements on January 12th
12 should be afforded the opportunity to make further
13 statements and commentary in this process; otherwise
14 it's a sham.
15 I will comment since I'm here, on mine. I
16 didn't bring my file on my incidence or my business
17 application, my occupational tax license application,
18 but it was withheld for a period of time, an
19 inordinate period of time. Been in business for 25
20 years at this point and granted business licenses by
21 the City.
22 There were certainly irregularities in --
23 how would I say it? -- not -- not due process in my
24 case. I was told to resubmit and lie on a form, a
25 form that was created different than the form in the

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1 last 25 years. And subsequently, I did reapply and
2 lied on that form and was subsequently passed, was
3 given my occupational tax license.
4 Mr. Haeberlin is on tape lying -- telling me
5 to lie. It's legal to tape people in this city or in
6 this state if one person knows that you're being
7 taped. That's a fact.
8 But I stand by my first statement that if
9 there's another 14 people, they need to be able to be
10 processed through this situation. Thank you.
11 ATTORNEY WEED: Mr. Haeberlin, do you have
12 any questions of Mr. Anderson?
13 MR. HAEBERLIN: Mr. Anderson, you've stated
14 on the record that you lied to a local government in
15 submitting an application for a business license.
16 True or false?
17 MR. ANDERSON: I was told to lie.
18 I certainly did, yes, uh-huh.
19 MR. HAEBERLIN: So you admitted that you
20 just met -- you just committed a crime in the city of
21 Doraville, Georgia. True or false?
22 MR. ANDERSON: I was told to commit a crime
23 in the city of Doraville by you, and I did, so that I
24 would get my occupational tax permit which I have had
25 for 25 years in this city, legally.

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1 MR. HAEBERLIN: That is incorrect. I would
2 like to state for the record that that is incorrect.
3 ATTORNEY WEED: You'll be given an
4 opportunity, Mr. Haeberlin. Do you have any other
5 questions of Mr. Anderson?
6 MR. HAEBERLIN: Mr. Anderson, do you have a
7 building constructed on your property which is in
8 violation of the zoning ordinance of the City of
9 Doraville, Georgia, that you use as a welding or some
10 sort of business shop?
11 MR. ANDERSON: I consult professional motor
12 sports. My shop is used for things that I create --
13 inventions, thought process.
14 MR. HAEBERLIN: And is that shop larger than
15 the home in which you reside?
16 MR. ANDERSON: It's about the same size.
17 MR. HAEBERLIN: Is that building within a
18 foot of the property line?
19 MR. ANDERSON: Oh, absolutely.
20 MR. HAEBERLIN: Okay.
21 MR. ANDERSON: Has been since 1980 --
22 1980.
23 MR. HAEBERLIN: Who allowed you to build
24 that building? Who inspected that building on your
25 property?

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1 MR. ANDERSON: Dekalb County.
2 COUNCILMEMBER ROCHE: Is this -- is this
3 relevant to the personnel complaint?
4 ATTORNEY WEED: Mr. Anderson --
5 MR. ANDERSON: Obviously not.
6 ATTORNEY WEED: -- chose to testify, and
7 Mr. Haeberlin's got a right to thoroughly cross-
8 examine him.
9 MR. ANDERSON: Do I have the --
10 ATTORNEY WEED: There was no --
11 MR. ANDERSON: Do I have the requirement --
12 ATTORNEY WEED: There was no limitation --
13 MR. ANDERSON: -- to answer those questions?
14 ATTORNEY WEED: Please wait a moment,
15 Mr. Anderson. Wait.
16 Mr. Anderson -- there was no limit placed on
17 anything Mr. Anderson had to say at all, and so I
18 would advise you, if it goes on too long to the point
19 where, you know, questions are no longer relevant at
20 all, we'll certainly talk about it then, but --
21 COUNCILMEMBER ROCHE: Well, Mr. Haeberlin is
22 taking us back 25 years.
23 ATTORNEY WEED: There was no limitation on
24 what Mr. Anderson was allowed to say.
25 COUNCILMEMBER ROCHE: Okay. Well --

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1 ATTORNEY WEED: You know, if you want to
2 limit the questions Mr. Haeberlin wants to ask, I
3 wouldn't advise you to do that.
4 I mean Councilman Fleming wanted let's have
5 this thing open; let's do it, let's do it all, let's
6 do it now.
7 COUNCILMEMBER ROCHE: Fair enough.
8 ATTORNEY WEED: Mr. Haeberlin, you may
9 continue the questions, please.
10 MR. HAEBERLIN: Mr. Anderson, are you
11 receiving financial compensation from anyone that is
12 listed in the personnel complaint filed by Ms. Fleming
13 against myself?
14 MR. ANDERSON: No.
15 MR. HAEBERLIN: Okay. Have you ever
16 received financial compensation from these
17 individuals?
18 MR. ANDERSON: I'd have to look at the list,
19 but no.
20 MR. HAEBERLIN: Do you have any education or
21 training in the field of planning or zoning in the
22 state -- any state in the union?
23 MR. ANDERSON: I'm a graduate of the ARC
24 classes, and other than that, I'm self-educated.
25 MR. HAEBERLIN: Okay. So you would be

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1 ineligible for any certification as a planner in the
2 United States of America.
3 MR. ANDERSON: According to the AICP, they
4 judge that you can serve as I did on planning
5 commission and you can have experience. So in their
6 qualifications, actually I can get an AICP qualifi-
7 cation -- which you do not have, I might mention.
8 MR. HAEBERLIN: Well, I would like to submit
9 for the record, sir, that you have to have a masters
10 degree and five years of experience working in local
11 government, so what you just told the City Council was
12 incorrect.
13 ATTORNEY WEED: And Mr. Haeberlin, let's
14 limit the questions. You'll have an opportunity to
15 make a statement yourself.
16 MR. HAEBERLIN: Mr. Anderson, did I not tell
17 you that your shop could only be used for your
18 personal hobbies, not your business? Did I make that
19 statement to you?
20 MR. ANDERSON: I don't remember.
21 MR. HAEBERLIN: Do you have a copy of the
22 tape in which you allegedly taped me without my
23 consent?
24 MR. ANDERSON: I would probably have to find
25 that.

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1 MR. HAEBERLIN: Why did you not bring it
2 tonight since you're offering testimony?
3 MR. ANDERSON: I also didn't bring my file
4 and my, well, occupational tax either.
5 MR. HAEBERLIN: Are you at this time seeking
6 financial donations to support the litigation which
7 has been filed by Ms. Pamela Fleming against the City
8 of Doraville?
9 MR. ANDERSON: I am personally not.
10 MR. HAEBERLIN: Or on behalf of Ms. Fleming,
11 any other business owner?
12 MR. ANDERSON: No.
13 MR. HAEBERLIN: I think the questions are
14 more than sufficient.
15 ATTORNEY WEED: Does the Council have any
16 questions of Mr. Anderson with regard to his testi-
17 mony?
18 - - -
19 (No response)
20 - - -
21 ATTORNEY WEED: All right. Mr. Anderson, do
22 you have anything else you want to say? Now is your
23 chance.
24 MR. ANDERSON: No. I'm hoping that there
25 will be another chance when the other 14 are asked to

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1 participate. Thank you.
2 ATTORNEY WEED: Ms. Fleming, do you have any
3 other witnesses or anybody else you want to call? Any
4 other --
5 COUNCILMEMBER FLEMING: I gave it as a
6 blanket. I'm not putting anybody on the spot.
7 MR. SHANAHAN: David Shanahan. Y'all have
8 heard my statements. You heard 'em at the Business
9 Forum; you've heard 'em individually; I've talked to
10 you about 'em directly.
11 I don't spend my time hanging out in places
12 like this. I've got a family at home and seriously
13 better things to do with my life. I've spent most of
14 the last year hanging out here because I'm defending
15 myself, I'm in defensive mode. It's been going on a
16 long time.
17 Business Forum, 80 people don't show up
18 there for no reason. They all got better things to
19 do. Nothing's changed, not a bit.
20 ATTORNEY WEED: Mr. Haeberlin, do you have
21 any questions for Mr. Shanahan?
22 MR. HAEBERLIN: Mr. Shanahan, do you have a
23 person residing on your commercial property illegally,
24 in violation of the city codes at this time?
25 MR. SHANAHAN: No, I do not.

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1 And does this have anything to do with
2 what's going on?
3 ATTORNEY WEED: Mr. Shanahan --
4 MR. SHANAHAN: It has nothing to do with
5 anything that's --
6 ATTORNEY WEED: Sir --
7 COUNCILMEMBER FLEMING: His testimony. It
8 doesn't have anything --
9 ATTORNEY WEED: -- you --
10 MR. SHANAHAN: Does it have anything to do
11 with what I've stated or testimony?
12 ATTORNEY WEED: You know --
13 MR. SHANAHAN: I don't think this should be
14 a chance --
15 ATTORNEY WEED: -- you volunteered --
16 MR. SHANAHAN: -- for him to barbecue
17 anybody with whatever he's been saving up.
18 ATTORNEY WEED: Sir, you volunteered to make
19 a statement against Mr. Haeberlin.
20 MR. SHANAHAN: Yes.
21 ATTORNEY WEED: There's been no limitation
22 or cap.
23 MR. SHANAHAN: I didn't say anything about
24 him. I said I was at the Business Forum. I made no
25 comments against him. I reminded them that they were

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1 all there, okay?
2 ATTORNEY WEED: And you said that there was
3 a reason that they were all there.
4 MR. SHANAHAN: Yes. It's on --
5 ATTORNEY WEED: Do you have any other --
6 MR. SHANAHAN: -- the DVD for everybody to
7 see.
8 ATTORNEY WEED: Okay. Do you have any other
9 questions of Mr. Shanahan?
10 And did he answer your last question?
11 MR. HAEBERLIN: I don't believe he did.
12 ATTORNEY WEED: Mr. Shanahan, please answer
13 the last question.
14 MR. SHANAHAN: I don't have any intention to
15 engage him in a conversation of that nature. It has
16 nothing to do with her complaint --
17 ATTORNEY WEED: Do you have --
18 MR. SHANAHAN: -- or why I stood up or
19 anything that I said to these people.
20 ATTORNEY WEED: All right, Mr. Shanahan.
21 MR. SHANAHAN: Okay?
22 ATTORNEY WEED: This is a hearing.
23 Mr. Haeberlin, do you have any other
24 questions of this witness?
25 MR. HAEBERLIN: Are you under the impression

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that the meeting that you attended, the Business Forum meeting, was properly advertised in accordance with Georgia law?

MR. SHANAHAN: I have no clue what you're talking about. I don't think anybody in here does either. It doesn't have anything to do with what's going on.

Did you sit at your desk during regular business hours and stare at me while I stood at your door knocking with a completed application and my tenant, prospective tenant, standing next to me? Did you look at me and then look back at your desk and tell me later "I was eating lunch" at 1:45 in the afternoon, leaving me to explain to my tenant, "No, really. This is a good place to do business. I'll work it out. I'll come back. You go on. I'll bring it back?" Did that happen?

MR. HAEBERLIN: Do I have to respond to him?

MR. SHANAHAN: At 1:45 in the --

MR. HAEBERLIN: I would like to respond.

MR. SHANAHAN: -- middle of the day while we were standing in front of the sign that says business hours 8:00 to 4:00.

ATTORNEY WEED: Mr. Shanahan, one at a time.

MR. HAEBERLIN: I would like to respond that

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I in fact showed the city attorney that you cannot see from my desk at 3774, the front door of the building, so that is an impossibility that that occurred.

MR. SHANAHAN: And when I stopped by later in the day and said, "I stopped by earlier," you said, "Yes. I was eating lunch." How did you know that was me? How did you know I was there while you were eating lunch?

MR. HAEBERLIN: I eat late lunches, sir.

MR. SHANAHAN: So you knew the time I was referring to. You stated explicitly when we talked later.

MR. HAEBERLIN: Did you not submit that application on the same day, during that time frame, supposedly, to the City Clerk and it was followed through the next day?

MR. SHANAHAN: Yes. I came down here and made sure that it was time stamped because I was -- I didn't know what was going on. I was standing there. You looked right at me, Scott.

MR. HAEBERLIN: Sir, for the record, I showed Mr. Weed and had him sit --

MR. SHANAHAN: Shall I bring --

MR. HAEBERLIN: -- at my desk.

MR. SHANAHAN: -- my tenant? He was

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standing there with me.

MR. HAEBERLIN: Sir --

MR. SHANAHAN: We were both looking through the window at you.

ATTORNEY WEED: All right. Let's --

MR. HAEBERLIN: I would like --

MR. SHANAHAN: He would be glad --

MR. HAEBERLIN: -- clarification.

MR. SHANAHAN: -- to come in here --

ATTORNEY WEED: Mr. Shanahan --

MR. SHANAHAN: -- to tell you that's what happened. You think I have nothing better to do than come make this stuff up?

ATTORNEY WEED: Please lower the rhetoric, lower your tone of voice. We'll let you talk all night. You can say whatever you want to to Mr. Haeberlin and we're going to let him say whatever he wants to to you, but we're all going to be polite about it.

Do you have anything else you want to say to this body who are making decision on Mr. Haeberlin tonight?

MR. SHANAHAN: I'm not a loony and I got better things to do than come make up silly things. I got kids at home who need help with homework.

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ATTORNEY WEED: All right.

MR. SHANAHAN: This is real stuff, and it hasn't changed.

ATTORNEY WEED: Hold on, Mr. Shanahan.

Mr. Haeberlin, do you have any other questions of Mr. Shanahan?

MR. HAEBERLIN: Are you providing any financial compensation to Ms. Fleming in support of her litigation against the City of Doraville?

MR. SHANAHAN: Does that have anything to do with what's going on here tonight?

MR. HAEBERLIN: Yes, it does.

MR. SHANAHAN: Does that have anything to do with that complaint?

ATTORNEY WEED: Mr. Shanahan, please answer the question. There have been no limitations placed on your questioning or your cross-examination or --

MR. SHANAHAN: I would think --

ATTORNEY WEED: -- your demeanor toward --

MR. SHANAHAN: -- it would be irrelevant to the complaint that's filed tonight. I have --

ATTORNEY WEED: Mr. Shanahan --

MR. SHANAHAN: -- no intention of answering things except what's relevant to what I've said about the complaint.

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1 ATTORNEY WEED: And I'm going to instruct
2 the Council that it will be up to you. If
3 Mr. Shanahan doesn't want to answer the questions,
4 that's fine. You need to bear that in mind in the
5 wake of his responses when you deliberate if you
6 choose to deliberate on this matter further.
7 COUNCILMEMBER FLEMING: For the question
8 that was asked, only.
9 MR. SHANAHAN: May I ask --
10 ATTORNEY WEED: For the question --
11 MR. SHANAHAN: -- the Council, do you --
12 ATTORNEY WEED: -- that was asked only.
13 MR. SHANAHAN: -- think it's appropriate for
14 me to be asked --
15 THE REPORTER: One at a time.
16 MR. SHANAHAN: -- about anything except
17 what's in the complaint?
18 COUNCILMEMBER ROCHE: It would seem to me
19 that if we're going to bring up the litigation with
20 Pam Fleming, then we would have to bring all that too.
21 If we're going to go there, then I would assume that
22 we would have to discuss all of that.
23 ATTORNEY WEED: Councilman Fleming can
24 certainly bring it up. Now is the time. It's her
25 agenda item. It's her hearing; it's her burden.

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1 COUNCILMEMBER FLEMING: No, sir. That --
2 ATTORNEY WEED: Bring it out --
3 COUNCILMEMBER FLEMING: That litigation has
4 nothing to do with --
5 ATTORNEY WEED: Councilman, you attached
6 your complaint as an exhibit to the litigation;
7 therefore, it would be --
8 COUNCILMEMBER FLEMING: I'm very sorry, sir.
9 ATTORNEY WEED: -- It's the position of the
10 City that you've made it --
11 COUNCILMEMBER FLEMING: I'm very sorry, sir.
12 ATTORNEY WEED: -- part of it. That's a
13 fact, ma'am.
14 COUNCILMEMBER FLEMING: My complaint tonight
15 is based on the personnel complaint --
16 ATTORNEY WEED: Yes, ma'am.
17 COUNCILMEMBER FLEMING: -- only. I don't --
18 you know, I don't care what your lawyer/attorney-
19 client privilege stuff is or whatever you're getting
20 ready to tell me about case law.
21 I'm here appealing to Council regarding my
22 complaint. That's it. The litigation, my suit
23 against the City and -- you know, everyone has a right
24 to sue anyone. I am not going to discuss the case.
25 And in regards to Mr. Haeberlin, if he wants

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1 to ask me where I got the money to pay my attorney, I
2 will tell you. It was somebody from my church. Okay?
3 I had to borrow it. And I'll be glad to show you a
4 copy of the promissory note.
5 ATTORNEY WEED: All right, Councilman
6 Fleming, we may get there.
7 COUNCILMEMBER FLEMING: So we need to stop
8 that line of questioning.
9 ATTORNEY WEED: Well, no, ma'am, we don't.
10 That's up to the Council to decide.
11 I'm going to tell the Council that
12 Ms. Fleming attached as part of her complaint, as an
13 exhibit, this complaint that you're now discussing
14 tonight. You may make a decision that it is relevant
15 to the same complaint that she has now brought to you
16 for your decision-making on.
17 You may allow the question; you may not
18 allow the question. There's been no caps or no
19 limitations placed on any party or anybody who wanted
20 to testify so far. So no caps put on Mr. Shanahan,
21 none on Mr. Haeberlin; any questions that Council
22 wants to ask.
23 My advice to you is to let the chips fall
24 where they may, ask whatever questions you want and
25 hear whatever evidence you have here. Now is the time

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1 to hear it, and let's proceed.
2 COUNCILMEMBER ROCHE: Well, I think maybe
3 the question of whether or not Councilwoman Fleming
4 and her attorney felt that they had legal recourse to
5 the way Councilwoman Fleming was treated by the City
6 of Doraville is a different question than the
7 performance of a City employee.
8 ATTORNEY WEED: I would ordinarily agree
9 with you, but in this case --
10 COUNCILMEMBER ROCHE: Well, in this case.
11 ATTORNEY WEED: -- Councilman Fleming put
12 her complaint, the same complaint that Councilman
13 Fleming has on this agenda, as an exhibit to her
14 complaint against the City.
15 COUNCILMEMBER ROCHE: Yeah; as evidence, I
16 assume, that she --
17 ATTORNEY WEED: So the Council will --
18 COUNCILMEMBER ROCHE: -- wasn't treated
19 correctly.
20 ATTORNEY WEED: -- decide if they think it's
21 relevant or not. It's the same complaint.
22 All I'm making is a statement of fact. If
23 you want this line of questioning to go on, you may do
24 so. If you choose not to, you may terminate it here.
25 Just bear in mind, you know, you want to hear all the

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1 facts; now is your chance to hear all the facts.
2 COUNCILMEMBER ROCHE: I don't really see
3 where Councilwoman Fleming's litigation is relevant
4 here because we won't have an answer on that for some
5 time, and whatever that answer is, I don't see where
6 that would necessarily have a bearing on this
7 particular situation. It's kind of like --
8 ATTORNEY WEED: You could make a motion if
9 you want to. If you want to limit the questioning to
10 questions that don't have anything to do with
11 Councilman Fleming's litigation, you can make that
12 motion.
13 Right now, we left it at Mr. Shanahan was
14 asked a question by Mr. Haeberlin; Mr. Shanahan
15 refused to respond.
16 COUNCILMEMBER ROCHE: Well --
17 ATTORNEY WEED: That's where we're at. So
18 if you want to terminate that line of questioning, you
19 could do so. I think you need to make a motion and a
20 second to do that.
21 COUNCILMEMBER ROCHE: I guess my main
22 concern would be that I have no idea what Councilwoman
23 Fleming would be able to discuss.
24 COUNCILMEMBER FLEMING: I won't discuss it.
25 COUNCILMEMBER ROCHE: I mean I'm sure that,

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1 you know, you're the attorney and you would probably
2 -- if she was your client, you would probably recom-
3 mend and advise her not to discuss her case before it
4 goes to court too. So that would put Councilwoman
5 Fleming at a decided disadvantage in an area that
6 really doesn't have much to do with this particular
7 situation.
8 ATTORNEY WEED: Are you asking me to render
9 a further opinion, Councilmember, or are you ready to
10 make a motion? I'm happy to render further opinions
11 if you want me to.
12 COUNCILMEMBER ROCHE: Well, I'm -- I'm
13 asking a question, that as an attorney, wouldn't you
14 -- if you were representing a client who had a
15 lawsuit, wouldn't you normally instruct the client not
16 to discuss that lawsuit?
17 ATTORNEY WEED: In this particular case,
18 Councilman Fleming attached as an exhibit to her law-
19 suit, this complaint -- the same complaint that
20 Councilman Fleming has brought before you and the same
21 complaint that under the charter we're now having this
22 hearing on.
23 COUNCILMEMBER ROCHE: So we're discussing --
24 ATTORNEY WEED: My --
25 COUNCILMEMBER ROCHE: -- an attachment to

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1 the complaint, not the complaint. Not the legal
2 complaint, just an attachment.
3 ATTORNEY WEED: That is part of the
4 complaint. If you attach something to a complaint, it
5 is considered by the court to be part of the
6 complaint.
7 Obviously if you didn't want it considered,
8 you wouldn't attach it to the complaint to begin with.
9 COUNCILMEMBER ROCHE: But we're not
10 considering that.
11 COUNCILMEMBER FLEMING: Bob, don't worry
12 about it.
13 ATTORNEY WEED: It's her --
14 COUNCILMEMBER FLEMING: Bob, don't --
15 ATTORNEY WEED: It's her complaint.
16 COUNCILMEMBER FLEMING: Don't worry about
17 it. Don't worry about it. We already know -- I mean
18 I already know that --
19 I'm not going to say anything else. I
20 brought it to the appeal of Council. This questioning
21 about my case versus the City is not applicable at
22 this moment, nor will I discuss it, nor should there
23 be testimony. There shouldn't be any testimony and
24 there shouldn't be any questioning regarding my
25 lawsuit.

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1 We're talking about a personnel --
2 I don't care, Mr. Weed. You can say all you
3 want to.
4 ATTORNEY WEED: Ma'am, make a motion.
5 COUNCILMEMBER BATES: I'll make --
6 ATTORNEY WEED: Make a motion to limit the
7 questioning.
8 COUNCILMEMBER BATES: I'll make a motion to
9 limit the questions to the 25 items in Ms. Fleming's
10 complaint.
11 COUNCILMEMBER PITTMAN: Second.
12 MAYOR JENKINS: Discussion?
13 MAYOR JENKINS: Make a motion in the middle
14 of a hearing?
15 ATTORNEY WEED: That's fine.
16 COUNCILMEMBER PACHUTA: Are you saying we're
17 excluding any more witness testimony?
18 COUNCILMEMBER BATES: If there is witness
19 testimony that wants to comment on the 25 items that
20 are part of the complaint, I'll be more than happy to
21 hear them but I don't want to hear anything outside of
22 these 25 items.
23 ATTORNEY WEED: And was that the
24 understanding of what you seconded, Councilman?
25 COUNCILMEMBER PITTMAN: Yes, that's correct.

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MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: I'm recusing myself.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
ATTORNEY WEED: Okay. Mr. Shanahan, I'm instructing you not to make any more commentary with regard to anything other than any complaint you have against Mr. Haeberlin.
Mr. Haeberlin, I'm instructing you not to ask any further question with regard to anything that isn't in the 25-point complaint.
Do both of you understand these instruc-

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tions?
Please say yes for the record.
MR. SHANAHAN: Yes.
ATTORNEY WEED: Mr. Haeberlin?
MR. HAEBERLIN: I would like to make an objection for the record because the personnel complaint has been attached to active litigation against the City, and at this time I am not represented by an attorney. And it would be -- it's inappropriate, to begin with, because I am to be on the agenda. The first 21 items are a violation of existing City ordinance for the City Council to even consider them at this time.
So that is my objection which is duly noted.
ATTORNEY WEED: Would you like the Council to make a ruling on your objection at this time, Mr. Haeberlin?
MR. HAEBERLIN: Yes.
ATTORNEY WEED: Members of Council, you've heard Mr. Haeberlin's objection to the proceedings. Would you like to respond to that objection?
I would advise you that I don't believe his objection at this point is valid. You still have the opportunity to have this hearing pursuant to the charter provision.

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So if you want to, you can rule in favor of his objection and terminate this hearing at this point or you may go forward.
My advice to you is I think we have the authority to go forward.
COUNCILMEMBER BATES: Make a motion to deny the objection.
MAYOR JENKINS: Second?
COUNCILMEMBER ALEXANDER: Second.
MAYOR JENKINS: Discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Recuse.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?

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COUNCILMEMBER ROCHE: Yes.
ATTORNEY WEED: Okay. Mr. Haeberlin, your objection is overruled.
Mr. Shanahan, do you have any other thing, anything else you want to testify to tonight?
MR. SHANAHAN: No, I do not.
ATTORNEY WEED: Mr. Haeberlin, do you have any other questions for Mr. Shanahan relevant to the 25-point that we've been discussing tonight?
MR. HAEBERLIN: Well, I think it is relevant.
Mr. Shanahan, have you ever filed an appeal against a zoning decision that I have made as the City's zoning administrator?
MR. SHANAHAN: No, I have not.
COUNCILMEMBER PITTMAN: I'm sorry. I didn't hear. What did you say? "I have not?"
MR. SHANAHAN: I have not.
COUNCILMEMBER PITTMAN: Thank you.
ATTORNEY WEED: Mr. Shanahan, do you have any other comments?
MR. SHANAHAN: I do not.
ATTORNEY WEED: Okay. Mr. Haeberlin, do you have any other questions?
MR. HAEBERLIN: Not of Mr. Shanahan.

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1 ATTORNEY WEED: Okay. Councilmembers, do
2 you have any other questions of Mr. Shanahan while
3 he's here?
4 - - -
5 (No response)
6 - - -
7 ATTORNEY WEED: Mr. Shanahan, you may sit
8 down if you care to.
9 The same instructions apply. If there's
10 anybody else who wants to give testimony in this
11 matter, now is the time to do so.
12 MR. HAEBERLIN: I have a point-of-clarifi-
13 cation question. At what point will the person that
14 the complaint has been filed against get an
15 opportunity to speak?
16 ATTORNEY WEED: As soon as any testimony is
17 done, we'll give you an opportunity to present any
18 evidence.
19 MR. HAEBERLIN: Okay.
20 ATTORNEY WEED: Not hearing anybody
21 volunteer, I believe now is your opportunity,
22 Mr. Haeberlin.
23 MR. HAEBERLIN: You want me to come forward?
24 ATTORNEY WEED: That's correct.
25 MR. HAEBERLIN: Really what we're getting to

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1 is that the C-1/C-2 ordinance has been adopted duly by
2 this Council. There is one person clearly on this
3 Council, perhaps two, that don't agree with that.
4 This Council has the authority to amend this
5 ordinance at any point in time. I am required by law
6 to enforce this ordinance.
7 Recently the City Council did amend this
8 ordinance. It was suggested by staff, myself, that
9 this was perhaps the only way to resolve some of the
10 outstanding issues that were created by the prior
11 staff members of the City of Doraville who did not
12 enforce the zoning ordinance.
13 Going to item 2, Halpern Properties. Again,
14 there was no lawsuit, and there was interpretation and
15 discussion that at the time, Katheryn Zickert, the
16 opposing counsel. And at that time, the information
17 provided to the City was incorrect, because the
18 shopping center which comprises Pinetree Plaza is six
19 parcels; therefore, the vesting of nonconforming uses
20 only applied to those particular parcels. They did
21 not cross over every single parcel.
22 So the City did not enter into any consent
23 order at all. Okay? In fact, their vesting of rights
24 today exists as probably nothing, because in fact the
25 information provided to the City -- not once, not

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1 twice but three times -- is incorrect, and there are
2 applications that attest to that.
3 Item 3, Perez Upholstery; again, a project
4 begun by the former building official for the City of
5 Doraville, Georgia, that did not then meet the City
6 codes nor did it ever meet the codes that were
7 subsequently adopted.
8 Mr. Weed and I have a difference of opinion
9 as to whether you can vest yourself on a property when
10 there's no place for you to occupy and run a business.
11 So again, Mr. Perez was not awarded any
12 suit. He was awarded a settlement agreement by the
13 City of Doraville, and that decision was made by the
14 Mayor and Council. Staff did not give any consent to
15 that settlement agreement but respects the fact that
16 the Council did make that settlement agreement to move
17 on. Again, actions of former employees.
18 Item number 3, Ms. Fleming can provide no
19 absolute proof that I sent any quality of life staff
20 members to the Midori Spa. Okay? These folks are not
21 here tonight to testify to that fact.
22 Again, I could make an allegation about
23 anything that I wanted to about Ms. Fleming but I need
24 to prove that in fact that that has happened.
25 I do not supervise the quality of life

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1 staff. I do not supervise the building official; I do
2 not supervise the stormwater inspector or arborist.
3 So therefore, I only interact with other department
4 heads and supervisors.
5 Item number 4, Marcus Shinn -- Harold
6 Shinn/Marcal Properties. Again, this -- I'm going to
7 temper this because I think this is active litigation.
8 I responded to that applicant based on
9 advice provided to me by the city attorney. I rely on
10 the legal opinions of the city attorney the same as
11 you the Council does. I think that there is a
12 trusting relationship that in general I believe that
13 most of Mr. Weed's decisions are appropriate and are
14 in the best interests of the city, and I have relied
15 on those in that situation.
16 Of course, this is an ongoing case. This
17 involves a very complicated city code, the tree
18 ordinance, which you the Council have adopted, and
19 that tree ordinance prevents these individuals from
20 doing demolition on their property without complying
21 with the tree ordinance.
22 Again, facts are facts. The ordinance is
23 there. The staff is applying the ordinance. Time and
24 time again you've been told in e-mails the staff is
25 following the ordinances. At such time as the staff

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1 does not follow the ordinances, he will be notified.
2 Item number 5, City-initiated rezoning of
3 the Michael Hoath property. Again, this Council could
4 have made the decision to not hear this case.
5 They did hear this case. They placed
6 conditions on the property which they later thought
7 perhaps were inappropriate. That's the Council's
8 decision.
9 There was a zoning modification that
10 occurred on the property to expand the number of uses.
11 At that time, there was no city code that required me
12 to provide notification or public signs, as
13 Ms. Fleming states in her complaint, item number 5.
14 It was not city code that I had to do anything;
15 therefore, I again complied with your city code.
16 November 6, the grand opening of the H-Mart
17 location in Peachtree Pavilion -- again, I want to say
18 a project that started and was complete before I came
19 to the City of Doraville. This part of the complaint
20 insists that I sent the quality of life staff to the
21 location to inspect vendors.
22 I want to state for the record that the
23 H-Mart was open without a valid fire suppression
24 system. Mr. Calcaterra, the City's building official,
25 working with Dekalb County Fire Marshall, was there,

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1 along with Hercilia Morrow, to address that issue.
2 Again, the 10,000 people that attended that grand
3 opening were in a building that was not fire-safe.
4 Again, there is no proof that I sent anyone
5 to this site.
6 Item number 7, city planner created a zoning
7 appropriateness form for the 2010 renewal of
8 occupational permits without permission from the Mayor
9 and Council. Again, incorrect. My immediate super-
10 visor, Mayor Ray Jenkins, and the city attorney and
11 many of you have reviewed that document. It has been
12 commented on ad nauseam in e-mail. Any allegations
13 that I have done this without consent is incorrect.
14 Again, if I am a department head, I am
15 working within the confines of my existing department;
16 I am providing a form for me to review items.
17 Item number 8, city planner starts denying
18 businesses based on the C-2 -- C-1/C-2 ordinance and
19 adopted zoning map, creating outrage by the business
20 community demanding an audience with the Mayor and
21 Council.
22 Again, so what? City planner does his job,
23 follows the code. How is that a violation?
24 Item number 9, the January 12, 2010 Business
25 Forum, again, something initiated by Ms. Fleming.

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1 There were e-mails sent out to people that were
2 actively suing or had past sued the City of Doraville,
3 including the selected number of witnesses that are in
4 here, and that any videotape that's proffered as
5 testimony, because the meeting was not properly
6 advertised, is meaningless. Again, meaningless.
7 I sent an e-mail to the Mayor and Council,
8 and they are aware that I had made comments that this
9 meeting was not properly advertised. It is not the
10 first time that you have heard that meetings are not
11 properly advertised.
12 Item number 10, the NOA Business Bank.
13 Ms. Fleming alleges that this property was approved
14 with a drive-through.
15 Here are the City-approved plans for that
16 site (indicating). There is no drive-through anywhere
17 on this property; hence, the individuals, if they
18 created any drive lane that would appear to be a
19 drive-through violated the City plans. Not the first
20 time you've heard this. We've done multiple e-mails
21 on this.
22 So when the individuals submitted to put a
23 drive-through in, I made them follow the proper code,
24 and they amended the site plan. Again, I'd be happy
25 to pass this around. No drive-through anywhere on

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1 that property. Again, another false statement.
2 Item 11 --
3 COUNCILMEMBER FLEMING: Excuse me,
4 Mr. Haeberlin. Could you show me which one is the
5 approved? This one says received. Could you show me
6 the one that's the actual approved as of two
7 thousand --
8 MR. HAEBERLIN: Here's one that's signed on
9 9/4/07 by Chuck Entsminger. I'm going to turn to the
10 page which is the geography. Again, page C-2, there's
11 no drive-through anywhere on this property.
12 Again, the folks violated the city code in
13 building a building, again, in violation of the code.
14 Item number 11, the discussion about the
15 Business Forum and the request to amend C-1/C-2.
16 Again, there were not four members of Council who
17 agreed with Ms. Fleming, and it is factual that no one
18 cared to revisit C-1/C-2.
19 Again discussion about the daycare center,
20 it is a fact or statement of what's in the code.
21 Item number 12, Ms. Fleming disputes my
22 review of the zoning ordinance regarding daycares.
23 Again, I am the zoning administrator. Ms. Fleming
24 does not have the power under the city code to act on
25 behalf of the City zoning administrator. She is a

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1 City Councilperson and she is also recused by code
2 from interfering with the daily operations of a
3 department head.
4 Again, it's up to individuals to appeal my
5 decision as the zoning administrator. They did not.
6 Despite a meeting with -- Excuse me. I apologize.
7 It's late, and my blood sugar level's bad.
8 Item 13, discussion about permits still
9 pending, Councilman Roche. Again, you know, I'm often
10 invited to meetings where I have to discuss items on
11 the agenda that have nothing to do with me or they're
12 identified as other individuals. Sometimes I don't
13 know the actual information. If I have been provided
14 advance information that somebody needed to know some-
15 thing or if somebody had called me or e-mailed me or
16 directed the item to the Mayor as my immediate super-
17 visor, certainly I would have provided that.
18 COUNCILMEMBER ROCHE: Actually, the Council
19 made a motion to request that information, it was
20 passed, and we have yet to receive --
21 COUNCILMEMBER FLEMING: February 24th.
22 COUNCILMEMBER ROCHE: -- the information.
23 Well, we made a motion afterwards and we
24 still haven't gotten that information. We don't know
25 how many businesses are no longer in Doraville.

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1 Sorry. Just thought I'd put that on the
2 record.
3 MR. HAEBERLIN: Well, again, I will state
4 for the record that I am not in charge of business
5 licenses. I am the city planner. My only function is
6 to review the zoning for properties to make sure
7 they're compliant with the zoning ordinance so that
8 the business can locate there. There's a whole host
9 of other staff members who have responsibilities with
10 renewals, with processing the applications.
11 Again, item number 15, Ms. Fleming requests
12 to revisit C-1/C-2. Again, this Council, four people
13 could have made a decision. Again, discontent with
14 the code that she herself made the motion to approve
15 in 2008. Ms. Fleming makes the motion to approve the
16 original C-1/C-2 ordinance. If she had not read it or
17 not agreed with it, she should not have made the
18 motion to approve it.
19 Item number 15, discussion about the out-
20 standing business licenses, occupational tax. Again,
21 we know and we have been discussing that for over a
22 year on how we were going to resolve the situations
23 with massage parlors and all sorts of things. And
24 again, waiting for direction on this item, we got
25 nowhere. Eventually we did.

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1 Item number 16, the CT ordinance. Again, I
2 do attest that Councilman Bates started the discussion
3 of CT. Respectfully, I provided him with some supple-
4 mental information which I thought would improve the
5 CT district if they were going to pursue it. My
6 recommendation was to have OW, which would have been a
7 very simple solution to it. And that again, if it
8 prohibits things that are normally in C-2, again, the
9 Council made that decision, not the staff.
10 Ms. Fleming states it prohibits the uses in
11 C-2. Well, that may be the case. Again, the Council
12 made the decision on legislation which was presented
13 to them.
14 Item number 17, deadline for issuance of
15 occupational permits, March 31st, 2010. Again, big
16 surprise. Not even a week ago I received a renewal
17 application. We're still getting those. Again, I do
18 not know who is checking business licenses at this
19 time, but it's not unusual for people to be in the
20 city more than 14 years without a business license
21 -- in particular, one location in Pinetree Plaza which
22 was an insurance company.
23 Item number 18, the massage businesses,
24 about receiving approval or denial. Upon immediate
25 response from the Council, the city planner sends a

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1 letter to the businesses.
2 Well, again, that goes back to the advice of
3 the city attorney and that there needed to be a policy
4 decision rendered before there was letters sent out
5 which would stir up controversy. We needed to have an
6 opportunity to resolve something just like we did
7 recently with the pawn shops, without creating
8 hysteria with no solution.
9 Item 19, the city planner instructs the QOL
10 to review occupational placards at each of the massage
11 locations. Ms. Fleming cannot prove that. If she has
12 a tape of that, if she has witnesses she would like to
13 proffer, I would like to see that.
14 Again, a comment made about the city
15 attorney, inappropriate -- item 20, that the city
16 planner and the city attorney have instructed QOL to
17 cite each massage business weekly with a $1,000 fine
18 even though this is pending litigation.
19 Well, again, the city planner and the city
20 attorney have never instructed the quality of life
21 unit to do anything. At the time, it may have been
22 Jamie Brown, who's no longer employed by the City,
23 that was their immediate supervisor. Subsequent to
24 that, it became Chuck Atkinson, I guess, vis a vis
25 Chief King. Again, there's no instruction being

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1 provided to these individuals. There are concerns
2 that are relayed through the Mayor's office to these
3 individuals, certainly.
4 Now, however, it is not uncommon in juris-
5 dictions for jurisdictions to cite every day a
6 violation occurs which is a separate violation. The
7 City has the right to do this, and this is common
8 practice. This is not something that Ms. Fleming, as
9 an individual with less than two years experience in
10 municipal government, would understand.
11 Item 21, an e-mail was sent to the Mayor and
12 Council regarding the City Hall Annex administration.
13 Again, I do not administer that office. I want to
14 state for the record that department head Steven
15 Strickland, who is the city arborist and the
16 stormwater inspector, is in that building; John
17 Calcaterra, who's our part-time building official.
18 Ruby Biggers is the only employee of the planning and
19 zoning department and the only employee that I
20 supervise or have immediate, direct supervision over.
21 As indicated earlier, I had Mr. Weed sit at
22 my chair. There is no way to view the front door from
23 my chair. And that gave Mr. Weed an opportunity to
24 see that you cannot see the front door. So again,
25 statements by Mr. Shanahan again are ridiculous. The

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1 application was received by Rhonda Blackmon, and we
2 processed the application. In fact, I believe it was
3 something that met the code and we approved it.
4 Again, discussion in item 21 about positive
5 marketing component. Let's be frank. I was not hired
6 to be the City's economic development director. I was
7 certainly not hired to be the city manager of the
8 city. However, my role has expanded to do everything
9 that everybody else cannot do or is not willing to do,
10 okay? And I have no problem with that. You know
11 what? Use my expertise. Absolutely use it, okay? If
12 I have the time to do that in addition to my regular
13 work duties, that is fabulous, okay? I will always
14 tell you I would like to do that, but when I get to
15 it, I'll get to it. The staffing level is extremely
16 low. It is not moving up.
17 Comments about the public hearing, appli-
18 cations of June 30, 2010, that the conditions invoked
19 by the city planner are excessive and riddled with
20 derogatory comments. Again, those are subjective
21 opinions of Ms. Fleming.
22 If you read the city Comprehensive Plan, in
23 fact it describes Buford Highway as essentially a sea
24 of asphalt, that the buildings are placed too far away
25 from the street. Again, the staff is simply agreeing

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1 with the Comprehensive Plan.
2 Ms. Fleming feels free to disagree with
3 that. There are different opinions on that. We have
4 seen this type of development at the BellSouth
5 facility, we have seen this at Atlantic Station. We
6 know buildings are placed closer to the road.
7 Item number 22, that Ms. Fleming submits a
8 formal personnel complaint citing in bullet points the
9 reasons for discipline or dismissal. To date, no
10 acknowledgement.
11 Again, statement of fact: Ms. Fleming, who
12 adopted the policy guidelines on submitted
13 disciplinary action did not follow her own guidelines.
14 We've seen that many times. We've seen
15 instances up here where there has been motions to
16 approve things and we hadn't conducted a public
17 hearing. Again, lack of just common knowledge about
18 government. Is that a wrong or a right? It comes
19 with experience.
20 July 16th, the city planner e-mails the
21 Mayor and Council another list of pending renewal
22 permits not processed which are different. This
23 includes seven pawn shops, beverage supply, two car
24 repair, and Atlanta Eagles pending litigation.
25 Again, a statement of fact. I am notifying

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1 the Council. We've gotten through one item, which is
2 massage, finally, and we're going to move on to the
3 rest of the problem applications, which were no more
4 than, I believe, 17 in total of how many thousand
5 businesses.
6 Again, Mr. Weed has told me there's no
7 requirement under Georgia law that I review business
8 licenses. I do that on behalf of the City because
9 it's better to regulate something from day one than to
10 allow to move into the site and then be asked to
11 leave.
12 So the fact that we did discover 127
13 businesses out of several thousand, that are
14 noncompliant with the zoning ordinance, the City
15 Council has come up with a solution for that. We are
16 actively processing that. In fact, I'm receiving
17 applications and expect hopefully to have more than
18 half of the applications received to process for
19 October.
20 And item number 24, that the city planner is
21 somehow negligent. Again, there's no requirement
22 under the city code, any State law, anywhere that I'm
23 aware of, that I have to review any business license.
24 Again, I do it for the City; I do it for the
25 continuation and the support of the zoning ordinance.

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1 I do it because the Mayor would like for me to do it.
2 I do it because the city attorney advised me, again,
3 he thinks it's appropriate.
4 Item number 27, a letter from the city
5 attorney to Mayor Ray Jenkins [sic] regarding the
6 Moratorium proceedings and the situation with business
7 licenses.
8 Again, it all comes down to a policy
9 decision. Policy decision is the Council. I cannot
10 make those policy decisions for you. If that's the
11 case, you would give me more administrative rights
12 than you do. I have none, zero.
13 The discussion about, again, the evidence
14 that is suggested by these individuals listed, you
15 know, that these folks somehow have some great
16 testimony to provide the City. There are people on
17 here that don't even own a business in the city of
18 Doraville, who have never received a permit or applied
19 for a permit from me.
20 There are people on here that I don't even
21 know who they are. Okay? Larry Levine. I have never
22 processed a permit for the BrandsMart facility for any
23 reason. Why would I? It's already built. Okay? I
24 have never met Mr. Levine until I met him in the
25 Mayor's office, despite the e-mails that had been put

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1 on the public web sites by certain individuals perhaps
2 in our audience tonight.
3 Sam Kim, I have no idea who that gentleman
4 is.
5 Mr. Bill Brown, I do know who he is. I know
6 who Jack Halpern is; Joe Frank.
7 Curt Thompson. I have no idea who this
8 person is.
9 Mr. Livingston is not a business owner.
10 He's a resident of the city.
11 Again, this is just a listing of people who
12 are not happy because they don't get what they want
13 because I follow the city code. It all comes down to
14 that.
15 You either want these city codes and you
16 enforce these city codes or you prove that I have
17 somehow violated them. Nobody has proven that I
18 violated any code. Okay?
19 I have been here more than two years. Well,
20 excuse me. I've been here two years and five -- five
21 months [sic]. This position was advertised as a
22 bachelors-level position. I came to this position
23 with not only a Masters of Public Administration from
24 Florida State, which is one of the top seven
25 universities in the nation which is accredited in that

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1 field; bachelors degree in economics, so I certainly
2 understand the situation of the economics in the city;
3 bachelors in political science, so I certainly again
4 understand what you folks are attempting to do as
5 well.
6 I again refute this document as baseless,
7 groundless. I think that it is libel. I think it is
8 defaming to me. This has been a complete and total
9 waste of my time.
10 If the Mayor is not going to be my immediate
11 supervisor and I'm going to have seven immediate
12 supervisors, that is going to create a problem, and
13 that is contrary to the charter.
14 I apologize that my behavior tonight may
15 have offended some of you folks. I am tired at this
16 point. It's more than 11:30; I have been at work
17 since 8 o'clock in the morning serving the city.
18 I do appreciate the comments that were made
19 by a number of wonderful people tonight and of course
20 refute the comments by Mr. Anderson because there's no
21 doubt in my mind that Mr. Anderson's positions on
22 items are not well founded in being educated in the
23 field of planning or knowledgeable about government
24 operations in general.
25 This is, again, part of: In the Superior

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1 Court of Dekalb County, State of Georgia, Pamela S.
2 Fleming v. the City of Doraville, Georgia. All of
3 these documents are public record as well as the
4 documents from the Alford Group regarding the
5 complaints from Rhonda Blackmon and myself against Pam
6 Fleming which were processed pursuant to the EEOC
7 guidelines.
8 Again, I dispute that there's no ability for
9 staff members to file a complaint against a Council
10 member for continuing to harass them. This document
11 does say, though, that they feel that there's a
12 hostile work environment. That certainly does feel to
13 be the case.
14 Do I feel that I could go on serving the
15 City of Doraville? Yes. Am I upset right now? Yes.
16 I think you see that. I'm tired, tired of this. It's
17 relenting [sic].
18 It is like the same situation where
19 Ms. Fleming complained about Mr. Howe, and that went
20 on and on and on until the employee was suspended, no
21 different than the situation and the complaints
22 against Ms. Blackmon, again, another department head.
23 State for the record that Luke is not a department
24 head. The complaints against Sandra Bryant, the
25 occupational tax clerk. When does it stop?

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If the Mayor cannot function as my immediate supervisor, then you either need to hire a city manager or change the code so all seven can supervise me on a daily function. I don't know how that's going to happen.

I bring to you 15 years of experience or more. Let me tell you, much more complex governments than you folks. Much more complex governments. But governments that grow and change.

All we do is spend the same amount of time going over the same things over and over and over. We need to progress. I might not be the person for that for you. You're going to have to make that decision.

But there is nothing in this complaint that has any validity. There was not even an opportunity for me today to understand whether I was directed to be here or should appear here. I came here in case somebody alleged there was insubordination that I did not appear.

Again, there's no protocol for bringing department heads to meetings. You didn't see any other department heads here. And being held responsible or accountable for the lack of other department heads not providing information, again that's something I will talk with the Mayor about.

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Oh. The matter of certification which Ms. Fleming cites in her complaint as well as Stuart Anderson, again, the actual vote by the Mayor and Council for hiring me says nothing about certification. Nothing. And since I have been here, I have gone from not a department head to a department head to sometimes being a department head. We don't know, okay? Right now, we currently think I'm a department head. It would be nice if we had a listing of department heads.

I have also taken on additional employees, Ms. Ruby Biggers. I actually recruited Ms. Biggers, with 17 years of experience, same way the Mayor was kind enough to allow me, even though the arborist and the stormwater position is his, to assist him in recruiting another very qualified employee. You have a full-time [sic] building official. I challenge you to see whether that building official is in the office or works as many hours as I do. I challenge you to compare the compensation that is afforded to him versus me, and also too I challenge you to make your codes clear as to who is responsible for what. They still are not. The City Clerk is actually listed as responsible for the sign code. These are just problems that result from years and years of

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mismanagement and abuse. They are not the problems -- they could not be blamed specifically on me, by any means, and I will say nor on this Council, because it's been building for years.

I think that what we have accomplished thus far is very significant -- the zoning map, the rewrites, the organizational files, a central working place, some protocols for how things are to be done, a process. There certainly is a lot more that needs to be done. That will not be done without additional staffing.

So at this time, as you deliberate, again, I appreciate the opportunity to have been of service to the City. I respectfully disagree with the tone in which this hearing was held. There was no notification there was going to be a possible Executive Session. I have not been provided any legal counsel nor did I have the opportunity to get legal counsel since I only received the complaint on Friday, the lawsuit, and I was waiting to review that information. The lawsuit as well as the Alford Group report are public record. I encourage people to review those.

COUNCILMEMBER ROCHE: Didn't we say we weren't going to talk about the lawsuit?

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MR. HAEBERLIN: I apologize, then. But it is endemic to this complaint. So if we can't talk about the lawsuit, we should not have talked about the complaint.

ATTORNEY WEED: Mr. Haeberlin, do you have any other statements you'd like to make?

MR. HAEBERLIN: No.

ATTORNEY WEED: Members of Council, this is your opportunity to question Mr. Haeberlin if you so choose.

COUNCILMEMBER ALEXANDER: When was your hire date?

MR. HAEBERLIN: September 15th, 2008, so I've been here two years and five -- days? something like that.

CLERK BLACKMON: Five days. I have never had a personnel review or whatever, performance appraisal, nor do I believe any other employees have.

COUNCILMEMBER ROCHE: But you have had letters of reprimand.

MR. HAEBERLIN: I had one letter of reprimand. There was no ability for me to controvert that letter of reprimand. It was over a policy situation regarding the relocation of the planning offices to 3774 Central Avenue. The Mayor ultimately made that

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1 decision. I respect that decision. I appreciate what
2 he did. It was the best thing he's ever done for the
3 city, in my opinion.
4 COUNCILMEMBER ROCHE: Because I believe
5 there was an Open Records request made, and that was
6 apparently the only letter of reprimand that was found
7 anywhere.
8 COUNCILMEMBER ROCHE: Well, I would like to
9 respond to that. Mr. Luke Howe's letter of reprimand
10 was apparently not in his file, so there might be some
11 selective placement of items in the personnel files.
12 COUNCILMEMBER ROCHE: Well, who write the
13 C-1/C-2 ordinance?
14 MR. HAEBERLIN: Mr. Weed and I. Again, this
15 Council passed it.
16 COUNCILMEMBER ROCHE: Oh, I know. We sure
17 did, and it did not go through the review of the
18 Planning Commission.
19 MR. HAEBERLIN: It was not required at the
20 time by the city code.
21 COUNCILMEMBER ROCHE: We found a loophole, I
22 think.
23 You're correct in that it says lawsuit or
24 suit or whatever on number one and two. Basically it
25 was threatened legal action. And I remember the

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1 upholstery thing. That just seemed to drag on and on
2 and on forever.
3 More than once you've said that there was no
4 proof that you sent QOL here and no proof that you
5 sent QOL there, but you didn't say you didn't send
6 them. You just said there was no proof.
7 MR. HAEBERLIN: Are we talking about the
8 H-Mart site?
9 COUNCILMEMBER ROCHE: Well, that was one of
10 them. I think --
11 MR. HAEBERLIN: Okay. Well, I'll --
12 COUNCILMEMBER ROCHE: -- there was another.
13 MR. HAEBERLIN: -- state for the record that
14 I did not send them there.
15 COUNCILMEMBER ROCHE: So they just showed up
16 on --
17 MR. HAEBERLIN: They were there because the
18 building did not have an approved fire suppression
19 system, placing all 10,000 potential visitors that day
20 in harm's way. That's something --
21 COUNCILMEMBER ROCHE: But you didn't --
22 MR. HAEBERLIN: -- under the auspices of --
23 COUNCILMEMBER ROCHE: You didn't --
24 MR. HAEBERLIN: -- the fire marshall.
25 COUNCILMEMBER ROCHE: You didn't say, "Oh,

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1 my God, QOL, you better get over there to protect
2 those 10,000 people."
3 MR. HAEBERLIN: No, sir. Officer Hercilia
4 Morrow was already there. I believe that day they
5 were offering tasting of food and she wanted to be
6 there for that portion. As well, I believe a number
7 of the members of the City Council and I think Mayor
8 Ray Jenkins as well attended the --
9 COUNCILMEMBER ROCHE: I was there, and what
10 I was told was that they were checking business
11 licenses, occupational tax licenses.
12 MR. HAEBERLIN: Okay. And their supervisor
13 can direct them to do that. Actually, they have their
14 own initiative. They do many things on their own as
15 well.
16 COUNCILMEMBER ROCHE: Oh, I saw an e-mail
17 from that supervisor that's no longer with the company
18 [sic], but I can't bring it up now because I -- I
19 delete all my e-mails.
20 MR. HAEBERLIN: Excuse me. You said you
21 delete e-mails? So you delete all the e-mails that
22 are public record for the City of Doraville,
23 Georgia --
24 COUNCILMEMBER ROCHE: I do that --
25 MR. HAEBERLIN: -- on your personal account?

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1 COUNCILMEMBER ROCHE: -- to protect people
2 from people -- Well, never mind.
3 MR. HAEBERLIN: Oh, okay.
4 COUNCILMEMBER ROCHE: Never mind.
5 But yeah, people are very afraid of retri-
6 bution in Doraville.
7 MR. HAEBERLIN: I -- I'm not surprised of
8 that, sir.
9 COUNCILMEMBER ROCHE: Yeah, well --
10 COUNCILMEMBER FLEMING: Are you speaking for
11 yourself?
12 MR. HAEBERLIN: Yes.
13 COUNCILMEMBER ROCHE: Well, that's -- we're
14 just nit picking now.
15 COUNCILMEMBER ALEXANDER: Before you
16 accepted employment with the City, did you sign a
17 letter stating that you would receive or pursue at the
18 City's expense your AICP certification within two
19 years of the date of your hire?
20 MR. HAEBERLIN: Yes. That letter was
21 provided to me on the Friday after I had appeared here
22 three times.
23 COUNCILMEMBER ALEXANDER: Thank you.
24 That's --
25 MR. HAEBERLIN: You were on the phone.

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COUNCILMEMBER ALEXANDER: You -- you --
MR. HAEBERLIN: Let me clarify.
COUNCILMEMBER ALEXANDER: No. You --
MR. HAEBERLIN: You were on the --
COUNCILMEMBER ALEXANDER: -- answered the question.
MR. HAEBERLIN: -- phone with the Mayor --
COUNCILMEMBER ALEXANDER: It was yes-or-no.
MR. HAEBERLIN: -- and you requested it to be added to the letter, which it subsequently was. And it was, again, not part of the official vote.
COUNCILMEMBER ALEXANDER: I believe it was in the letter. And you requested actually that the time period be extended from a year to two years because you knew you had a lot of work to do and you wanted the additional time to pursue the certification, so you negotiated an extra year's time on that.
MR. HAEBERLIN: Again, it was not part of the official vote of the Mayor and Council.
COUNCILMEMBER ALEXANDER: I understand that, but it was in the letter that you signed.
MR. HAEBERLIN: It was, because you requested it. Were you acting on behalf of four members of Council --
COUNCILMEMBER ALEXANDER: Did you --

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MR. HAEBERLIN: -- or three members of Council? Excuse me.
COUNCILMEMBER ALEXANDER: Did you sign the letter?
MR. HAEBERLIN: Yes, ma'am, I did.
COUNCILMEMBER ALEXANDER: Thank you.
MR. HAEBERLIN: And it is not a requirement under Georgia law for me to be a certified planner to actually work as a planner, and most planners have bachelors degrees.
COUNCILMEMBER ROCHE: But it was --
MR. HAEBERLIN: I have far --
COUNCILMEMBER ROCHE: -- a condition of employment here. That was part of the letter that you signed and you agreed to.
MR. HAEBERLIN: Again, sir, I respectfully disagree.
COUNCILMEMBER ROCHE: Okay. You signed the paper.
MR. HAEBERLIN: If that's the whole basis of this hearing tonight, why was I not terminated on September 15th? I mean it comes down to a decision of the City Council.
It's a personality decision at this point. That's self-apparent, okay?

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COUNCILMEMBER ROCHE: I don't think so.
MR. HAEBERLIN: I think it is --
COUNCILMEMBER ROCHE: I think you're --
MR. HAEBERLIN: -- because there's no --
COUNCILMEMBER ROCHE: -- characterizing.
MR. HAEBERLIN: -- performance guidelines that have been provided to me. There's no standard operating procedures for the City. You know, we go back and forth on who supervises who, who implements what codes.
Again, I'm not criticizing the Council. It just tells us how much work has to be done. I would like to know that Mr. Calcaterra has certain guidelines, I have certain guidelines, that Steven has certain guidelines. But they're all muddied, and we've been discussing that since day one. We've been discussing why don't we make affirmative decisions on who does what.
COUNCILMEMBER ROCHE: Well, that would be a question for your supervisor.
MR. HAEBERLIN: I -- I have requested that. I think a lot of this is based on allegations and assaults on the Mayor by certain members of Council, and I see it every day.
ATTORNEY WEED: Are there other questions of

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Mr. Haeberlin?
- - -
(No response)
- - -
MR. HAEBERLIN: Mr. Haeberlin, would you like to make any further statements? This is your last opportunity.
MR. HAEBERLIN: Again, I was not afforded the opportunity to have access to certain documents that would have been important for tonight. Nobody gave me a clear directive on whether I was supposed to attend or not attend. I was not aware that this was going to be a possible Executive Session. Again, I have no legal counsel, I've not consulted legal counsel on these items.
COUNCILMEMBER FLEMING: Excuse me? You said what?
MR. HAEBERLIN: I have not consulted legal counsel on these items.
COUNCILMEMBER FLEMING: But I -- we'd have to go back probably a half an hour when you talked to Mr. Weed about whether you could be viewed from the window, so evidently you have consulted.
MR. HAEBERLIN: Mr. Weed --
ATTORNEY WEED: Let's clarify that if you're

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1 going to make an accusation against me, Councilman.
2 COUNCILMEMBER FLEMING: No, sir. I asked,
3 and he said --
4 ATTORNEY WEED: Let's clarify that.
5 COUNCILMEMBER FLEMING: He said that he had
6 not contacted a legal advisor.
7 ATTORNEY WEED: Let's put this on the
8 record.
9 COUNCILMEMBER FLEMING: Okay.
10 ATTORNEY WEED: The only capacity I have
11 ever represented Mr. Haeberlin in is in his official
12 capacity as the city planner.
13 I was at his office on a completely
14 unrelated topic, and Mr. Haeberlin asked me to sit at
15 his desk. Before he asked me to sit at his desk, he
16 did not inform me why he wanted me to. I sat there.
17 He asked me, "What can you see with regard
18 to that window?" I told him, "Well, I can't see
19 much." And that's exactly what happened.
20 Now, if you have any other questions of me,
21 you certainly can ask me.
22 COUNCILMEMBER FLEMING: No. I wasn't asking
23 you a question to begin with.
24 ATTORNEY WEED: All right. Well, let's
25 clarify that. You want to bring --

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1 COUNCILMEMBER FLEMING: No. Thank you very
2 much.
3 ATTORNEY WEED: -- me up, let's clarify what
4 it's about.
5 MR. HAEBERLIN: When I'm talking about legal
6 counsel, I'm referring to somebody that I have
7 retained to represent my interests.
8 Clearly, Mr. Weed is not representing my
9 interests at this time; he's representing the
10 Council's interest. There is no attorney-client
11 relationship between he and I at this hearing, I
12 wouldn't think.
13 ATTORNEY WEED: Are there any other
14 questions of the Council for Mr. Haeberlin?
15 - - -
16 (No response)
17 - - -
18 ATTORNEY WEED: Hearing none, Mr. Haeberlin,
19 do you have any last statements you wish to make other
20 than what you've already said?
21 MR. HAEBERLIN: If somebody can be fired for
22 the City of Doraville for enforcing their codes,
23 there's some serious problems, much greater than these
24 personality conflicts which result from it would
25 appear to be micromanagement of employees, particu-

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1 larly department heads.
2 Again, I allege this is a violation of the
3 charter. This is a personal attack upon an employee,
4 and that is it.
5 ATTORNEY WEED: Thank you, Mr. Haeberlin.
6 Members of Council, you have previously made
7 a motion to go into Executive Session which was
8 passed. If you do not wish to go into Executive
9 Session to deliberate with regard to the evidence that
10 you heard tonight, you are not required to do so.
11 Before you go in Executive Session, I'm
12 going to read to you the section of the Charter
13 relevant to this matter. It is Section 2-12, City
14 Employee Dismissal or Request for Resignation, Right
15 to a Public Hearing.
16 "Be it further enacted that the Council
17 shall have authority as the governing body of the City
18 to generally supervise and hire or fire any employee
19 of the City and may delegate all or part of such
20 authority to responsible City management personnel
21 provided that whenever any employee of the City of
22 Doraville is fired or requested or induced to resign
23 from his position of employment with the City, that
24 person shall have the right, if he so desires, to
25 request and have a full and complete public hearing

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1 before the City Council for the purpose of determining
2 the reason or reasons for such firing or requesting or
3 inducement of resignations. If requested, such public
4 hearing shall be held within a reasonable time but not
5 more than 30 days following such request. Such public
6 hearing may be held in conjunction with a regular
7 meeting of the Council. The decision of Council
8 following the hearing shall be final."
9 It is my understanding based upon the item
10 on the agenda, that relevant to the section, you the
11 Council have been asked to make a determination as to
12 the accuracy or inaccuracy of the 25-point complaint
13 filed by Councilmember Fleming.
14 If you wish to -- if you determine that it
15 is accurate, you may decide to act upon that. If you
16 determine that it is inaccurate, you may elect not to
17 act upon that. What you elect to do, those are your
18 options. You do have the option to do anything with
19 regard to an appropriate supervisory action. You may
20 ask the employee to resign; you may terminate the
21 employee.
22 In addition to this, I would inform the
23 Council I would refer you to the general personnel
24 policy. If you elect to terminate the employee and/or
25 if you induce the employee to resign underneath 2.12,

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he is entitled to another hearing based upon that decision if you so make it. Further, I would like to read to you Section 1.3, Employment at Will, and this is from your Personnel Manual adopted effective July 1, 2009.

1.3, Employment at Will, "Nothing contained in this manual is intended to create, comprise or define nor should it be construed to constitute any type of oral or written employment contract, promise or guarantee, express or implied, between the City and any one or all of its employees. Nothing in the manual is intended to provide any assurance of continued employment in the absence of a specific agreement to the contrary authorized in writing by the Mayor and City Council. Employment with and compensation from the City are for no definite period of time and may be terminated by the City or the employee at any time for any reason, with or without cause and with or without notice."

With regard to that, those are what is the current codes, I believe, that are relevant to this matter at this time, and if you elect to go into Executive Session to deliberate, now would be your opportunity.

If you have legal questions before you go

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in, I'll be happy to answer them. You are allowed to consult with me if you care to with regard to any legal questions you have relevant to this matter.

MAYOR JENKINS: I got a question. This meeting is set for this date. If we go over midnight, is it a legal meeting to have an Executive Session?

ATTORNEY WEED: I believe that you have already -- Councilman Pittman has already made a motion and a second to complete all of the information -- I mean all the agenda items, so I think you've already dealt with that issue, Mayor.

MAYOR JENKINS: Even if it goes into another day.

ATTORNEY WEED: That is my opinion. Her motion said to --

MAYOR JENKINS: Thank you.

ATTORNEY WEED: -- the completion of the agenda items.

COUNCILMEMBER FLEMING: And I have a question for the Mayor regarding the reprimand that was brought forward which I did not mention, the reprimand that is in Mr. Haeberlin's file.

I would like to know if there was a personnel complaint filed on the dedicated form pursuant to 2.63 of our Council --

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MAYOR JENKINS: You talking about the reprimand that I gave Mr. --

COUNCILMEMBER FLEMING: Yes, yes.

MAYOR JENKINS: No. It was on my letterhead as a personal letter to her -- to him. Excuse me.

COUNCILMEMBER FLEMING: The reprimand was.

MAYOR JENKINS: Yeah.

COUNCILMEMBER FLEMING: I'm talking about the initial complaint that triggered the reprimand, the --

COUNCILMEMBER ROCHE: Huh.

MAYOR JENKINS: Who made the complaint? What do you mean, "huh?"

COUNCILMEMBER FLEMING: I'm wondering, there was a reprimand filed for Mr. Haeberlin; is that not correct?

MAYOR JENKINS: It was put to me by the Council to reprimand Mr. Haeberlin. That was all. And I did it by letter, not by any kind of form.

COUNCILMEMBER FLEMING: No.

MAYOR JENKINS: Now, why are you bringing this up? We're fixing to go into Executive Session; is that true?

COUNCILMEMBER FLEMING: Sir, it was part of the testimony that was given, and I'm asking you a

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question about the reprimand that is in his file --

MAYOR JENKINS: I just answered --

COUNCILMEMBER FLEMING: -- that you wrote.

MAYOR JENKINS: -- your question --

COUNCILMEMBER FLEMING: No.

MAYOR JENKINS: -- period.

COUNCILMEMBER FLEMING: No, sir.

I'm wondering what triggered the reprimand, what document. Was there a complaint filed?

MAYOR JENKINS: I think it was in one of your complaints here. You don't remember?

COUNCILMEMBER FLEMING: Sir, I -- I --

MAYOR JENKINS: No?

COUNCILMEMBER FLEMING: That was a -- Was that not in April?

MAYOR JENKINS: It had something to do with the situation. I don't remember exactly which one of these it was, no.

COUNCILMEMBER FLEMING: Sir, what I'm trying to find out is about the document that triggered the reprimand, and the reason why I'm wondering about the letter, was there a letter? Was it just --? You know, since our procedures are that we have to put it on the dedicated form, which none of us knew about until July the 27th --

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MAYOR JENKINS: That's right. That's --
COUNCILMEMBER FLEMING: -- was it on a --
MAYOR JENKINS: -- the reason I wrote it.
COUNCILMEMBER FLEMING: -- dedicated --
MAYOR JENKINS: No.
COUNCILMEMBER FLEMING: -- form in April?
MAYOR JENKINS: No, it wasn't.
COUNCILMEMBER FLEMING: Oh, well.
MAYOR JENKINS: I told you it was a letter.
COUNCILMEMBER FLEMING: Why did you accept it then --
ATTORNEY WEED: Well, Councilman --
COUNCILMEMBER FLEMING: -- and you didn't accept mine?
Excuse me.
ATTORNEY WEED: I don't know what the facts are here, but what I can tell you is that it may not be relevant, it may be relevant, but you didn't adopt the -- you did not adopt the procedure until -- The first time you adopted the ordinance was 5/18/09, and you modified it on 3/1/10.
COUNCILMEMBER FLEMING: Correct.
ATTORNEY WEED: So I mean this may be relevant or may not be relevant. I don't know if the procedure -- It depends upon when it was filed.

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COUNCILMEMBER FLEMING: Correct.
ATTORNEY WEED: I don't know.
If the Mayor knows that, you know, answer her question, Mayor, and if you don't know --
COUNCILMEMBER FLEMING: Did you mention that the Council brought something to your attention?
MAYOR JENKINS: Excuse me?
COUNCILMEMBER FLEMING: I'm trying to figure out what triggered the reprimand.
MAYOR JENKINS: I don't remember what triggered it. It's been quite some time ago.
COUNCILMEMBER FLEMING: Okay. Thank you.
MAYOR JENKINS: I reprimanded him at that time.
COUNCILMEMBER FLEMING: Okay. Thank you.
ATTORNEY WEED: With regard to the -- with regard to the reprimand, it is my opinion that Mr. Haeberlin himself brought that into evidence. My opinion is you can consider and apply whatever weight you elect to apply to it.
With that, I have no further instructions. If you have any other legal questions, I'll be available, and your last procedure was to go into Executive Session. If you still want to do that, you may do so.

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- - -
(Executive Session)
- - -
COUNCILMEMBER PACHUTA: I make a motion to come out of Executive Session.
MAYOR JENKINS: Second?
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Thank you. I'm going to turn it over to Brian. He's got the --
COUNCILMEMBER BATES: Thank you, Mayor.
Based upon Section 20.2(i) of the Employee Manual, we have identified that there is an overall

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customer service concern specific to Mr. Haeberlin. The City takes those concerns very seriously and are moving to address them.
As a result of lengthy deliberation and much discussion on the information presented, we believe that there is disciplinary action warranted. There will be two motions.
The first motion is effective October 1st, 2010, Mr. Haeberlin will be suspended for two weeks unpaid. Comp time and PTO may not be used to fulfill the suspension. The employee should not appear on City property during the suspension. Employee will be placed on a 90-day probation period. Employee will receive his AICP certification no later than May 31, 2011. This disciplinary action will be placed in the employee's permanent personnel file.
Pursuant to the Customer Service Policy, which will be motion two that we will be implementing, the results of any investigation will be used for evaluation of continued employment with the City. Failure to comply with a performance improvement plan will result in termination.
MAYOR JENKINS: Second?
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Any discussion?

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- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER BATES: Second motion: To better evaluate our employees and the progress of our city, we are effective immediately implementing a Customer Satisfaction Survey and Review Policy. This will be applied across all departments.
First, mandatory customer service training will be completed by December 31, 2010. As part of the customer service program, a visitor sign-in sheet will be made available at all departments, and

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customers should be encouraged to sign in with their name and complete mailing address.
Random customer service surveys will be sent to customers and asked to return the survey to an independent third party who will evaluate the surveys and make report to Council.
Customer complaints that warrant investigation will be done by a third-party investigator.
MAYOR JENKINS: Second?
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.

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CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR JENKINS: Thank you.
COUNCILMEMBER BATES: Motion to adjourn.
MAYOR JENKINS: Motion to adjourn?
COUNCILMEMBER ROCHE: Well, I don't know. Maybe we should hang around for a while. We have public comments.
MAYOR JENKINS: Motion to adjourn?
COUNCILMEMBER PACHUTA: Public comments are on the agenda.
CLERK BLACKMON: Mr. Bates made a motion.
MAYOR JENKINS: Second?
CLERK BLACKMON: I need a second.
MAYOR JENKINS: Excuse me?
COUNCILMEMBER PITTMAN: We're not going to do public comments? I mean are we supposed to? Is it legal we can just move on?
ATTORNEY WEED: You can call the meeting any time you want to. There's no --
COUNCILMEMBER PITTMAN: Okay, then. Second.
CLERK BLACKMON: Can I call roll?
MAYOR JENKINS: Yes.
Well, I mean did I get a motion and a second?

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CLERK BLACKMON: Yes, sir.
ATTORNEY WEED: Yes, sir.
MAYOR JENKINS: I think I did.
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember --
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: -- Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
- - -
(Meeting adjourned at approximately 2:00 a.m. the next day.)
-o0o-

C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 12th day of October 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

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