In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

August 15, 2011

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

Transcript of the meeting held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Donna Pittman presiding, before Theresa Bretch, Certified Court Reporter, commencing at approximately 6:30 p.m. on Monday, August 15, 2011.

* * *

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APPEARANCES:
Doraville City Council:
Mayor Donna Pittman
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Bob Roche
Councilmember Pam Fleming

Melissa McCain, City Clerk

Cecil G. McClendon, Jr., City Attorney

Leonid Felgin, Esquire
Riley McLendon, LLC
315 Washington Avenue
Marietta, GA 30060
(770) 590-5900

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P R O C E E D I N G S

MAYOR PITTMAN: Meeting come to order. Please rise for the Pledge of Allegiance.

- - -

(Pledge of Allegiance)

- - -

MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Here.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Here.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Here.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Here.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Here.
MAYOR PITTMAN: Thank you. Approval of minutes for August 1st, 2011. Do I get a motion?
COUNCILMEMBER ALEXANDER: So moved.
MAYOR PITTMAN: Second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PITTMAN: Discussion?

- - -

(No response)

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- - -

MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PITTMAN: Thank you. I don't believe we have any ceremonial presentations tonight.
Any city announcements?

- - -

(No response)

- - -

MAYOR PITTMAN: Okay. Mr. Roche, would you like to bring up adding the resolution for --
There's going to be discussion this week not to divide the city or to divide the city up into different -- The Reapportionment Committee, which tomorrow is the meeting -- I'll start. The Reapportionment Committee tomorrow to not divide the

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city of Doraville. I will be attending that meeting on Doraville's behalf.

And we have a resolution here that I would like to present tomorrow from the Council.

Mr. Roche, did you want to --?

COUNCILMEMBER ROCHE: I'd like to add this to tonight's agenda, given that the meeting is tomorrow and we just found the redistricting map. We only found out about it over the weekend, so --

COUNCILMEMBER BATES: Second.

COUNCILMEMBER ROCHE: -- I'd like to make -- Sorry. Thanks.

MAYOR PITTMAN: Discussion?

- - -

(No response)

- - -

MAYOR PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

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CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes. Thank you.

MAYOR PITTMAN: We can just add that at the end if that's okay with everyone under new business.

Okay. Department reports. Anyone here with a department report?

- - -

(No response)

- - -

MAYOR PITTMAN: Public comments on agenda items only. Public comments on agenda items only. Anyone?

- - -

(No response)

- - -

MAYOR PITTMAN: Okay. Thank you.

Department reports. Chief?

CHIEF JOHN KING: Just wanted to kind of brief the City Council and the community briefly about some of the highlights we've got going on.

I know I informed the City Council of an armed robbery report that we received Friday at the Wells Fargo Bank. And it was a particularly disturbing incident where these individuals came into the bank and actually used an assault weapon and

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shoved it in the face of a four-year-old girl. You know, I've seen, you know, criminal elements, but the level of violence or the potential violence here was pretty bad on this one.

The subjects fled, and the responding officers were able to see them exiting the area of the bank. And luckily, Buford Highway traffic, there was a collision with the suspects fleeing the area, and one of the suspects fled on -- two of the suspects fled on foot. We were able to apprehend -- thanks to Major Atkinson and Lieutenant Deyette, actually were able to apprehend one of the subjects. Brought in the FBI that assisted us, and we've now made two arrests, and we're still continuing this investigation.

This was a serious concern with the number -- you know, we've had an uptake of calls for service. Mostly still traffic accidents seem to be the increase of the calls. But we've had a slight increase in pedestrian robberies, especially dealing with Hispanics being the victim of pedestrians in our apartment complexes, and the perpetrators tend to be typically either African Americans or Hispanic males as the perpetrators in the area.

We're continuing to provide first-class response, but I foresee some potential issues with

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maintaining this level of service, especially with the personnel cuts that we're having to go through.

The reason I'm bringing this up is I want to make sure that not only you as leaders of our community to help us manage that expectation: that clearly that we're going to go through -- you know as we do these personnel cuts, clearly there's going to be a reduction on the level of service.

Currently, I've lost one jailer to the City of Chamblee, one 911 dispatcher to John's Creek to ChatComm. I have two unfilled uniform patrol officers from last year's fiscal year, one detective position also that was unfilled from the last fiscal year. One canine officer's currently given me notice that he's leaving, and I have one officer on light duty as a result of his injuries that he received on an accident on 285. And then I have two officers on medical leave; expect one of them to return shortly.

The bottom line of what I'm trying to provide you guys this ability to you as leaders and you in the community is that we will continue providing absolutely the best possible, you know, first-class service to the community. But clearly with these losses and projected losses, clearly, you know, I need your help in managing the expectations of

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our community. You know, with these kind of losses, it's kind of hard to maintain that level of service.

Normally, you know, on a time of crisis like Friday, I would turn around and ask Dekalb County for help; but unfortunately, Dekalb County had to strip all their officers of all their zones because they had a nine-hour standoff down in South Dekalb that ate up all their manpower.

You know, at the peak times of calls, we're going to have some issues with our response time, and I just -- I need you-all's help in helping manage that expectation.

Ma'am, that's all I have.

MAYOR PITTMAN: Okay. Thank you.

CHIEF KING: Thank you, ma'am.

MAYOR PITTMAN: Next is going to be the TEA Walk, which stands for Together Empowering Asian Americans. This is going to be their seventh annual community event.

I believe we have Ms. Lee and other guests here with her. Melissa, would you like to --

CLERK McCAIN: Yes, ma'am, and thank you, Mayor.

We have two representatives from the Center for Pan Asian Community Services, Ling Ling Chancey

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and Diana Lee. They submitted a couple weeks ago a special events permit for this walk for October 8th. It'll be from 9:00 to 1:00. They have received authorization from the Chamblee Police Department, our police department and also Department of Transportation.

So I will turn it over to them, and they can go over the event a little bit more; if they have any questions, I'm sure they will help you.

MS. LING LING CHANCEY: Thank you for having us here, and thank you, Mayor and City Council.

My name is Ling Ling Chancey. I'm representing the Center for Pan Asian Community Services. We used to be on 3760 Park Avenue. We've been in this area for over 30 years, and we're having our seventh annual event.

We are a full health and social human service organization, a nonprofit. We provide services, competent -- linguistically and culturally competent, comprehensive health and social services.

We're very proud of this event. Last year, we had over 1,500 participants from metro Atlanta and beyond to come and walk together with us down two miles on Buford Highway. It's an important walk. And it's also a cultural event where after the walk we

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turn around on 3760 Park Avenue and we have a cool cultural event that day.

So we hope that all the -- the Mayor and the City Council Members can join us on October 8th for this important walk.

COUNCILMEMBER FLEMING: I just had one quick question. I'm definitely in favor of the TEA Walk. It's quite colorful, actually, when you get a chance to watch the parade.

Will you have a turnaround area or are you going to begin and end at the old Pan Asian building or --

MS. CHANCEY: So we're starting from our new location, which is 3510 Shallowford Road, on the corner of Shallowford and Buford Highway, and we will walk one mile down to our old building on 3760 and turn around --

COUNCILMEMBER FLEMING: Oh, okay.

MS. CHANCEY: -- using that as a turnaround and walking back to our main location.

COUNCILMEMBER FLEMING: All right. Thank you.

MAYOR PITTMAN: And I believe you've already started the process with the police department?

MS. CHANCEY: Yes, we have.

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MAYOR PITTMAN: Major Atkinson, you have the information, all the information?

MAJOR ATKINSON: (Nods head)

MS. CHANCEY: The only thing is we just need approval from the Council to allow them to have that event on October 8th.

MAYOR PITTMAN: Council?

COUNCILMEMBER ROCHE: I make a motion that we approve --

Is it a permit or is it --?

CLERK McCAIN: It's a special events permit.

COUNCILMEMBER ROCHE: -- special events permit for the TEA Walk for this year.

MAYOR PITTMAN: Do I get a second?

COUNCILMEMBER FLEMING: Second.

MAYOR PITTMAN: Discussion?

COUNCILMEMBER BATES: Just for clarification, the only reason why we're needing this is because the Walk enters in the city limits; is that correct? All the staging and event activities are going to be in the Chamblee limits; is that correct?

MS. CHANCEY: That is correct.

COUNCILMEMBER BATES: Okay. Thank you.

MAYOR PITTMAN: Additional discussion?

- - -

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(No response)
- - -
MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes. Thank you.
MS. CHANCEY: Thank you.
MAYOR PITTMAN: Thank you very much. Thank you for coming tonight.
Next is elections update, Ms. McCain.
CLERK McCAIN: Thank you, Mayor.
In your handouts, I have put a short summary, and it's a summary that I'd like to post on the Web site also.
In short, we have been working with Dekalb County. They have a SPLOST vote coming up on November 8th, the same time as our election, so that requires residents to go to their city school to vote for the

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SPLOST and then to City Hall to vote for their Council Member and Mayor. Working with Dekalb County, we've combined that so everybody can come here to City Hall and vote for both items.
Absentee voting will begin 21 days prior to the election over at the Dekalb County Board of Elections. The form that we'll put on the Web site has a link to apply for an absentee ballot if they'd like to. There'll be no advance voting on November 7th as per the State law.
October 11th is the deadline to register to vote to be able to vote in this election on November 8th.
Qualification packets are currently available at the City Hall. Qualifying dates will begin August 29th through September 2nd between 8:30 and 4:30 p.m.
Dekalb County did want people to know that they have changed their times for absentee voting. The hours were, I believe, 8:00 to 5:00. They've changed those to from 8:30 to 4:00 p.m.
And that's all I had unless you have any questions.
MAYOR PITTMAN: Questions from the Council?
COUNCILMEMBER ALEXANDER: Can you please

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correct the Zip code? I think that that's Flowery Branch's Zip code.
CLERK McCAIN: Oh. Yes, ma'am. You would think after seven months I would know it. Yes, ma'am.
MAYOR PITTMAN: Anything else? Okay. Thank you, Melissa.
COUNCILMEMBER BATES: Thank you.
MAYOR PITTMAN: Next on the agenda is going to be Stormwater CIP, Mr. Strickland.
MR. STEVEN STRICKLAND: Mayor and Council, I'm just basically looking for you-all's approval.
I know the importance of bidding everything out and making sure we get the best price. And you know, you want to make sure it's competitive and all those types of things, but these stormwater projects are ongoing. You kind of have to start with Phase I, which was the inventories, and figure out what we have and what needs to be looked at and repaired, and it's kind of just a general overview.
And then Phase II is when you get into an actual -- you know, choose an area and get into an actual capital improvement plan where you have gone sort of beyond the surveying and inventory and you start looking at it more from an engineering aspect to see exactly what needs to be done. So Phase II: what

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is the actual -- the capital improvement plan where, you know, you have a certain area, all the structures are numbered, the pipes, catch basins, stuff like that.
And so Phase III is basically going to be to hire somebody to do the -- The construction of course will be bid out, but we'll hire somebody to do the construction RFP and project management.
And the reasons why we would stick with this company is because they've done the inventory, so they have the database; they've done the capital improvement, so it's kind of their plan. So to take that information and bid it out to other companies, you've got to take all that, give that to them, and they would have to kind of get up to speed. So you would be spending time and therefore money for another company to get up to speed, whereas CERM has pretty much already done Phases I and II.
So if we could just, you know, get permission basically to contract with them to do Phase III and then -- And you can call it two different aspects of Phase III or Phase IV. We're trying to actually get to the construction, repair and maintenance, the replacement, the upgrading of the actual system itself and the structures that are

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1 included in that.
2 So I don't want to basically enter into a
3 contract with them without, you know, Council
4 approval, and, you know, if that sounds like a good
5 idea, or if not, some sort of guidance as to how you
6 would like me to proceed.
7 COUNCILMEMBER FLEMING: So CERM would be
8 doing the project management as well as submitting the
9 RFP for construction?
10 MR. STRICKLAND: No. They would manage the
11 RFP going out to the actual construction companies.
12 COUNCILMEMBER FLEMING: Okay.
13 MR. STRICKLAND: So it's basically RFP and
14 project management to get the actual work done.
15 COUNCILMEMBER FLEMING: Okay.
16 COUNCILMEMBER BATES: Not to interrupt, but
17 would they actually manage the construction project as
18 well?
19 MR. STRICKLAND: Yeah. Or they would -- you
20 know, we would have them on the -- You always kind of
21 want to have that quality control and someone that's
22 going to have, you know, however you set it up, weekly
23 or biweekly site visits, doing reports; just something
24 that's making sure that the work is done, you know, to
25 the standards that we set, making sure, you know.

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1 It's basically project management and quality control,
2 because what we would need, kind of need an engineer
3 to look at these projects and make sure that, you
4 know, everything's being built according to the
5 specifications that we've included in the bid
6 documents.
7 MAYOR PITTMAN: Can I ask you to hold on a
8 second.
9 Mr. McLendon?
10 ATTORNEY McLENDON: And Mr. Strickland, on
11 this, if I'm correct, what you're saying is that the
12 contract you have is a follow-on from the prior phases
13 of this?
14 MR. STRICKLAND: Yeah.
15 ATTORNEY McLENDON: Okay. And is this just
16 for the construction management piece or will it also
17 be the actual construction of the infrastructure?
18 MR. STRICKLAND: It would be the -- Yeah,
19 they would be like project management for the actual
20 construction.
21 ATTORNEY McLENDON: Okay.
22 MR. STRICKLAND: And you want -- basically
23 want, you know, an engineer to look at this stuff, do
24 the as-builts, things like that --
25 ATTORNEY McLENDON: Correct.

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1 MR. STRICKLAND: -- to make sure that it's
2 built to --
3 ATTORNEY McLENDON: So the contract you're
4 requesting to be entered into right now isn't really
5 the construction contract.
6 MR. STRICKLAND: No, no, no.
7 ATTORNEY McLENDON: It's the project
8 management contract.
9 MR. STRICKLAND: Project management.
10 ATTORNEY McLENDON: This is a Phase III of
11 this general project where CERM has already done Phase
12 II and Phase --
13 MR. STRICKLAND: Right.
14 ATTORNEY McLENDON: -- II; is that correct?
15 MR. STRICKLAND: Right.
16 COUNCILMEMBER ROCHE: I don't see a copy of
17 the contract here, but it says approximately $20,000.
18 MR. STRICKLAND: Yeah. I don't have an
19 actual contract. I'm not going to enter in -- I'm not
20 going to get a contract until, you know, I kind of
21 have the okay to do that.
22 COUNCILMEMBER ROCHE: I understand that,
23 but, you know, you're asking us to approve a contract
24 that we haven't seen.
25 My other concern is that it says

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1 approximately $20,000. I wouldn't want to go past
2 $20,000.
3 MR. STRICKLAND: Yeah. I honestly don't
4 know what it's going to cost but I don't -- Like I
5 said, they did the capital improvement plan, but I'm
6 not even going to ask them to . . .
7 In other words, if it has to go out to bid,
8 I'm not asking them for a contract.
9 ATTORNEY McLENDON: What we would need to
10 do, I think, in this situation is this has been put in
11 front of the Council. Having a Phase III be awarded
12 is not unusual.
13 What I would suggest if there is no
14 immediate opposition is let me and Steven work on
15 putting an agreement together and discussing this with
16 the proposed vendor. What I'd want to do is see some
17 sort of a schedule of values, that kind of thing, to
18 show us exactly how they would be assessing costs
19 under the contract and bring that back to you unless
20 there's any opposition to that.
21 COUNCILMEMBER ROCHE: And obviously we'd
22 need to know what it's going to cost.
23 ATTORNEY McLENDON: I think that would be...
24 And one thing you might do with a contract
25 that could end up with a lot of different little

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1 projects is you would have a not-to-exceed amount.
2 COUNCILMEMBER ROCHE: Right.
3 ATTORNEY McLENDON: But as to the individual
4 line items, a lot of times they can give you fixed
5 quantity/fixed amount.
6 MR. STRICKLAND: Yeah. I still want to look
7 into the time-and-materials, things like that.
8 A lot of these things, you can look at so
9 much above ground, you really don't know what's going
10 on until you actually dig it up of course. You can
11 dig it up and find out it's not as bad as we thought
12 or it's a lot worse than we thought.
13 So yeah, if you can get a schedule of
14 values, what things are going to cost and stuff like
15 that, but I wasn't going to do that until I kind of
16 got the okay that we could even proceed in this
17 manner.
18 COUNCILMEMBER ROCHE: I think we just need
19 to see some kind of a contract --
20 MR. STRICKLAND: Oh, yeah.
21 COUNCILMEMBER ROCHE: -- and some kind of --
22 We have to know what it's costing --
23 MR. STRICKLAND: Definitely.
24 COUNCILMEMBER ROCHE: -- before we can pass
25 anything or --

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1 MR. STRICKLAND: And that is an approximate
2 just based on past construction projects.
3 ATTORNEY McLENDON: And I think based on
4 that direction, Steven, that might give us enough to
5 go back and come forward with a document that might
6 answer a lot of these questions.
7 COUNCILMEMBER ROCHE: Thank you.
8 COUNCILMEMBER FLEMING: The other question I
9 have -- excuse me -- is I know there is a 52-page-
10 with-map report that you have. And I should have
11 asked you this question the other day, but is there a
12 key to the street type, that specific work that's
13 going to be done, like a HW? I realize that's a head
14 wall.
15 MR. STRICKLAND: Yes, ma'am.
16 COUNCILMEMBER FLEMING: But some of these
17 others are not identified as to what they're doing at
18 that particular address.
19 Is there a key in that 52-pager --
20 MR. STRICKLAND: Yeah, there's --
21 COUNCILMEMBER FLEMING: -- somewhere?
22 MR. STRICKLAND: It's a pretty big document.
23 There is actually a photo of every structure and
24 individual --
25 COUNCILMEMBER FLEMING: Well, the only --

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1 MR. STRICKLAND: -- plan.
2 COUNCILMEMBER FLEMING: The only reason why
3 I ask for a breakout of the key is if I have a
4 resident that calls me and says, "What's happened at
5 3376 Pin Oak Circle?" And I go, "Oh, it's an HW."
6 You know, that's not going to cut it, I don't think.
7 I'm going to have to come up with a better
8 explanation.
9 MR. STRICKLAND: Yeah. That's fine.
10 Like I said --
11 COUNCILMEMBER FLEMING: So if you don't
12 mind.
13 MR. STRICKLAND: -- I just wanted to give
14 y'all the short version, I mean, because like I said,
15 there's a picture of every single structure, and
16 there's not, you know, that many of them, but --
17 COUNCILMEMBER FLEMING: Okay.
18 MR. STRICKLAND: -- there's definitely --
19 there's a key on the map. The map folds out. I just
20 wanted to make eight-and-half-by-eleven copies.
21 COUNCILMEMBER FLEMING: This is an excellent
22 report that you've given us. If you could just, you
23 know, give us the key to identify what work's going to
24 be done at those specific addresses, that would be
25 really helpful.

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1 MR. STRICKLAND: Okay.
2 COUNCILMEMBER ROCHE: It would be really
3 great if we could just get all of this on the Web.
4 MR. STRICKLAND: Okay.
5 COUNCILMEMBER ROCHE: On the Web site and
6 have it posted so that anyone can look at it without
7 having to --
8 MR. STRICKLAND: Yeah. It's --
9 COUNCILMEMBER ROCHE: -- bother Councilwoman
10 Fleming.
11 MR. STRICKLAND: I don't know if they --
12 They gave it to me in a -- You know, it's a binder, so
13 I don't know if they have it electronically.
14 COUNCILMEMBER ROCHE: Okay.
15 MR. STRICKLAND: They might. If not, we
16 could also kind of condense it.
17 But like I said, they have a page for each
18 structure.
19 COUNCILMEMBER ROCHE: All right. Thank you.
20 COUNCILMEMBER ALEXANDER: To follow up on
21 Ms. Fleming's comments, I'd be very curious, the one
22 that's on Pin Oak Circle, because I have a resident
23 that has probably spent $20,000 lining the creek bed
24 that runs through her property with granite curb cuts,
25 with this stuff, and I believe she has carried that

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all the way to the inlet. So I would be curious as far as our liability or our we-have-to-return-the-property-to-the-state-that-it-was-found-in kind of thing.

MR. STRICKLAND: Right.

COUNCILMEMBER ALEXANDER: I'm like Ms. Fleming. I don't know what that square right there means, but that looks like where her property is. So I want to know what our liability is as far as personal property rights and things of that nature.

MR. STRICKLAND: Yeah. You have to get right of entry and or liability waivers any time you go on private property.

MAYOR PITTMAN: So you're going to get together.

ATTORNEY McLENDON: Yes.

MAYOR PITTMAN: And I'm sorry; if we could please keep the chat down in the audience -- it makes it very difficult for the court reporter to hear -- I'd really appreciate it.

Next item, please; Tree Removal Permit Ordinance.

MR. STRICKLAND: This has been on the books for a little while. We have gotten some feedback.

As y'all know, with our tree removal permit,

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there was a lot of gray area. We did not really define everything. We had some homeowners exemptions. So this is basically an attempt to make sure that we define everything, include everything. We've sort of set a bar; we've set a limit for the size of tree. Anything over that, we're going to make everybody get a permit so that everybody gets treated the same, we know what's going on, so on and so forth.

So I don't know how much explanation or if everyone's had a chance to read over this, but when the citizens put stuff out on the curb, we've defined that and defined, you know, what a bush is as opposed to a tree. And we are going to account for emergencies. I think that was one of the concerns.

And then beyond that, a lot of the same wording is in there. Again, we're just defining everything and removing the gray area.

Also, we want to make sure this is not used for any type of redevelopment clearing whereas they'd get this permit, clear, but your intention is to pull a land disturbance permit at some point in the future.

And that's pretty much it. Just making sure everyone is treated the same, everything gets defined and we don't have any gray areas from people doing work themselves, topping trees, putting, you know,

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entire trees out at the curb for the city to pick up.

COUNCILMEMBER PACHUTA: I wanted to make sure, does this cover people --? Because I know at least one house in my neighborhood that I suspect is doing tree work somewhere else and dumping all the trunks and everything, because they probably in the past six months at least ten times had the remains of huge trees, and that is not coming out of their yard.

MR. STRICKLAND: Right, right. Yeah, we're basically saying anything over eight-inch diameter will be considered a tree, so it's going to have to be smaller than that, which basically means limbs.

And then we're just saying that, you know, they can't really exceed eight-inch diameter; anything in excess of six-inch diameter is cut into three-foot lengths; the total of all piles is not to exceed ten feet by four feet, loose debris and stuff like that.

We don't want to prevent property owners from doing what I would call spring cleaning where you're cleaning out, you're pruning, cutting back, stuff like that, but the full-on tree removal or like what you're --

COUNCILMEMBER PACHUTA: Yeah. I mean --

MR. STRICKLAND: -- bringing in logs.

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COUNCILMEMBER PACHUTA: -- these are huge, huge trees.

MR. STRICKLAND: Yeah. Just, you know, if it exceeds eight-inch diameter, then the property owner is responsible for getting rid of it.

COUNCILMEMBER ROCHE: On the first ordinance, I notice there's a section in here, 2-264, for sanitation fees. And this doesn't appear to have anything to do with the Tree Ordinance. I'm just wondering why that change is part of this.

MR. STRICKLAND: Yeah. That was put in there when we were doing the tree fees. And I think the change came about when we decided you would allow residents to rent a truck instead of, you know, getting it for free. That was actually done by the previous attorney, so.

COUNCILMEMBER ROCHE: I just think that's a separate issue. And if we're going to talk about the Tree Ordinance, fine.

MR. STRICKLAND: Yeah.

COUNCILMEMBER ROCHE: If we're going to talk about special fees for sanitation, then it needs to be a separate agenda item.

MR. STRICKLAND: Okay. Yeah. That, I did not, you know, write that ordinance.

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MAYOR PITTMAN: Well, this is a first reading. So my suggestion is if you could e-mail Mr. McLendon any issues you might have or suggestions for changes for the next time.

ATTORNEY McLENDON: I think what we could do is -- And duly noted. I think what we're talking is this is basically two agenda items instead of one?

MR. STRICKLAND: Okay. Yeah.

ATTORNEY McLENDON: And I think for the second reading, it would be appropriate to break it apart and give a memo on the sanitation fees and then also have the Tree Ordinance as a separate agenda item following up on the second reading.

COUNCILMEMBER ROCHE: Yeah, it is the second.

ATTORNEY McLENDON: Is this --

COUNCILMEMBER ROCHE: I mean, to me --

ATTORNEY McLENDON: I thought this was the first.

COUNCILMEMBER ROCHE: -- 2-264 doesn't belong here.

MAYOR PITTMAN: It is the first reading.

ATTORNEY McLENDON: Yeah.

COUNCILMEMBER ROCHE: But even so.

COUNCILMEMBER ALEXANDER: Was the issue that

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we passed that fee under Code Section 15 Sanitation but there was not an outlet for it in the fee section? Isn't that why it was written?

COUNCILMEMBER FLEMING: I don't think he heard you.

- - -

(Brief discussion off the record between the Clerk and the City Attorney)

- - -

COUNCILMEMBER FLEMING: Mr. McLendon.

ATTORNEY McLENDON: Yes, ma'am.

COUNCILMEMBER FLEMING: Ms. Alexander recognized you.

ATTORNEY McLENDON: Thank you.

Yeah, I think what we're doing here -- and Steven, please feel free to dive in -- is this appears to be appropriately codifying the location of these fees for the use of the City vehicles for the purposes of sanitation.

MR. STRICKLAND: Right.

ATTORNEY McLENDON: Is that not correct?

COUNCILMEMBER ALEXANDER: It's already in Code Section 15.

ATTORNEY McLENDON: And Steven, I think in the preamble here, we're moving it. Is that correct?

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I think what we were doing is we were moving it from 15-57(d)?

MR. STRICKLAND: Yeah. The sanitation fees, I'm not that familiar with.

I just know that it was free for years and now we're going to have a fee associated with using a City vehicle.

CLERK McCAIN: If I may, I believe what they did was they have this in the Sanitation Code for people that use the dump truck to clean out their garage, their basement, whatnot, and they probably listed it here also because people also rent that truck for removal of stumps and limbs. So I'm wondering if they're just double posting it so that it's aware in both ordinances.

COUNCILMEMBER ROCHE: I guess, to me, I just see it as a separate issue, and it needs to be handled as a separate issue because 2-264, Special Fees for Sanitation, again, like you say, someone could be cleaning out their garage. It may be trees, may not.

CLERK McCAIN: Right.

COUNCILMEMBER ROCHE: So I just think it needs to be handled under a separate agenda item and debated separately.

ATTORNEY McLENDON: Once we had it

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separately, and I will take a look to see exactly what we're doing on the fee for the next agenda item.

My understanding on it is it was being moved into this section because it was a relevant charge for the purposes of the Tree Ordinance.

COUNCILMEMBER PACHUTA: Right. That is what we now charge for the truck also.

ATTORNEY McLENDON: But let me see, make sure I'm clear on the interaction with the other code section when it comes back up.

COUNCILMEMBER ROCHE: Thank you.

COUNCILMEMBER FLEMING: Well, personally, I think the word "sanitation" is in error here and it should be rental of equipment for removal of trees, and I think that's what we're trying to address in 2-265.

COUNCILMEMBER ALEXANDER: If the object is just to have it in two separate places, then it needs to be verbatim how it's written in Code Section 15, because I don't think it says sanitation, I think it says City vehicle.

COUNCILMEMBER FLEMING: There you go.

COUNCILMEMBER ROCHE: Well, again, I just think it looks like two separate issues -- one is the Tree Ordinance and one is Sanitation Fees -- and they

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need to be handled and dealt with separately.
COUNCILMEMBER BATES: On 15-56, Mr. Strickland, this is the section that identifies what can and can't be placed or what can be placed at curbside?
MR. STRICKLAND: Yes.
COUNCILMEMBER BATES: Does that comply with Advanced Disposal's requirements on debris pickup?
MR. STRICKLAND: Yeah. Actually, this hasn't -- We didn't really change this that much. This has already been in ordinance form, so.
COUNCILMEMBER BATES: Well, my concern is we're already paying a company to pick up yard debris -- small limbs, leaves, grass clippings, those kinds of things.
If we're planning on picking the same materials up, then we need to relieve Advanced of that responsibility or we need to ensure that what the residents are putting out complies with their requirements and anything that's in excess of their requirements is managed by a fee schedule or by something so that the City is not incurring costs or doing work that a company that we're already paying should be doing.
MR. STRICKLAND: Right. I was just thinking

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about our knuckle boom that we use to pick up yard debris.
ATTORNEY McLENDON: Let me jump in, because I'm looking at the two ordinances.
What we've done in Chapter 2, what we're basically doing is y'all have set a fee schedule out under Administrative code section, and these are two additions to that fee schedule. The first one is to amend the fee schedule to allow for the costs of the use of a truck, so it'll be located in the Administrative, sort of in the laundry list of costs and fees we have.
And then it further -- And this might be the connection to the Tree Ordinance is it refers to the tree removal permit, which is sort of a third level of regulation when you're removing trees, and it sets out the $25.00 filing fee on that.
The ordinance itself -- And I worked with Steven a little bit on the Tree Ordinance. And this, again, it's here for policy. If the way it's set out isn't the wishes of the Mayor and Council, let's talk about it and get it to be what are your wishes.
But the way the Tree Ordinance section is set out right now is for trees that are under eight inches and they come off of the property -- because it

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says that it's removed from the property -- those can be cut up into certain lengths, set on the curb and removed.
For trees that are over eight inches, it states the owner shall remove these from the property, so that burden goes to the property owner to remove those.
Now, to sort of connect it into the fees, you can rent the truck if you need to rent the truck to remove your over-eight-inch trees that you've got from your property.
COUNCILMEMBER BATES: Before you go any further, where does it say that in this ordinance: that if it's over eight inches, it's the owner's responsibility to remove the debris?
ATTORNEY McLENDON: Okay. We're looking at the second of the two ordinances.
COUNCILMEMBER BATES: Yeah, just give me --
ATTORNEY McLENDON: In Section 5-278, this is saying when they remove any tree which is over eight dbh or greater, right? It refers to that. And subsection (c) basically says "shall be removed from the property." It's not saying it's removed from the property by the City.
COUNCILMEMBER BATES: That's correct.

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ATTORNEY McLENDON: Okay.
COUNCILMEMBER BATES: So to me, this is reading ambiguous.
ATTORNEY McLENDON: Okay.
COUNCILMEMBER BATES: We're saying that under 15-56, everything under eight inches needs to be, you know, cut into three-foot lengths and stacked not to exceed ten by four feet and put in biodegradable bags and the City's going to come by and pick it up either by Advanced Disposal or by our clam truck.
But it doesn't mention anything here about what to do with anything greater than eight inches dbh. Then in 278(c), all it says is that anything that's greater than eight is going to be removed, but it doesn't say by whom.
ATTORNEY McLENDON: In 278 -- and I think it could say "shall be removed from the property at the expense of the owner" would probably be a good addition to put at that point.
COUNCILMEMBER BATES: And I just want to make sure that we're clear. We already hire and pay Advanced Disposal to pick up yard debris, and they have provided to us in a contract and RFP what those criteria are that they will pick up.

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It doesn't make any sense to me for us to pay for Advanced Disposal to pick up yard debris and for us to drive our clam truck around and pick up the same yard debris. That's paying twice.

So if we're going to put this in ordinance and require a certain amount to be set aside or picked up -- excuse me -- set out by the owner for City pickup, to me, that is the Advanced Disposal pickup and the ordinance needs to comply with and follow their standards and say, "This is what will be picked up for free" or "per our sanitation agreement" or "per your sanitation fees," however we want to word it, and "Anything that is in excess of that or doesn't comply with this is your responsibility. You're going to pick it up or you pay the City to come and pick it up."

ATTORNEY McLENDON: And I would agree with that a hundred percent.

Does the eight-inch dbh cut up into these lengths, does that comply with the Advanced Disposal contract or do you know that at this time?

MR. STRICKLAND: I thought we were picking up all yard debris. I didn't know that Advanced Disposal -- I was thinking maybe just the stuff in the bags, you know, just like literally pine straw, grass

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clippings.

COUNCILMEMBER BATES: Our agreement is with Advanced Disposal -- and counsel, correct me if I'm wrong -- but I believe that we've got a length limit and size limit on limbs. So whatever that is, we need to emulate that and put that in ordinance as to what will be picked up curbside per the sanitation billing.

ATTORNEY McLENDON: So to just restate, what we're talking about is Section 15-56, which is the this-is-what-the-City-will-pick-up. We need to doublecheck that with the Advanced Disposal contract and make sure they line up with each other.

COUNCILMEMBER BATES: And when we say "the City will pick up," we really mean the City's agent, as in Advanced Disposal.

ATTORNEY McLENDON: Right.

COUNCILMEMBER PACHUTA: And then clarify anything above that is going to be the owner's responsibility.

ATTORNEY McLENDON: I'm not sure the agency relationship needs to be in the ordinance itself. We just have to make sure that we --

COUNCILMEMBER BATES: That's more for us --

ATTORNEY McLENDON: Right, okay.

COUNCILMEMBER BATES: -- to make sure that

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our clam truck isn't driving around and picking up what Advanced Disposal's supposed to be picking up.

ATTORNEY McLENDON: Yes, that's a good point, I think.

But just to finish the thought of the ordinance, the third section is if you reach a certain level, you have to come and get a tree removal permit. That is if you are over a certain size limit.

We've also, to attempt to deal with people that might be coming in and trying to sort of clear-cut a lot under the idea that it's a -- you know, "I'm just cleaning out for the summer," but what they're actually doing is preparing for some development, that was the provision that talked about the -- subsection (d) that talked about cutting in excess of five trees on a property that only has 10, or in excess of 25, that was us attempting to sort of say if somebody's really digging into the trees on the lot, then we're going to make them come and get a tree removal permit, because that'll mean they have to make the application and it is put in front of staff for them to evaluate it. That's the theory of how this moved forward with the three levels.

COUNCILMEMBER BATES: I want to be clear

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that if we move forward with this and put these two-tier expectations, the owner's responsibility for curbside and the City's pickup at a minimum size, and anything over that, that we also work with and coordinate with public works so that they know what the expectations are so when the clam truck drives around on Wednesday or Thursday or Tuesday or whenever it drives around, that they're just not arbitrarily picking up oversize debris without going through the proper process, because I foresee that as being problematic.

Am I articulating myself?

MR. STRICKLAND: Uh-huh.

COUNCILMEMBER ROCHE: I agree.

COUNCILMEMBER BATES: Okay.

COUNCILMEMBER ROCHE: I don't want to see them go around with rulers, you know.

COUNCILMEMBER BATES: Right, right. I mean there's a commonsense element --

COUNCILMEMBER ROCHE: Right.

MR. STRICKLAND: We're trying to --

COUNCILMEMBER BATES: -- to this.

MR. STRICKLAND: What we're trying to avoid --

COUNCILMEMBER BATES: But if there's a 12-

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1 foot tree trunk sitting out there --
2 MR. STRICKLAND: Yep.
3 COUNCILMEMBER BATES: -- I mean that's --
4 MR. STRICKLAND: What we're trying to avoid
5 is what's happened in the past. The majority of the
6 cost of the tree removal is getting rid of the stuff.
7 You can hire a climber to put it on the ground for not
8 much at all, and then the City's incurring the cost of
9 the cleanup.
10 COUNCILMEMBER BATES: Yes.
11 MR. STRICKLAND: So that's what we're trying
12 to avoid. but to allow for, like I said, spring
13 cleaning, pruning, cleaning out of debris, you know,
14 yard debris versus stuff like that.
15 And you know, it's the same thing with
16 Dekalb County. Dekalb County is up to a certain size
17 but they're not going to come by and remove a large
18 tree. It's just for -- it's yard debris. It's
19 landscaping debris, what's left over when you clean
20 your yard up.
21 COUNCILMEMBER BATES: Thank you.
22 MAYOR PITTMAN: Thank you.
23 COUNCILMEMBER PACHUTA: We have a couple
24 other employees on the agenda, and I hate to torture
25 them by making them sit through an entire meeting

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1 unless they want to. I'd like to move them up.
2 I thought we were going to start putting
3 department stuff, you know, before we got to our old
4 and new business.
5 CLERK McCAIN: My understanding was, as I
6 explained earlier, if they were an hourly employee,
7 they were to be moved up; if they salaried, they were
8 on the regular agenda.
9 COUNCILMEMBER PACHUTA: Well, I don't think
10 we specified.
11 I'm just trying to not make employees --
12 CLERK McCAIN: I'll do it --
13 COUNCILMEMBER PACHUTA: -- have to sit --
14 CLERK McCAIN: -- any way the Council would
15 like.
16 COUNCILMEMBER PACHUTA: -- here all day.
17 CLERK McCAIN: All right.
18 COUNCILMEMBER PACHUTA: So I'd like to go
19 ahead and move up Scott Rodgers and Mr. Cooley, make
20 that in the form of a motion.
21 MAYOR PITTMAN: Do I get a second?
22 COUNCILMEMBER ALEXANDER: So you would like
23 to move up under new business items one, two and
24 three?
25 COUNCILMEMBER PACHUTA: Yes.

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1 MAYOR PITTMAN: Do I get a second?
2 COUNCILMEMBER ALEXANDER: Second.
3 MAYOR PITTMAN: Discussion?
4 COUNCILMEMBER ROCHE: Yeah. The whole idea
5 of what we talked about before, the change was because
6 in the past, certain situations would happen where the
7 beginning of the agenda would be stacked up with so
8 much stuff that we never got to the regular agenda.
9 But I think in this case, it's fine, so.
10 And this is exactly what we predicted would happen.
11 If there's an issue where we want to move up
12 something, at least the Council has the option to do
13 that instead of basically there it is; we're forced
14 into it. And so I think it's appropriate the way it
15 is, and I'll support this motion.
16 MAYOR PITTMAN: Okay. Call the roll,
17 please.
18 CLERK McCAIN: Councilmember Alexander?
19 COUNCILMEMBER ALEXANDER: Yes.
20 CLERK McCAIN: Councilmember Bates?
21 COUNCILMEMBER BATES: Yes.
22 CLERK McCAIN: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK McCAIN: Councilmember Pachuta?
25 COUNCILMEMBER PACHUTA: Yes.

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1 CLERK McCAIN: Councilmember Roche?
2 COUNCILMEMBER ROCHE: Yes.
3 MAYOR PITTMAN: Okay, Mr. Rodgers.
4 And for those of you that do not know, this
5 is our new Parks & Recreation director, Scott Rodgers,
6 and we are very glad to have him. He's doing a great
7 job.
8 MR. SCOTT RODGERS: Thank you so much, Mayor
9 and Council.
10 I have two contracts I've presented to you
11 tonight that you will hopefully approve. The first
12 one is -- and I'm not asking for any money, so I think
13 that's a good thing.
14 The first one is a contract between Miriam
15 Holland and the recreation department. If approved,
16 she would teach a tai chi aerobics type class on
17 Thursday mornings at our arena and she would charge
18 $30.00 per person, and that needs to have a minimum of
19 10 people. I work at that time anyway so I am going
20 to be there, so it's not going to cost staff anything.
21 And we will receive 20 percent of however many people
22 she brings to the table.
23 And that's -- you can ask any questions you
24 would like.
25 MAYOR PITTMAN: Mr. McLendon, you've looked

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at these contracts?
ATTORNEY McLENDON: Uh-huh.
MAYOR PITTMAN: And you've had no issues with them?
ATTORNEY McLENDON: No, ma'am. We were satisfied with these contracts.
MAYOR PITTMAN: Questions from the Council?
COUNCILMEMBER ROCHE: I'd like to make a motion to approve the contract for tai chi aerobics classes for the rec. department.
MAYOR PITTMAN: Do I get a second?
COUNCILMEMBER FLEMING: Second.
MAYOR PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.

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CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PITTMAN: Thank you.
Next is going to be the Ninth Inning Baseball.
MR. RODGERS: Thank you so much.
The next item on the agenda is a contract for field usage, field usage agreement between Ninth Inning Baseball, LLC, and the City of Doraville Recreation Department.
Basically what this contract would do would -- Heath Honeycutt, who is with us in the audience today, he's president and general manager of Ninth Inning Baseball. But basically, when we are not using the fields for play, he would pay us $2,000 per team to rent fields for a year. The term would start January the 1st. He anticipated six or he hoped for six. Really, he was hoping for six teams. He got five teams, which is fantastic. So the first year, as of January 1st, we would receive $10,000 if you guys approve this contract.
We will get together once per month at the very least, and he basically is aware that he will be getting use of our fields when we're not using them. Our programs will certainly not suffer from that; you

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know, he basically gets what's left over.
COUNCILMEMBER BATES: I've got a number of questions --
MR. RODGERS: Sure.
COUNCILMEMBER BATES: -- regarding this.
On the time frame, it runs January 1 through the end of July 2012. Am I reading that correctly?
MR. RODGERS: Yes, you are.
COUNCILMEMBER BATES: With certain dates during the school year and certain --
MR. RODGERS: Yeah.
COUNCILMEMBER BATES: -- dates during the summer.
MR. RODGERS: Right.
COUNCILMEMBER BATES: Okay.
MR. RODGERS: To clarify that, that runs right along with our baseball season, the City of Doraville's recreation baseball season. We play up until school is out, basically.
So we've talked to Heath and said, "Listen. These are the days that we play, these are the times that we play. So during this time period, this is all you got," you know, if things work out that way.
Now, when school is out and we're not using the fields, then the time frame opens up a little bit.

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COUNCILMEMBER BATES: I didn't note in here any expectations on providing equipment, officials, things like that. My assumption is that Ninth Inning, LLC, will provide officials, game management, equipment and those things, but I didn't see it covered in the agreement so I just want to get that clarified.
MR. RODGERS: Yeah. As of right now, there's no games. Basically, what he does is he's got five travel teams that will play in other locations. They will be practicing at our location.
Now I've talked with Heath, and we hope to get some additional rental from him in the future when he brings these big tournaments into our place.
But as of right now, there is no expectations on equipment. There never will be. He provides all of that, and basically he gets our part as-is.
COUNCILMEMBER BATES: Okay. And my final question is under subsection IV, The Organization's Safety Precautions, which is on page six, the very last sentence under paragraph (b) reads, when the field is cleared of all participants, the Organization shall direct all children to automobiles.
I'm a little uneasy about that. If it is a

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1 tornado, that's the last place we want kids to go. So
2 do we have an option in there to open up Fleming Arena
3 and redirect in case of emergency the kids inside?
4 MR. RODGERS: Yeah, absolutely. Absolutely.
5 We could change that.
6 COUNCILMEMBER BATES: That just struck me a
7 little . . .
8 MR. RODGERS: Yeah.
9 COUNCILMEMBER ROCHE: On Section I,
10 paragraph (d) it says, "Allow Organization to place
11 sponsorship banners on the outfield fence."
12 We have an interesting banner ordinance, and
13 I was wondering if there was any issues with that.
14 ATTORNEY McLENDON: In a city contract, you
15 can agree to operate it pursuant to the terms of those
16 contracts. I can tell you a lot of places will look
17 to their sign ordinance and say, we would not want to
18 operate inconsistently with that ordinance.
19 This is part of the -- I can tell you it's
20 part of the quid pro quo of an arrangement, not
21 unusual for someone to come in and utilize the city's
22 fields.
23 COUNCILMEMBER ROCHE: So there's no issues,
24 then.
25 ATTORNEY McLENDON: The City can choose to

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1 enter into a contract that would not have to follow
2 that ordinance.
3 COUNCILMEMBER ROCHE: Thank you.
4 MR. RODGERS: And we're going to get a
5 percentage of those signs.
6 COUNCILMEMBER ROCHE: I understand.
7 MAYOR PITTMAN: Okay. Anything additional
8 from the table?
9 - - -
10 (No response)
11 - - -
12 MAYOR PITTMAN: Okay. Do I get a motion?
13 COUNCILMEMBER FLEMING: Make a motion to
14 approve Ninth Inning contract for usage of the
15 Honeysuckle Park.
16 COUNCILMEMBER PACHUTA: Second.
17 MAYOR PITTMAN: Discussion?
18 - - -
19 (No response)
20 - - -
21 MAYOR PITTMAN: Call the roll, please.
22 CLERK McCAIN: Councilmember Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 CLERK McCAIN: Councilmember Bates?
25 COUNCILMEMBER BATES: Yes.

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1 CLERK McCAIN: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK McCAIN: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 CLERK McCAIN: Councilmember Roche?
6 COUNCILMEMBER ROCHE: Yes.
7 Welcome to Doraville.
8 UNIDENTIFIED SPEAKER: Thank you.
9 MR. RODGERS: Thank you.
10 MAYOR PITTMAN: Thank you.
11 Mr. Cooley.
12 MR. JOE COOLEY: Good evening.
13 Have the revised Zoning Map for you. This
14 was something that's been going on for quite some
15 time. There were a number of comments made by Council
16 members, and staff MACTEC had gone through and updated
17 it. There were some additional changes we made. We
18 saw some lines that were not where they should have
19 been. We've got it now all taken care of.
20 We also went ahead and updated this to be
21 effective to show the conditional use permits that
22 were effect as of August 1. So basically what we got
23 is the map up to date.
24 I did want to note for y'all, the one thing
25 about this is any time that there is a rezoning that

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1 is applied for by the landowner, the applicant, that
2 is an automatic update to the map. There is no need
3 to come before you-all to adopt the map again; it's
4 already done, and it's actually stated in Section
5 23-1601. It says, this article, including the
6 Official Zoning Map, may be amended from time to time
7 by the City Council or as the result of application of
8 a property owner seeking rezoning, but no amendment
9 shall become effective unless it has been considered
10 by the City Council at duly advertised public hearing.
11 Any time you have a change to the text or to
12 the map, that's a requirement by State law, anyway.
13 What this means basically -- And it's good
14 to go ahead and adopt this now, because there may be
15 some things on here that were City-initiated. I don't
16 know. But if there were, this will take care of those
17 as being adopted. All the other ones, the conditional
18 use permits, et cetera, already adopted are shown on
19 this.
20 But I think in the future, what I'd like to
21 see if it's possible is we took -- we do this on a
22 once-a-month basis. When we have those monthly
23 meetings, I'd like to have updated, just by the map,
24 the company that's actually maintaining the map, and
25 then keep a current PDF of that up on our Web site so

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1 people can look at it and get it up and see it and
2 blow it up, so I can get it and see it and blow it up
3 to scale where I don't squint. And I think that would
4 be the best thing for both the public and also for
5 staff, so that would be my recommendation.
6 Eventually I would look to get on GIS. But
7 the problem that we run with that, we have a lot of
8 the data now -- we have the parcels, we have the
9 zoning of the parcels, but what we don't have, and the
10 County's still in the process of working on it, is the
11 polygons for each individual lot.
12 I spoke to the people that do the map here,
13 and they were saying to generate that it would be
14 about a cost of $5,000. My understanding of Dekalb
15 County is, last I heard, they wanted to charge $6,000
16 for the city data. So something in the future.
17 I know we don't have the funding just right
18 now, but we need to be looking at that. At that
19 point, we can have current information. We can have
20 it all come together as a GIS system, whoever
21 maintains it.
22 But this basically brings all those updates
23 in, and I guess we're hoping for approval.
24 COUNCILMEMBER FLEMING: I'd like to ask, you
25 made the comment about reproduction or producing maps

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1 on a monthly basis; is that correct?
2 MR. COOLEY: No, not reproducing them.
3 Basically it would be taking and just
4 amending the GI -- or the -- Basically, we're working
5 in GIS now, and then it converted to a PDF file in
6 order to print it and so people can change it.
7 So basically it's a minor thing of going in
8 and taking one parcel, typing a thing, and it's done
9 -- you know, it's not time intensive; it's a quick
10 thing -- and then exporting that as a PDF so we can
11 put it on our Web page.
12 COUNCILMEMBER FLEMING: Okay. Who's
13 maintaining that for you?
14 MR. COOLEY: Right now, Keck & Wood has been
15 doing that. I've requested an electronic copy. All
16 I've gotten so far is a PDF.
17 It wouldn't be that tough for us to do.
18 COUNCILMEMBER FLEMING: And how often do you
19 anticipate creating an actual --
20 MR. COOLEY: Updating?
21 COUNCILMEMBER FLEMING: -- Zoning Map for
22 display?
23 MR. COOLEY: We would probably go ahead and
24 get a printout each time we want to keep current, I
25 mean. And if we had to, we didn't have the funds, we

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1 could pencil it in. And that's typically done.
2 That's an old fashioned way of doing that.
3 COUNCILMEMBER FLEMING: That's where I'm
4 trying to come from is --
5 MR. COOLEY: Yeah.
6 COUNCILMEMBER FLEMING: -- what does it cost
7 to create a map.
8 MR. COOLEY: $25.00 to print out the map.
9 COUNCILMEMBER FLEMING: $25.00?
10 MR. COOLEY: To print out the full-size
11 scale map here.
12 COUNCILMEMBER FLEMING: $25.00.
13 MR. COOLEY: $25.00.
14 COUNCILMEMBER ALEXANDER: That's just to
15 print it.
16 MR. COOLEY: To print the map.
17 COUNCILMEMBER ALEXANDER: Not to update it.
18 MR. COOLEY: No. That's the time involved,
19 which again should be minor.
20 It's something we want to talk in
21 discussion. I'd like to find out more from them on
22 exactly what the cost would be. But I think it's
23 worth having current, accurate information on the Web
24 and here as opposed to waiting and waiting and waiting
25 and going back and updating it occasionally.

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1 COUNCILMEMBER ROCHE: How do you normally
2 report on revisions from the last map?
3 I mean I look at this, it looks wonderful,
4 but I don't know what's changed since the last map.
5 MR. COOLEY: Well, staff has gone through.
6 And every time that you-all go through and do a zoning
7 amendment, it's in the minutes. Those have been gone
8 through, checked, and updated on this map. That's --
9 COUNCILMEMBER ROCHE: I understand that.
10 I guess what I'm saying, is there some way
11 to show on the map that this was changed since the
12 last map?
13 MR. COOLEY: Well, the date on it is what,
14 you know. And that's why you keep every map on a
15 continuous basis and make sure that it's updated.
16 This is the official map. If we did one the
17 following month and it was updated and we have to be
18 -- not this August, but we want the date on it, and
19 that would be the adopted.
20 COUNCILMEMBER BATES: Mr. Roche, I don't
21 mean to put words in your mouth.
22 But I think what Mr. Roche is asking, and I
23 concur, would be a particular parcel that is updated,
24 we don't know if that was updated in 2011 or in 1987.
25 Mr. Roche, was that --

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1 COUNCILMEMBER ROCHE: Yeah, or just --
2 COUNCILMEMBER FLEMING: Yeah. We'd have to
3 go back to each and every map to determine which
4 parcels were changed when.
5 MR. COOLEY: Except for conditional use
6 permits, which actually has the date of events on
7 there so we can go back and look at it. Those are the
8 ones that are more critical.
9 I agree with you. I really wish we had in
10 Jazz format. You would click on the parcel and it
11 would tell you when it was rezoned, et cetera.
12 COUNCILMEMBER ROCHE: I guess what I'm
13 getting at is this: If you give me this map, the only
14 way I know what's different between this map and the
15 last map is to get another big old copy of the last
16 map and try to compare the two of them, and that's --
17 ATTORNEY McLENDON: What generally I've seen
18 on the past done on that is that you adopt the map as
19 of January 1st. And as Joe was saying, staff would
20 come through and maintain the staff version where, you
21 know, based on the system where I've seen the -- You
22 write in the changes on an interim map, and that is a
23 document; that is a document we keep.
24 And generally, dependent upon the number of
25 zonings, between every six months to twelve months,

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1 what you would do is come through, get that interim
2 handwritten, staff-amended map, have that memorialized
3 by the company, new date, and then bring it through
4 the process to you, put it in front of you and say,
5 "Please adopt this as part of the Zoning Ordinance."
6 And as the process moves forward, and
7 hopefully we get that moving, Joe at the same time
8 would be able to show you, "And here's my handwritten
9 in-between-now-and-then map I've been keeping."
10 That's how I've seen it done in the past.
11 COUNCILMEMBER ROCHE: Thanks.
12 COUNCILMEMBER FLEMING: Can you tell whether
13 (imperceptible) is on that?
14 COUNCILMEMBER ALEXANDER: That's what I was
15 going to ask.
16 THE REPORTER: I couldn't hear you, Ms.
17 Fleming.
18 COUNCILMEMBER PACHUTA: The business on
19 Chestnut Drive that was left off previously, has that
20 been added?
21 MR. COOLEY: Everything that MACTEC went
22 through there. The only thing that was added beyond
23 that were the things that since I've been here would
24 be --
25 COUNCILMEMBER ALEXANDER: It's going to be

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1 the last parcel on Chestnut Drive.
2 COUNCILMEMBER BATES: Down at the bottom,
3 bottom right.
4 COUNCILMEMBER PACHUTA: Is it the green?
5 COUNCILMEMBER FLEMING: The question I asked
6 was, Ms. Alexander, can you tell whether Lali's
7 Daycare is listed on the map? And at this point in
8 time, Mr. Cooley's checking.
9 COUNCILMEMBER BATES: I don't believe it is
10 unless it's incorrectly labeled as R-3.
11 MR. COOLEY: This is what the ordinance is
12 that come -- We can check that. I'll be glad to. All
13 I need is an address or a parcel number to double-
14 check that one again.
15 COUNCILMEMBER ALEXANDER: You should have a
16 file because we annexed it in I believe it was 1970
17 and had to go back and --
18 MR. COOLEY: 1970?
19 COUNCILMEMBER ALEXANDER: Yes -- and had to
20 go back and finally --
21 COUNCILMEMBER PACHUTA: But it got left off
22 all previous maps.
23 COUNCILMEMBER ALEXANDER: I had to go back
24 and find the minutes and the ordinances.
25 COUNCILMEMBER BATES: It's either that --

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1 MR. COOLEY: Was that that little parcel
2 that was carved out right there?
3 COUNCILMEMBER BATES: It --
4 COUNCILMEMBER PACHUTA: Yes.
5 COUNCILMEMBER BATES: It could be.
6 MR. COOLEY: That's the one where the line
7 went all the way around it. We --
8 COUNCILMEMBER PACHUTA: Yes.
9 MR. COOLEY: -- corrected the line to be
10 within the city.
11 COUNCILMEMBER PACHUTA: Okay. Is it zoned
12 R-3?
13 COUNCILMEMBER ALEXANDER: I believe it was,
14 and it's just been operating as a daycare ever since.
15 MR. COOLEY: Again, that was one of them I
16 know that we picked up on this last runaround, that
17 there was that. And they said it was in the city; we
18 checked it, and it was. I couldn't tell you the exact
19 zoning.
20 COUNCILMEMBER BATES: Mr. McLendon, do you
21 concur with Mr. Cooley's opinion that once we adopt a
22 rezoning, that that automatically transfers to the
23 map?
24 ATTORNEY McLENDON: Yes. What happens is
25 that the -- the Zoning Map is actually part of your

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1 Zoning Ordinance, but each amendment of each case is
2 an adoption of the Zoning Ordinance itself.
3 We need to establish our process. And what
4 I'm hearing Joe say, which I concur with, is after
5 each case, you will get our Zoning Map and you will
6 come through and make the amendment, yes.
7 And then what we do is we set forth a
8 regular schedule -- six months, twelve months -- to
9 update the map, readopt it as our, you know, January
10 1st, 2013 Zoning Map.
11 COUNCILMEMBER BATES: Is that a zoning
12 hearing or is that a regular Council --
13 ATTORNEY McLENDON: I will recommend that as
14 we adopt these in the future, we run them through the
15 Zoning Procedures Act and it is fully run through the
16 process just like any zoning.
17 COUNCILMEMBER BATES: Because that's what
18 we've done previously.
19 ATTORNEY McLENDON: That is what --
20 MR. COOLEY: That's what happened with this,
21 I believe.
22 ATTORNEY McLENDON: -- we will recommend.
23 MR. COOLEY: It was a public hearing, and
24 this is just the deferred.
25 COUNCILMEMBER FLEMING: Yes, it was. It was

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1 just heard.
2 MR. COOLEY: I believe this was done through
3 the proper process originally. It was taken through
4 that. There was originally a public hearing, and it
5 has just been deferred over time as corrections were
6 made.
7 ATTORNEY McLENDON: Okay. This needs to be
8 approved through the Zoning Procedures Act, yes.
9 MAYOR PITTMAN: Additional questions?
10 COUNCILMEMBER BATES: Have we started that
11 process?
12 ATTORNEY McLENDON: Well, I'm sitting here
13 thinking --
14 COUNCILMEMBER PACHUTA: Well --
15 ATTORNEY McLENDON: -- as I've just heard
16 Joe say that.
17 COUNCILMEMBER PACHUTA: -- but we have had a
18 public meeting earlier on it.
19 COUNCILMEMBER BATES: But I don't know that
20 we ever deferred it to a date certain.
21 ATTORNEY McLENDON: That's my issue, and I
22 will probably need to talk to Joe about that.
23 The issue, to me, that this has raised is,
24 do we need to have a public hearing on this?
25 We need to look at the minutes from the last

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1 meeting where this was discussed for the public
2 hearing.
3 MR. COOLEY: Actually, I believe that was
4 done before I even came. This thing has been going on
5 for a very long time.
6 My understanding was that it was properly
7 advertised and there was a public hearing, and then
8 each meeting, it was deferred, so there's no require-
9 ment for additional advertisement.
10 COUNCILMEMBER PACHUTA: Well --
11 MR. COOLEY: But that's my understanding.
12 ATTORNEY McLENDON: Okay.
13 MR. COOLEY: I don't know --
14 COUNCILMEMBER FLEMING: However --
15 MR. COOLEY: -- that for a fact.
16 COUNCILMEMBER FLEMING: -- the last time we
17 deferred it was because Keck & Wood had not even
18 finished the map yet --
19 ATTORNEY McLENDON: Okay.
20 COUNCILMEMBER FLEMING: -- for us to even
21 have a public hearing of yea or nays from the
22 audience. So as far as I'm concerned, we haven't had
23 a public hearing.
24 ATTORNEY McLENDON: Here's what I'd like to
25 do.

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1 COUNCILMEMBER BATES: I agree with Ms.
2 Fleming.
3 ATTORNEY McLENDON: And I'm following along
4 as we speak here.
5 What I'd like to do is, Joe, this map, you
6 have been riding herd on this process and this is what
7 you believe to be a fully-updated and complete map.
8 MR. COOLEY: That's correct.
9 ATTORNEY McLENDON: What I would recommend
10 is that we go ahead and have this available, have this
11 available to the Mayor and Council to review,
12 available to the public.
13 And at this point, I would recommend we
14 restart the process. The Zoning Map is such a
15 critical piece of the Zoning Ordinance, it is
16 something that needs to be unassailable. And I would
17 recommend that we go ahead, keep it posted and begin
18 the process.
19 MR. COOLEY: Readvertise?
20 ATTORNEY McLENDON: I believe that it would
21 be at this point an appropriate thing to do just by
22 hearing the consternation over the process that I'm
23 hearing thus far.
24 But before we begin that process, I would
25 ask if everybody has a chance to review it, and let's

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all put our heads together and make sure that, you know, we've sorted through what we know may be the problematic issues, that we are in good shape.

COUNCILMEMBER ROCHE: Start it at the meeting the 22nd? Do you want to add that to that agenda and get this thing rolling?

COUNCILMEMBER PACHUTA: That won't have time to advertise.

COUNCILMEMBER FLEMING: 15 to 45 days.

COUNCILMEMBER ROCHE: No, I mean, but I thought we were going to look at the map first and then decide --

ATTORNEY McLENDON: Let's let Joe --

COUNCILMEMBER ROCHE: -- to begin the process.

ATTORNEY McLENDON: -- have the ball on it, and I'd say two weeks for everybody including the public and --

COUNCILMEMBER ROCHE: That's fine.

ATTORNEY McLENDON: -- the Mayor and Council took at it.

And then, Joe, once that period, go.

MR. COOLEY: Advertising.

COUNCILMEMBER BATES: Mr. Cooley, you've got this in a PDF format that you can send us?

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MR. COOLEY: Yes. We'll print out a small copy.

COUNCILMEMBER ROCHE: Or just post it on the Web.

MR. COOLEY: Until it's adopted, I think we would rather not post it on the Web. I can e-mail it to all of y'all, but I'd rather not put it out there as a public document until you-all have adopted it.

ATTORNEY McLENDON: Yeah. If we did, I'd want it to be --

COUNCILMEMBER ROCHE: You could say proposed draft.

ATTORNEY McLENDON: I understand why you wouldn't want to put that map out there, so if you chose to, it would need some serious (gesturing) --

COUNCILMEMBER ROCHE: Well, my point being that there may be a citizen out there that could check their own property and can see if it's zoned correctly. I would have no way of knowing that.

MR. COOLEY: Just one thing, too -- and I believe most of y'all are aware -- the street addresses are placed on most of these parcels. The street address is not what determines identification of a parcel, it's the parcel I.D. number --

COUNCILMEMBER ROCHE: Right.

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MR. COOLEY: -- because there are some that will have multiple numbers and things like that. That gets confusing to people.

MAYOR PITTMAN: All right. Thank you, Mr. Cooley.

MR. COOLEY: Thank you.

MAYOR PITTMAN: And now we'll go back under old business.

This is going to be the second reading of Ordinance 2011-31 to amend the Charter to reduce Council pay. This is a public hearing. Mr. McLendon?

ATTORNEY McLENDON: And Mayor and Council, this is an adoption where we are amending the Charter. And as we've discussed a couple of times, to amend the Charter through Home Rule, we have to put the ordinance up two times, it has to be appropriately advertised.

On this ordinance, it has been adopted, I believe, on the August 1st meeting. This is the second hearing of this. It has been advertised. So if this is adopted following the public hearing, this will become an amendment to your Charter.

MAYOR PITTMAN: Open the public hearing portion.

Those wishing to speak against, please come

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forward. Anyone against?

- - -

(No response)

- - -

MAYOR PITTMAN: Anyone wishing to speak for, please come forward.

- - -

(No response)

- - -

MAYOR PITTMAN: Okay. So that will close the public hearing portion. Mr. McLendon?

ATTORNEY McLENDON: Mayor and Council, if the body chooses to debate or approve or deny, then it would be in their purview.

COUNCILMEMBER ROCHE: I'll make a motion to pass Ordinance 2011-31 which will reduce the City Council salaries from $1,200 per month to $700.00 per month.

MAYOR PITTMAN: Get a second?

COUNCILMEMBER BATES: Second.

MAYOR PITTMAN: Discussion?

COUNCILMEMBER ROCHE: Ouch.

MAYOR PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

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1 CLERK McCAIN: Councilmember Bates?
2 COUNCILMEMBER BATES: Yes.
3 CLERK McCAIN: Councilmember Fleming?
4 COUNCILMEMBER FLEMING: Yes.
5 CLERK McCAIN: Councilmember Pachuta?
6 COUNCILMEMBER PACHUTA: Yes.
7 CLERK McCAIN: Councilmember Roche?
8 COUNCILMEMBER ROCHE: Yes. Thank you.
9 MAYOR PITTMAN: Thank you.
10 Next is going to be the second reading
11 Ordinance 2011-33, amend Charter, Employee Appeals.
12 This is also a public hearing. Mr. McLendon?
13 ATTORNEY McLENDON: Same situation. This is
14 also an amendment to the Charter.
15 The Charter previously as it read set forth
16 an appeal right for terminations. It really -- my
17 opinion as well as several of the attorneys who
18 represent the City did not feel that was a great place
19 for that.
20 What we've done is amended the language and
21 basically kept the concept the same. It just states
22 as far as any appeal rights, that would be set out by
23 policy. And the next agenda item is a handbook
24 modification that would define those appeal rights.
25 With this, if, after the public hearing,

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1 this is adopted, again your Charter would be amended.
2 And what it would basically do is instead of having
3 the specific rights set out in the Charter, it would
4 say the Council may by ordinance or resolution create
5 policies for any grievance procedure resulting from
6 any employment practices including employee
7 termination.
8 So a little more flexibility by not having
9 it in the Charter where it's very difficult to amend.
10 MAYOR PITTMAN: Okay. And at this time,
11 we're going to open the public hearing portion of
12 this.
13 Those wishing to speak against this, please
14 come forward.
15 - - -
16 (No response)
17 - - -
18 MAYOR PITTMAN: Okay. Anyone wishing to
19 speak for?
20 - - -
21 (No response)
22 - - -
23 MAYOR PITTMAN: Thank you. We're going to
24 close the public hearing portion, bring it up to the
25 Council.

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1 COUNCILMEMBER BATES: So I'll ask my
2 question again. If we pass this but don't pass the
3 next agenda item, there is no appeal process.
4 ATTORNEY McLENDON: That is correct.
5 COUNCILMEMBER BATES: Okay. My concern is,
6 to me, we're doing this backwards. I want to make
7 sure that we've got that appeal process whether it's
8 through the Mayor, through the Council, through a
9 hearing officer, in place before we remove that appeal
10 process from the Charter.
11 If we pass this now and don't pass the next
12 item, then we've got a gap.
13 ATTORNEY McLENDON: Let me go ahead and I'm
14 going to change my opinion on that. And as I'm
15 thinking and as Mr. Felgin is reminding me, we
16 currently have an appellate process, a process in our
17 handbook.
18 What we have right now is if we pass this
19 before the -- until we pass that next agenda item, if
20 we do, what will become active is the current language
21 that is in the employee handbook.
22 What you are doing in the next agenda item
23 is taking that current language and modifying it to
24 reflect the following code sections, one or the other,
25 whichever you chose to adopt.

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1 There is a process set out.
2 You've read it more recently, and I'd be
3 happy for you to talk about it.
4 MR. FELGIN: The handbook process itself now
5 tracks the language of what the Charter says right
6 now. Basically it's an appeal directly to the City
7 Council.
8 So by removing it from the Charter, we're
9 allowing a flexibility to change the Employee
10 Handbook. We cannot change the Employee Handbook
11 unless we change the Charter, because it wouldn't
12 comport with the Charter.
13 ATTORNEY McLENDON: Very good.
14 COUNCILMEMBER ROCHE: But what's in the
15 handbook now is in effect either way.
16 ATTORNEY McLENDON: Yes, that is true.
17 MAYOR PITTMAN: Additional comments from the
18 Council?
19 COUNCILMEMBER BATES: I have another
20 question.
21 On old business, we've got Ordinance
22 2011-33, which I have as the Employment Hearing
23 Procedures dated Final August 15th.
24 The next document that I've got is the
25 memorandum dated July 13th from y'all with Ordinance

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1 2011-35 dated Draft August 18th.
2 ATTORNEY McLENDON: Let me talk to you,
3 because what we have right now is the ordinance
4 regarding the Charter moved forward with a few less
5 bumps in the road. That language was accepted.
6 If you'll remember back, the first language
7 we presented regarding the amendment to the handbook,
8 it was one that, frankly, I was having our outside
9 employment counsel review at that time.
10 And as part of that discussion -- and this
11 moves into the next agenda item a little bit -- we had
12 a discussion regarding whether the ultimate appeal
13 from a decision of the Mayor would be to the Superior
14 Court by writ of cert or whether it would come back to
15 the Mayor and Council for review of the hearing
16 officer's decision.
17 What we've done in the interim is while the
18 Charter amendment was moving forward, we've done a lot
19 of work on this language in the next ordinance, and
20 it's changed somewhat.
21 So the reason that this one is previous, is
22 dated earlier is because the first time you saw this,
23 admittedly it was a different ordinance; but since
24 that time, we have made revisions, consulted with our
25 employment attorney, and this is what we would have as

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1 the final document as the handbook.
2 Does that answer the question?
3 COUNCILMEMBER BATES: No.
4 ATTORNEY McLENDON: Okay.
5 COUNCILMEMBER BATES: Because then I've got
6 two draft ordinances --
7 ATTORNEY McLENDON: Yes.
8 COUNCILMEMBER BATES: -- dated Draft August
9 5, one with a Version 2.
10 Does the ordinance '11-35 dated Draft August
11 18 match Version 2 dated --
12 ATTORNEY McLENDON: Let me tell you what you
13 have.
14 COUNCILMEMBER BATES: -- August 5?
15 ATTORNEY McLENDON: Let me tell you what you
16 have.
17 You have two versions. One is dated August
18 18th and one is dated August 6th. Okay?
19 COUNCILMEMBER BATES: Well, I don't have an
20 August 6th version.
21 ATTORNEY McLENDON: I'm sorry. August 5th.
22 COUNCILMEMBER BATES: Okay.
23 ATTORNEY McLENDON: Okay? Those two
24 ordinances, those are the two options that were
25 discussed at the meeting.

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1 What I did is I know there had been
2 discussion about if the Mayor made a decision and that
3 was appealed and it went to a hearing officer
4 designated by the Mayor and Council, under one
5 version, which was what I had put forward in the
6 previous meeting, the only appeal from that hearing
7 officer's decision was to the Superior Court.
8 There had been a discussion at that time
9 about whether the hearing officer's opinion would be
10 reviewed by the Mayor and Council.
11 So what you're going to have is the Mayor
12 made a decision, the employee --
13 COUNCILMEMBER BATES: Okay. I --
14 ATTORNEY McLENDON: Okay. That's why you
15 have two.
16 COUNCILMEMBER BATES: I understand the
17 differences. I'm just trying to understand which
18 version I'm supposed to be looking at, because we got
19 e-mailed last Thursday or Friday from Mr. Felgin,
20 documents, and then we've got agenda-packet documents,
21 and they're apparently different, and I just want to
22 make sure.
23 ATTORNEY McLENDON: They should not be
24 different. They should be the same.
25 COUNCILMEMBER BATES: Well, they've got

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1 different dates on them.
2 ATTORNEY McLENDON: Tell me about that.
3 MR. FELGIN: Well, the reason they are
4 different dates is the August 5th one --
5 COUNCILMEMBER BATES: One of them is dated
6 three days from now.
7 MR. FELGIN: That may --
8 CLERK McCAIN: It should be today's date.
9 MR. FELGIN: That may have been a mistake.
10 That should have been August 15th.
11 COUNCILMEMBER BATES: Okay.
12 MR. FELGIN: My arithmetic has been a long
13 time ago, number one, but --
14 COUNCILMEMBER BATES: So the Version 2 that
15 you e-mailed to us and the Version 2 that's in our
16 agenda packets --
17 MR. FELGIN: It's the --
18 COUNCILMEMBER BATES: -- are the same.
19 MR. FELGIN: It's the same, yes.
20 COUNCILMEMBER BATES: Okay.
21 MR. FELGIN: The reason the first one is
22 August 5th is because that one didn't really change;
23 we just added a second option.
24 COUNCILMEMBER BATES: And I hate to ask the
25 questions, but the one that was e-mailed to us is red-

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1 lined and the one in our agenda packet is not
2 redlined.
3 ATTORNEY McLENDON: Uh-huh.
4 COUNCILMEMBER BATES: And so I just want to
5 make sure that . . .
6 ATTORNEY McLENDON: I'm happy for you to
7 question this, because I want to make sure we get it
8 correct.
9 COUNCILMEMBER BATES: It appears that the
10 one in our agenda packet is a final version of the
11 redline copies that were e-mailed to us.
12 ATTORNEY McLENDON: What you should have is
13 the final version of what was e-mailed to you. We
14 made no changes on that.
15 We have sent out both versions for your
16 consideration tonight, and they should be identical to
17 what was e-mailed to you previously, and if it is not,
18 I will be --
19 CLERK McCAIN: And if I may clarify --
20 ATTORNEY McLENDON: -- interested.
21 CLERK McCAIN: -- when that's sent to me, I
22 took -- I did the final version without the red lines,
23 but he probably sent you the red lines. When I
24 printed it, I took off the red lines.
25 COUNCILMEMBER BATES: I just wanted to make

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1 sure I knew what I was looking at so that I can ask
2 the right questions based upon the different versions.
3 ATTORNEY McLENDON: Please ask questions
4 because I want it to be right and only do it once.
5 COUNCILMEMBER BATES: Ms. Fleming had asked
6 a question and I think it was via e-mail Thursday or
7 Friday after this came out, and I concur with her.
8 She referenced the hearing officer. In both
9 versions, it references the Mayor as the appeal
10 officer or, if the Mayor is the direct supervisor,
11 that it goes to a hearing officer.
12 We don't have anything in any ordinance to
13 identify whom that is, how that person is selected,
14 what the criteria is to be the hearing officer: are
15 they compensated? what's the selection process?
16 ATTORNEY McLENDON: What we've done on that
17 in the past is I've written different types of
18 ordinances.
19 In this situation, especially at the level
20 of the Mayor and Council, what this is is it states
21 the Mayor and Council or the Mayor or designee.
22 What that basically is saying is it's in
23 your discretion who the hearing officer is. The Mayor
24 and Council will determine. Let me --
25 Can I continue --

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1 COUNCILMEMBER BATES: Sure.
2 ATTORNEY McLENDON: -- to illustrate a
3 different type of ordinance I've written.
4 I've written an ethics ordinance, and in the
5 ethics ordinance -- because right here, what you're
6 talking about is you're talking about: as the Mayor
7 and Council, you decide who it is you want to be your
8 hearing officer.
9 Generally, I'm not going to have a hearing
10 officer who's not an attorney, who is not -- And they
11 will require to be compensated. Frankly, I don't know
12 that needs to be in the ordinance. I could write
13 pages of that type of thing.
14 I have written ethics ordinance in the past.
15 And one of the things when I was writing that
16 ordinance is I said, you know, this ordinance is a
17 really big deal and it's one where really the
18 selection of the hearing officer could, you know, be a
19 decision that had a lot of impact on the case. In
20 that case, I did feel it was necessary to put in a
21 section that said if you have a hearing officer it
22 will be as follows: A, B, C, D, E, and such as don't
23 have an office within six miles of the city, and a lot
24 of different criteria.
25 In this situation, since it is the designee,

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1 personally, I would not say that was necessary. I can
2 tell you that if y'all said, "You're wrong, Cecil.
3 That is absolutely necessary," we could write in
4 criteria.
5 I mean I would want an attorney. They will
6 require themselves to be compensated or they will not
7 serve. I would ask for experience in munic- -- or
8 employment law. That's it.
9 COUNCILMEMBER ROCHE: Excuse me. The agenda
10 item we're on is just whether or not we're going to
11 take it out of the --
12 ATTORNEY McLENDON: Well, it's relevant, Mr.
13 Roche, because if there are issues with this, I want
14 to get answers before I go and remove the appeal
15 process from the Charter.
16 COUNCILMEMBER ROCHE: But it won't be
17 removed from the Employee Handbook. We'll still have
18 an appeal process. And believe me, I'm all for
19 changing the current appeal process. But we will have
20 an appeal process; it just won't be enshrined in the
21 Charter. That's all.
22 COUNCILMEMBER BATES: I'll respectfully
23 disagree, but we can move forward, and I'll vote
24 against it.
25 ATTORNEY McLENDON: And I'm happy to --

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COUNCILMEMBER ROCHE: And then come back --
ATTORNEY McLENDON: -- have the conversation.
COUNCILMEMBER ROCHE: -- to this issue, yeah.
ATTORNEY McLENDON: I want to have the conversation so we get it right.
So I would say, you know, with this, as I've worked on this, I would have an opinion on that, which is the designee language is probably sufficient, because let's say there was appeal to the Mayor and Council. You would vote as a body and decide who you were going to appoint as your designee. I think that is a sufficient control in this ordinance.
Just an opinion, and, by all means, I can write it either way.
COUNCILMEMBER BATES: I'm going to make a motion to defer the adoption of the Charter change to August 22nd, 2011, so that we can have time to work through the appeal process.
COUNCILMEMBER ALEXANDER: It's advertised.
ATTORNEY McLENDON: Yeah. Let me ask a question on that because I have not followed the timelines as much. And y'all can do what you want; it just might mean that we have to restart the process.

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If we move that out to the 22nd, are we going to lose our timeline --
MR. FELGIN: Yeah. You would have to --
ATTORNEY McLENDON: -- on the Charter?
MR. FELGIN: -- pass it twice.
COUNCILMEMBER BATES: I'm sorry?
MR. FELGIN: You have to pass it twice again, because, according to State law, the Charter -- the Home Rule amendment, it has to be passed at a consecutive regular meeting.
So if you defer the Charter amendment today, we will have to repass this ordinance twice again.
ATTORNEY McLENDON: In the next two meetings.
MR. FELGIN: In the next --
COUNCILMEMBER BATES: Motion withdrawn.
Make a motion to move this af- -- Can't do that either. Withdrawn.
ATTORNEY McLENDON: I see where you're going, which is you're saying, I make a motion to defer this item until after the consideration of the next item.
COUNCILMEMBER BATES: Yeah, and we'd have to waive first reading.
ATTORNEY McLENDON: Actually, I think that

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on the next item, my personal opinion is the first ordinance that we sent up was the first reading of this. It has changed substantially since the first reading, but it has been in front of you before. I do consider this the second reading of that ordinance, but it has been modified, admittedly.
COUNCILMEMBER ALEXANDER: But it's not the first reading on both versions.
ATTORNEY McLENDON: Well --
COUNCILMEMBER BATES: That's correct.
ATTORNEY McLENDON: -- it's never a first reading of any ordinance that you change in any way between the first and second reading.
The only difference between the two ordinances that are in front of you are one has one appellate process and one has the other, but I mean -- And that is a way you can interpret your ordinances, but no ordinance that we ever changed in any way would ever be a first reading unless you had it identical in both the first and second readings.
COUNCILMEMBER ALEXANDER: Just for clarification, if we pass the Charter change removing or rewording the appeal process in the Charter, it is still a valid process because it is defined in the Employee Handbook. Is that a correct statement?

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ATTORNEY McLENDON: There is currently an appellate process in the Employee Handbook.
COUNCILMEMBER BATES: And that appellate process is to Mayor and Council.
COUNCILMEMBER FLEMING: Okay. Well, here's the other, flip side of that. Which one is going to override the other if one passes and the other one doesn't?
If the first one passes that we change the Charter and we don't pass the second one, it --
COUNCILMEMBER ALEXANDER: It stays the same.
COUNCILMEMBER ROCHE: Still the same --
COUNCILMEMBER FLEMING: Right.
COUNCILMEMBER ROCHE: -- as we used last time.
COUNCILMEMBER FLEMING: I'm sorry. I'm sorry.
ATTORNEY McLENDON: The way we've amended the Charter is now the Charter is going to say, I defer to the handbook.
COUNCILMEMBER FLEMING: Okay.
COUNCILMEMBER ALEXANDER: Make a motion to adopt Ordinance 2011-33 revising the Charter Section 2-12.
COUNCILMEMBER PACHUTA: Second.

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1 MAYOR PITTMAN: Discussion?
2 - - -
3 (No response)
4 - - -
5 MAYOR PITTMAN: Call the roll, please.
6 CLERK McCAIN: Councilmember Alexander?
7 COUNCILMEMBER ALEXANDER: Yes.
8 CLERK McCAIN: Councilmember Bates?
9 COUNCILMEMBER BATES: No.
10 CLERK McCAIN: Councilmember Fleming?
11 COUNCILMEMBER FLEMING: No.
12 CLERK McCAIN: Councilmember Pachuta?
13 COUNCILMEMBER PACHUTA: Yes.
14 CLERK McCAIN: Councilmember Roche?
15 COUNCILMEMBER ROCHE: Yes.
16 MAYOR PITTMAN: Motion carries. Thank you.
17 Next is going to be the revision of the
18 Employee Manual appeal process.
19 ATTORNEY McLENDON: All right. And we've
20 had some of the discussion so far.
21 What we've done is basically provided two
22 ordinances, and I think we've discussed already a
23 little bit of the difficulties. It's a complicated
24 ordinance. I've had a lot of feedback as we've gone
25 through the process of putting this together.

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1 There is going to be one minor amendment I'm
2 going to ask you make, as I reviewed this, and I'll
3 get into that in a second.
4 But the primary difference between these two
5 ordinances is there are two levels of review. And you
6 probably all already understand this, but let me go
7 through it again for my own sake.
8 If an appeal is from a supervisor/department
9 head level and it goes to the Mayor, then the Mayor
10 can appoint a designee to hear that appeal, and at the
11 end of that -- a hearing officer. And once the
12 hearing officer makes a decision, then what happens is
13 if the employee or their counsel chooses to challenge
14 that, they have to go to the Superior Court by writ of
15 certiorari. Okay.
16 If the Mayor makes a determination, which
17 would basically be a determination on a department
18 head, and the department head appeals it, it goes to
19 the Mayor and Council.
20 Under the second version in your package,
21 the Mayor and Council appoint a hearing officer; the
22 hearing officer makes a decision. That's it. It goes
23 to the Superior Court.
24 Under the first version in the package, what
25 would happen is the Mayor and Council would appoint a

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1 hearing officer, the hearing officer would make a
2 report; they would transmit the report to the Mayor
3 and Council. And at that point, the Mayor and Council
4 would have an ability to review the report and either
5 accept, reject or modify that report based upon the
6 hearing.
7 Those are the two -- the primary difference
8 between the two ordinances.
9 Let me tell you about the amendment that's
10 in both of them. When I put in here in the paragraph
11 about the Mayor, I didn't put "or designee." So if we
12 do a motion on either of these, I would ask that we
13 say "Mayor or designee." That gives the Mayor the
14 ability to have a hearing officer. And that should
15 not be that way, and I apologize.
16 COUNCILMEMBER BATES: And what section is
17 that under?
18 ATTORNEY McLENDON: That is in section D of
19 the not-yet-existing August 18th document, in section
20 C of the August 5th document.
21 COUNCILMEMBER BATES: Where in section D?
22 I'm sorry.
23 ATTORNEY McLENDON: It is page four of seven
24 and it is section D at the bottom.
25 COUNCILMEMBER BATES: Where it says reverse

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1 or modify the decision of the Mayor or hearing
2 officer? Is that --
3 ATTORNEY McLENDON: Uh-huh. That's saying
4 the Mayor or the designee.
5 COUNCILMEMBER PACHUTA: I wanted to clarify.
6 If it's not a termination decision and not a
7 department head, then the department head is basically
8 the end of --
9 ATTORNEY McLENDON: Uh-huh.
10 COUNCILMEMBER PACHUTA: -- the complaint.
11 ATTORNEY McLENDON: If it is not a
12 termination and we have put it as a termination with
13 some sort of a disciplinary basis, there is no
14 appellate right under either version.
15 COUNCILMEMBER ROCHE: Yeah, I noticed that,
16 and I was a little concerned, and I think that there
17 probably needs to be at least a one-over-one appeal
18 process. It doesn't even have to be all that formal.
19 But you know, if your supervisor says this, I think
20 you should have the option of going over their head,
21 frankly.
22 COUNCILMEMBER PACHUTA: Well, I think this
23 does provide a review by the department director.
24 ATTORNEY McLENDON: Yes.
25 We've moved from the hearing process on a

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1 termination to basically what is a shorthand grievance
2 process, and that is set forth in both ordinances in
3 section A and B.
4 And I believe what you have is it goes to
5 the -- you address your grievance to the individual
6 who made the decision. That has to be addressed
7 within five days. And if they are dissatisfied, they
8 can basically move up chain one time to get that
9 decision reviewed.
10 COUNCILMEMBER BATES: So back to the hearing
11 officer, do you appoint one for the year? Is it per
12 case?
13 ATTORNEY McLENDON: You would do it on a
14 case-by-case basis. If for instance we had a
15 situation where an employee came in and said, "I am
16 requesting a hearing pursuant to this section of the
17 employee handbook," what we would do is we would need
18 to have a hearing officer designated.
19 And if it were at your level, you would
20 basically come in, and, to be honest, how it would
21 probably work is I'd come in and say, "Here's some
22 hearing officers we've used in this area. Feel free,"
23 and you would make a decision who to use.
24 I can tell you generally as a hearing
25 officer in the past I've used Dick Carothers, who is a

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1 very experienced municipal attorney, and I think he
2 does a good job on a wide variety of type of issues.
3 COUNCILMEMBER BATES: So I'm just trying to
4 track the timeline that's in here.
5 So if we pass this and, hypothetically,
6 someone gets terminated tomorrow for cause, and they
7 file their request in five days to have a hearing and
8 it was the Mayor that terminated the person for cause,
9 by this ordinance, we're required to have the hearing
10 not more than 30 days following the written request.
11 But we wouldn't get together until May 22nd to
12 actually select the hearing officer.
13 ATTORNEY McLENDON: May?
14 COUNCILMEMBER BATES: August.
15 ATTORNEY McLENDON: August 22nd.
16 COUNCILMEMBER BATES: See, I'm all confused
17 on dates now.
18 ATTORNEY McLENDON: I'm okay. Me, too. I
19 got you.
20 COUNCILMEMBER BATES: I was three days in
21 the future and now I'm four months behind.
22 But we wouldn't get together until August
23 22nd to actually discuss selecting a hearing officer,
24 and then you've got to make sure that the hearing
25 officer is available and set the fees.

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1 And I'm just trying to get an understanding
2 of -- I'm not opposed to having a hearing officer. I
3 think there's some validity in having a neutral third
4 party. In fact, I think it's actually a great idea.
5 I just want to make sure that we know what
6 the expectations are, the selection process, fees that
7 we're going to be incurring, because it's not a
8 budgeted line item; it's going to be over and above.
9 Can it be our municipal court judges? Is
10 that a conflict?
11 I'm just trying to get a sense of --
12 ATTORNEY McLENDON: That's an interesting
13 question.
14 COUNCILMEMBER BATES: -- where we're going
15 with this. And I'm asking this question. I'm not
16 opposed to the idea. I just want to make sure that if
17 we move forward with that, that this body knows what
18 we're doing.
19 ATTORNEY McLENDON: And you know what?
20 Again, anything I ever write, I ask, I encourage you-
21 all to feel free to, you know, give me all the
22 feedback because that ends up with us having the best
23 potential product at the end.
24 I can address a couple of those things. I
25 can tell you generally, if I'm correct, I would not

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1 pay more than $150.00 an hour because that's a sort of
2 basic attorney rate for this type of work. I'm sure
3 you could probably get a lower rate if you went to
4 some different hearing officers. You know, a lot of
5 times the quality is commensurate with the rate.
6 The 30-day period, I can tell you I'm
7 comfortable with that because we're generally at least
8 going to have a meeting in between the request and the
9 date for a hearing.
10 I can tell you that if we bog down in a
11 battle royal over who the hearing officer was, that
12 would give me heartburn and I would be panicking and
13 sweating over here and trying to work us through that.
14 That being said, if you're 15 days into the
15 30-day period and we appoint a hearing officer, that
16 does not give me heartburn at all. Prior to the
17 appointment, we would have been able to discuss it
18 with the potential folks we would bring to you, you
19 know, their schedules.
20 And once you have convened the hearing
21 officer and the hearing officer is empowered, they
22 sort of take control of the entire administrative
23 process. So if they came in and said, "I've been
24 appointed the hearing officer," and talked to both
25 attorneys and say, "You know what? I could convene

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1 this in 10 days, but you know what? It would be
2 better if we did it on the 35th day," as long as all
3 the parties are in agreement, it can be worked
4 through. Someone with some sophistication to do this
5 would be able to address that.
6 COUNCILMEMBER ROCHE: How about this: I
7 mean as far as the hearing officers -- I seem to
8 remember I've seen this elsewhere -- we go out and we
9 find three or four hearing officers that are
10 qualified, reasonable rate, and then every time we
11 need a hearing officer we simply rotate.
12 ATTORNEY McLENDON: You do the wheel.
13 COUNCILMEMBER ROCHE: And if we bring up
14 somebody and they say, "Oh, it's your turn," and they
15 say, "I can't do it," no problem; you just go to the
16 next one. And that way, we don't have to worry about
17 it. That way there's -- you know.
18 ATTORNEY McLENDON: That's how they --
19 COUNCILMEMBER ROCHE: I like that better,
20 actually.
21 ATTORNEY McLENDON: Yeah. That's how they
22 appoint judges to cases, usually, and they just say,
23 "You're on the wheel," and it comes to you.
24 What I would say on that is technically we
25 don't have to amend the ordinance per se, because

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1 having a standing list of hearing officers that had
2 basically been prequalified --
3 COUNCILMEMBER ROCHE: Right.
4 ATTORNEY McLENDON: -- could be done on a
5 policy level. You could say, "Clerk, maintain a list
6 of hearing officers and present them --
7 COUNCILMEMBER ROCHE: That's fine.
8 ATTORNEY McLENDON: -- you know, "according
9 to the list."
10 COUNCILMEMBER PACHUTA: And this is our fee.
11 ATTORNEY McLENDON: And our Clerk could call
12 them and say not available/available.
13 COUNCILMEMBER ROCHE: Right.
14 COUNCILMEMBER BATES: So let me ask this
15 question. Why would we not have a hearing officer for
16 all termination hearings? If we're wanting to get the
17 personalities out of the equation, why not eliminate
18 the Mayor from being involved with that? because the
19 Mayor may have known that employee for a long time or
20 have personal feelings. And to me, the hearing
21 officer creates that independent, neutral third-party
22 person that takes the emotion and the friendship out
23 of it.
24 Why not have that option in there as the
25 default versus the exception?

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1 ATTORNEY McLENDON: What we've done --
2 And I mean I could write that very easily.
3 And if you-all look at me and say, "Cecil, I want this
4 to be for any terminations, an appeal right on any
5 terminations whatsoever," that's very easy for me to
6 amend.
7 I can tell you that, you know, an appeal
8 right for termination is not something that is
9 necessarily required under the law, and you are really
10 creating rights for employees. That is not
11 necessarily a bad thing.
12 As an attorney, I can tell you I'll always
13 try to keep it as simple as possible.
14 So if the Mayor and Council said, "Cecil,
15 make this an appeal right for anyone that's terminated
16 with the City," I think I only need to scratch out
17 three words in here.
18 But that can get expensive. You know, there
19 are going to be policy considerations you want to look
20 to -- you know, the dedication of staff time, the
21 expense, you know, different things.
22 COUNCILMEMBER PACHUTA: And I guess I'm
23 probably the lone person on the other side where like
24 it's we're at-will; we don't need an appeal process at
25 all. If an employee was terminated illegally, there's

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1 already options out there that they could sue. But I
2 know I'm the only one that feels that way. So I tend
3 to be, want to be as narrow as possible.
4 COUNCILMEMBER BATES: Well, and I appreciate
5 that. But if they were terminated illegally, then
6 they're going to incur costs to try to rectify that
7 process; whereas, we could deal with that fairly
8 quickly with an internal process and a much less
9 expensive proposition.
10 ATTORNEY McLENDON: You know, a hearing
11 officer, that is one of the best arguments I've ever
12 heard for having the appellate rights on terminations
13 is that it is something that allows you to -- You
14 know, let's say something was occurring below, that
15 nobody was aware of. It gives a venue for that to
16 come forward. And you have a review of a third party
17 that might come back to you and say, "Hey guys. You
18 know, I know you had a termination but, you know, I
19 think you better look real closely at this one."
20 And that's the other side of what a hearing
21 officer can do for you is if you've got a problem
22 developing, they might head that off at the pass.
23 COUNCILMEMBER ROCHE: Yeah. And I think
24 that -- I mean since I started looking at this, I like
25 the idea of removing the Mayor from that, I mean,

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1 because the Mayor is ultimately the person making the
2 first decision, so you're basically appealing to the
3 same person who, you know, either --
4 ATTORNEY McLENDON: Well --
5 COUNCILMEMBER ROCHE: -- fired you or
6 whatever.
7 As far as the termination thing, I don't see
8 an appeal for terminations where a position has been
9 eliminated or if it's a layoff or a reduction in
10 staff, because, frankly, there's nothing to appeal for
11 because the position doesn't exist anymore.
12 ATTORNEY McLENDON: That is --
13 COUNCILMEMBER ROCHE: And so that, I would -
14 - you know.
15 ATTORNEY McLENDON: Well, that's the
16 distinction.
17 COUNCILMEMBER ROCHE: Right.
18 ATTORNEY McLENDON: When you come in and say
19 it's an appeal for some discipline -- I mean a
20 termination for some disciplinary --
21 COUNCILMEMBER ROCHE: For cause, right.
22 ATTORNEY McLENDON: -- purpose. And again,
23 we stayed away from "for cause."
24 COUNCILMEMBER ROCHE: Or whatever.
25 ATTORNEY McLENDON: Everybody jumped up and

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1 screamed when I had that language in there.
2 But what you're basically saying is yes, you
3 have an appeal if you have been terminated and there's
4 been some -- you know, you were terminated because;
5 however, if it is a reduction in force, that kind of
6 thing, then there is no appeal right on that.
7 I will tell you nothing in life is simple.
8 COUNCILMEMBER ROCHE: Right.
9 ATTORNEY McLENDON: And somebody will come
10 in and say, you know, work and --
11 And nothing's simple. There'll be
12 discussions --
13 COUNCILMEMBER ROCHE: But I guess --
14 ATTORNEY McLENDON: -- because no one will
15 come in and say it wasn't.
16 COUNCILMEMBER ROCHE: -- in my opinion, if
17 everyone did everything I wanted all the time, which
18 doesn't happen, but it would be the yes, we would use
19 a hearing officer but that Council could, as you said,
20 review the results from the hearing officer and
21 Council could --
22 ATTORNEY McLENDON: Under one of these
23 versions --
24 COUNCILMEMBER ROCHE: Under that version --
25 ATTORNEY McLENDON: -- that could happen.

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1 COUNCILMEMBER ROCHE: -- right. So they
2 still have, obviously, the legal options and all that.
3 But that's just that one stopgap to make
4 sure that there's not a ...
5 ATTORNEY McLENDON: Yeah. As long as I've
6 gotten this deep into it, you know my opinion on the
7 ordinance. I would love to see it go to the hearing
8 officer and the court just because it keeps all the
9 pressure off of you. It keeps the pressure of what
10 may not be permissible considerations off of y'all.
11 It's a hard place to be. And that's one of
12 the reasons you use it. Just me.
13 MAYOR PITTMAN: Anything additional,
14 Council?
15 COUNCILMEMBER ALEXANDER: Okay. We did not
16 pass this at the first reading so this would not be
17 passing at two consecutive meetings.
18 COUNCILMEMBER BATES: But we don't need to,
19 because this isn't the Charter.
20 MR. FELGIN: That's only the Charter
21 amendment.
22 COUNCILMEMBER ALEXANDER: Okay.
23 COUNCILMEMBER BATES: This is just an
24 ordinance.
25 COUNCILMEMBER ALEXANDER: Okay.

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1 COUNCILMEMBER BATES: Well, I'll make some
2 motions to modify this and we'll see how that goes.
3 COUNCILMEMBER ALEXANDER: First version?
4 COUNCILMEMBER BATES: The version dated --
5 Hold on.
6 ATTORNEY McLENDON: It might be good to say
7 the version that has the Mayor and Council review
8 versus the version without.
9 COUNCILMEMBER ALEXANDER: I'd rather have
10 the date if you don't mind.
11 COUNCILMEMBER ROCHE: Yeah. Which date was
12 which? Tell us that.
13 MR. FELGIN: The August 18th is the Mayor
14 and Council review; the August 5th is hearing officer
15 final.
16 COUNCILMEMBER BATES: Okay. I'm going to
17 make a motion on the August 5th draft to eliminate the
18 Mayor as a hearing officer. I'm not sure that I
19 phrased that correctly, but let me rephrase and let's
20 make sure we're on the same page.
21 ATTORNEY McLENDON: What we would do is just
22 say the Mayor shall appoint a hearing officer, and
23 then that is basically the same thing that the -- It
24 really already says that for the Council: that the
25 Council appoints a hearing officer.

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With the Mayor, you're seeking for it not to be discretionary and that to be: The Mayor shall appoint a hearing officer; if it's from the Mayor to the Council, the Council shall.

COUNCILMEMBER ROCHE: I'm almost thinking that we need to put into the ordinance the concept of the rotating hearing officers, because we have had issues in the past where the Mayor appointed a person that lived a hundred miles, you know, et cetera, et cetera. Because I mean, again, if the Mayor gets to appoint the hearing officer, you might as well just have the Mayor be the hearing officer in my opinion.

And I'm not saying that everyone's -- you know. Politics messes up everything.

ATTORNEY McLENDON: The Mayor shall.

COUNCILMEMBER BATES: Well, under section C, actually, I think it's fairly easy. Eliminate the last sentence before the numbered bullet points and you change the word Mayor in the previous sentence to by the appointed hearing officer.

Am I correct?

MR. FELGIN: I was going to suggest that --

COUNCILMEMBER ROCHE: I'll second that.

MR. FELGIN: -- what you're looking for is just to change the word Mayor to hearing officer and

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eliminate the next sentence.

COUNCILMEMBER BATES: Yes. Perfect.

MAYOR PITTMAN: Is that your motion?

COUNCILMEMBER BATES: That's my motion.

MAYOR PITTMAN: Do I get a second?

COUNCILMEMBER ROCHE: Second.

MAYOR PITTMAN: Discussion?

- - -

(No response)

- - -

ATTORNEY McLENDON: Okay. So that's one amendment we'd like to see.

COUNCILMEMBER BATES: Well, and to me, that change would transfer throughout the document and any place where it says Mayor it would change over to hearing officer.

ATTORNEY McLENDON: So that was a motion to amend it and --

MAYOR PITTMAN: And a second.

ATTORNEY McLENDON: -- it would be appropriate.

We have a second. Okay.

MAYOR PITTMAN: Additional discussion?

- - -

(No response)

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- - -

MAYOR PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: No.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

COUNCILMEMBER BATES: I do agree with Mr. Roche. I think we need to have some type of criteria in place on selecting and making sure that there's --

ATTORNEY McLENDON: Well, I've written that language before, and I think I can recommend at least something that might work for you if --

COUNCILMEMBER BATES: Yeah, I'm fine.

ATTORNEY McLENDON: Do you mind?

What I think I'm hearing is you would like to say the hearing officer shall be --

I have written them that said the hearing officer shall be an attorney with not less than three

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years experience, licensed to practice law in the state of Georgia, and then you state the Clerk shall maintain a list of qualified attorneys and the hearing officer shall be designated based upon their availability --

COUNCILMEMBER PACHUTA: Can we set a rate also? No more than?

ATTORNEY McLENDON: -- consecutively on the list.

The compensation of the hearing officer shall not exceed?

COUNCILMEMBER PACHUTA: I'm thinking one fifty.

ATTORNEY McLENDON: One fifty is going to be fine to get a very strong hearing officer, uh-huh.

We would be able to insert a section that just states the hearing officer in the correct location.

COUNCILMEMBER ROCHE: Is that a motion?

COUNCILMEMBER BATES: Yeah. I'm a little leery about doing that without seeing the language.

COUNCILMEMBER PACHUTA: Usually they'll come back to us with that language to look at, or do we need to ...

ATTORNEY McLENDON: If we could take a

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five-minute recess, I could write that out.
COUNCILMEMBER BATES: Mayor, could we have a 10-minute break?
MAYOR PITTMAN: Sure. Take 10 minutes and come back at 8:30.
- - -
(Brief recess)
- - -
MAYOR PITTMAN: Meeting come back to order. Okay, Mr. McLendon.
ATTORNEY McLENDON: Yes, Mayor, and I am --
MR. FELGIN: It would be subsection H, the very last thing.
ATTORNEY McLENDON: Okay. Very good. What we've done, Mayor -- and I believe the first amendment is still something that we need to draft, which is regarding the designee language.
But we have added a subsection H, and we've handed this out to everyone. And in subsection H, it states, "The Hearing Officer shall be an attorney with not less than three years experience in the practice of law, licensed by the State of Georgia. The City Clerk shall maintain a list of qualified Hearing Officers, and such Officers shall be appointed consecutively according to such list based upon

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availability. The compensation of such Hearing Officers shall not exceed $150 an hour."
So Melissa can get a list of attorneys. What we do is if we have a hearing, we begin going down the list, saying, "We have a hearing. Here's where we think the dates are. Are you available? It's $150 an hour." And the first one that says yes, we say, "Duly noted; you're it."
COUNCILMEMBER ROCHE: Motion to add subsection H to the -- Did we already do that?
MR. FELGIN: Not yet.
COUNCILMEMBER ROCHE: Motion to add subsection H to either version of the ordinance that we end up passing. How's that?
MAYOR PITTMAN: Do I get a second?
COUNCILMEMBER ALEXANDER: It's version August 5.
COUNCILMEMBER ROCHE: Well, if we --
ATTORNEY McLENDON: I may ask to put a header on that that just states "Hearing Officer Qualifications" as well, just to be consistent with the rest of the ordinance.
COUNCILMEMBER ROCHE: I'll amend my motion to allow a heading, hearing officer.
COUNCILMEMBER BATES: Second.

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MAYOR PITTMAN: Discussion?
COUNCILMEMBER FLEMING: So this is the only criteria we're going to have for the hearing officer?
ATTORNEY McLENDON: That's the only criteria I came up with right there.
And again, you've got an objective process. The Clerk can maintain this registry. Three years experience, that -- actually, you know where that language comes from is that comes from the Special Master Act for the acquisition of (inaudible). I've seen that so many times. So this is --
THE REPORTER: I didn't hear you. Special Master what?
ATTORNEY McLENDON: The Special Master Act under Georgia law. It sort of tracks that language.
You can add criteria. We can certainly do it.
COUNCILMEMBER FLEMING: Well, I was just -- you know, if we're going to take personalities out of the hearing, such as Mayor and Council, then would we not at least have a safeguard in here about the hearing officer being a family member, et cetera, et cetera?
COUNCILMEMBER BATES: I mean there should be -- I agree. There should be a conflict.

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COUNCILMEMBER FLEMING: Conflict of interest type thing.
ATTORNEY McLENDON: The Georgia Bar rules require that an attorney not have a conflict. I mean we can put a --
COUNCILMEMBER FLEMING: You know, bear in mind I'm just asking the question. I'm not in favor of a hearing officer at all, so you know what my vote's going to be.
But my question is the criteria of conflict.
ATTORNEY McLENDON: My first response is there are conflict rules that I am -- just as an attorney, if I came into it and I was the hearing officer and it was somebody that I had some relationship with, I would have to raise that myself. It's a duty of being an attorney.
That being said, we could add language in to that effect if everyone thinks that is a good idea. You know, I'm open to suggestions.
COUNCILMEMBER FLEMING: I just asked the question. I'll let somebody else.
COUNCILMEMBER BATES: If that's a legal expectation that an attorney recuses themselves if they're in a conflict, then I think the State Bar has a little bit more authority than we do.

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ATTORNEY McLENDON: It would generally be enough.
COUNCILMEMBER BATES: But I agree with Ms. Fleming. I think that struck a nerve. But if that's already covered under the Bar --
COUNCILMEMBER PACHUTA: And I think, too, with the list, since we're going to maintain a list of attorneys, if there is a known conflict, even before we get to that point, just skip over that person.
ATTORNEY McLENDON: What I might would suggest -- And I mean as I'm listening to it, I'm thinking, how am I going to create the list? I would have Melissa probably call the attorneys who hold themself out as municipal attorneys or, you know, administrative law attorneys, and ask them, "Do you want to be on our list?" and they're going to say, "Sure, put me on the list." So we can get up a list pretty easy with a few phone calls.
I can tell you in the ethics ordinance I drafted, the way I dealt with that -- and I don't know if you want to go there, but the way I dealt with it is I said it shall be an attorney with this experience who shall not have an office within five miles of the city limits, because what I was doing is saying I need somebody that's not local, somebody that will, you

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know, have some distance from the city. Just a thought, I've done it before, but up to y'all.
MAYOR PITTMAN: Council?
COUNCILMEMBER BATES: I'm comfortable as it reads, Mr. Roche.
COUNCILMEMBER ROCHE: I'm fine.
Did we vote yet?
COUNCILMEMBER BATES: And then just to --
MAYOR PITTMAN: No.
COUNCILMEMBER BATES: No, we haven't on that.
COUNCILMEMBER ROCHE: Okay. That's what I thought.
ATTORNEY McLENDON: Where are we?
MAYOR PITTMAN: Do you wish to make a motion?
COUNCILMEMBER FLEMING: We made a motion.
COUNCILMEMBER ROCHE: We've got a motion and a second.
COUNCILMEMBER FLEMING: I was in discussion.
COUNCILMEMBER BATES: We got a motion and a second on adding H.
ATTORNEY McLENDON: Subsection H.
MAYOR PITTMAN: So we don't need to add anything additional to that motion?

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ATTORNEY McLENDON: I'm okay. What we've got is we've got the main motion on the floor and we're amending sections as we go.
MAYOR PITTMAN: Okay.
ATTORNEY McLENDON: So this is an amendment of the main motion, to add subsection H.
MAYOR PITTMAN: Okay. Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes. Thank you.
MAYOR PITTMAN: Thank you.
COUNCILMEMBER ROCHE: To me, the next main thing is looks like paragraph D as far as the appeal process and essentially who gets the last word. And I'm looking at the August 5 version and the August 18th version. And I generally feel like that once the hearing officer renders an opinion or whatever that

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the Council should get the last word, because it is a separation of government entities, you know, the Council versus the executive branch.
COUNCILMEMBER PACHUTA: I think Council needs to remove themselves from these personnel decisions particularly when it's not -- you know, and we tend to hire department heads, but I think we need to get away from these appeals.
COUNCILMEMBER ROCHE: Well, I guess the reason I say that is from the experience where we had an employee that was, I believe and the Council believed, wrongly terminated from the library, and there was a hearing, and it did come before the Council and we were able to reinstate that employee.
And it was a difficult decision and all that, but I still think that -- again, I wouldn't want to just -- I would much prefer to at least have that as a last, final option before they have to go to Superior Court.
COUNCILMEMBER PACHUTA: But I think, again, that was a political event because there was nothing illegal about that employee's termination; it was perfectly legal but a lot of the community did not appreciate it because they liked that particular employee.

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1 And I think we need to get away from those
2 political decisions, and what the hearing officer is
3 there to do is to determine whether that was a legal
4 or an illegal firing, and if it's legal, you know,
5 it's upheld.
6 COUNCILMEMBER ROCHE: Well, in that
7 particular case, I don't think it was political. I
8 think that the employee was wrongly fired, and that's
9 why the Council voted to reinstate that employee.
10 But, you know, we can go on and on for that
11 all day long, and I can argue both sides, frankly, but
12 I'm just saying which way I lean on this.
13 COUNCILMEMBER PACHUTA: I'm not in favor of
14 it going to Council. I think it needs to stop at the
15 hearing officer. That's the objective criteria and
16 the objective review, and you're taking out politics
17 and personalities from the review.
18 I mean I don't think the appeals even need
19 to come anywhere, being an at-will employer, but we
20 need to remove ourselves from this.
21 COUNCILMEMBER BATES: Yeah, and I'm somewhat
22 in the middle. I guess part of me wants to have that
23 final option with the independent third party's
24 recommendation. The other part of me says, what good
25 would that do? If you've got an independent third

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1 party who has been retained by the City to render a
2 legal opinion, why would it need to come to us?
3 because there's nothing more to consider.
4 So I'm torn leaning on the moving it right
5 to the Superior Court.
6 COUNCILMEMBER ROCHE: Well, how about this:
7 Once the -- and maybe that's what the language says in
8 so many words, but it says Council shall consider said
9 recommendation at executive session next regular --.
10 I mean we can certainly vote to do nothing, in which
11 case the decision of the hearing officer would stand.
12 COUNCILMEMBER PACHUTA: And that's the thing
13 we need to get away from. We need to get away from
14 these day-to-day operational items. We need to get
15 away from this employee stuff.
16 You know, we're an at-will employer. Things
17 become political. And the intent of having a hearing
18 officer is to have that objective criteria: was the
19 department head's decision or the Mayor's decision
20 proper and legal, yes or no?
21 And they're making that decision, and if the
22 employee decides to appeal that decision, we are then
23 not a part of it.
24 COUNCILMEMBER FLEMING: But then if I
25 understand correctly what the ordinance is reading and

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1 what you've indicated, Ms. Pachuta, the only thing
2 that the hearing officer would decide is whether there
3 was an error in fact or wrongfully terminating.
4 COUNCILMEMBER PACHUTA: Uh-huh, correct.
5 COUNCILMEMBER FLEMING: I totally disagree.
6 Again, everyone knows my opinion on this. There are a
7 lot of gray areas. There is a yes to be terminated,
8 there is a no to be terminated, but there is a gray
9 area where I do feel that we need to bring in past
10 experiences, that it shouldn't be just based on a
11 singular situation.
12 ATTORNEY McLENDON: We --
13 COUNCILMEMBER FLEMING: So I just really
14 have -- so I just should be very quiet now and --
15 COUNCILMEMBER PACHUTA: And you know, most
16 of these --
17 COUNCILMEMBER FLEMING: -- let you guys pass
18 the ordinance.
19 COUNCILMEMBER PACHUTA: Most of these are
20 going to be people below the department head. So one,
21 we have to at some point trust our department heads to
22 make proper, legal, employment decisions.
23 If we think department heads are not doing
24 that, then we have a bigger problem.
25 Then, the employee -- we're giving them that

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1 choice: Hey, I think my department head made the
2 wrong decision.
3 And then we're having a legal professional
4 oversee that, okay: did the department head make the
5 correct decision? was this legal and justified? Yes
6 or no?
7 ATTORNEY McLENDON: Just to that point, just
8 relevant to look at, the burden is on the City. The
9 burden is on the decision maker. So it states that
10 the burden of proof shall be on the supervisor,
11 director, or basically whoever's made the decision.
12 So when the hearing officer is looking at
13 it, they're saying, City, you got to meet your burden
14 in the case. So you know, the City has that
15 affirmative duty on it.
16 The language we put in regarding modifying
17 the discipline was something we carried over out of
18 the previous ordinance. A little bit on the comment
19 of when you told me, you know, the previous ordinance
20 had a lot of stuff we had put some thought into, I
21 went back and I made sure I got the things that I
22 thought looked important, and that standard of
23 modifying discipline was one that was in what y'all
24 had before, which was error of fact or nonjob-related
25 motivation.

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1 COUNCILMEMBER FLEMING: Chief, I'm going to
2 use you as an example, okay.
3 If Mayor Pittman decided tomorrow to
4 terminate Chief King, okay, he would then have to go
5 to an appeal officer to appeal is the way I understand
6 all this.
7 COUNCILMEMBER PACHUTA: Yes.
8 COUNCILMEMBER BATES: Yes.
9 COUNCILMEMBER FLEMING: And it'll be up to
10 the appeal officer to make a decision as to whether he
11 was legally terminated or not. And if he was, we
12 don't have any say.
13 COUNCILMEMBER BATES: That's correct.
14 COUNCILMEMBER PACHUTA: Correct.
15 COUNCILMEMBER FLEMING: I have a problem
16 with that.
17 COUNCILMEMBER BATES: But the Mayor would
18 have to provide the hearing officer with the evidence,
19 the information, the reason, everything that's
20 outlined in our employee handbook on disciplinary
21 action, everything that's --
22 COUNCILMEMBER FLEMING: Not necessarily.
23 We're an at-will city.
24 COUNCILMEMBER BATES: Not by doing an appeal
25 process.

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1 COUNCILMEMBER PACHUTA: The appeal process
2 is for cause.
3 COUNCILMEMBER BATES: There's got to be
4 cause. So you know, there's --
5 COUNCILMEMBER FLEMING: So Ms. Pachuta, are
6 you telling me if we terminate without cause, he
7 doesn't have a right to appeal?
8 COUNCILMEMBER PACHUTA: I believe it's
9 written only for cause.
10 COUNCILMEMBER ROCHE: Right.
11 COUNCILMEMBER FLEMING: See? So Chief, if
12 we decide just to terminate you, buddy, because you
13 didn't do anything wrong, you don't have any right to
14 appeal.
15 COUNCILMEMBER PACHUTA: He doesn't really
16 have that --
17 CHIEF KING: I won't comment.
18 COUNCILMEMBER PACHUTA: -- right anyway, I
19 mean, if it's not --
20 COUNCILMEMBER ROCHE: Well, this says -- and
21 one quick question. I mean the Charter does say that
22 the Council has the right to hire and fire and
23 discipline, and that's not changing whatsoever.
24 So I guess arguing against the point I made
25 a minute ago, if the Council chose to replace a

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1 department head, then I could see where the Council
2 wouldn't be the appropriate body to address an appeal.
3 MAYOR PITTMAN: Excuse me for just a minute.
4 It is almost 9 o'clock. The Council needs to make a
5 decision how far they want to go on this agenda, and
6 we do need to be sure to get the resolution on there
7 if nothing else, and obviously --
8 COUNCILMEMBER BATES: Well, we've got three
9 more items and I don't think there's going to be
10 anything in item four.
11 So I'll make a motion to extend the meeting
12 to complete the agenda.
13 MAYOR PITTMAN: Okay. Do I get a second?
14 COUNCILMEMBER FLEMING: Second.
15 MAYOR PITTMAN: Discussion?
16 - - -
17 (No response)
18 - - -
19 MAYOR PITTMAN: Call the roll, please.
20 CLERK McCAIN: Councilmember Alexander?
21 COUNCILMEMBER ALEXANDER: Yes.
22 CLERK McCAIN: Councilmember Bates?
23 COUNCILMEMBER BATES: Yes.
24 CLERK McCAIN: Councilmember Fleming?
25 COUNCILMEMBER FLEMING: Yes.

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1 CLERK McCAIN: Councilmember Pachuta?
2 COUNCILMEMBER PACHUTA: Yes.
3 CLERK McCAIN: Councilmember Roche?
4 COUNCILMEMBER ROCHE: Yes.
5 COUNCILMEMBER FLEMING: Chief, I was just
6 using you as an example.
7 CHIEF KING: Understood, ma'am. It's okay.
8 COUNCILMEMBER FLEMING: That's all I was
9 doing.
10 COUNCILMEMBER BATES: An historical example.
11 COUNCILMEMBER PACHUTA: And as the last
12 Council learned, there are political consequences in
13 making unpopular employment decisions sometimes. You
14 know, if we terminated Chief for no reason or, you
15 know, because he's at-will and said we're going to
16 move in a different direction, we'd face the political
17 consequences. I mean those are the consequences for
18 us.
19 But you know, at some point, we've got to
20 get out of this day-to-day management, and most of the
21 time, this is dealing with lower level employees.
22 COUNCILMEMBER ROCHE: Well, as always, I
23 agree with Councilwoman Pachuta.
24 I'd like to make a motion to past draft
25 labeled 5 August 2011 of the appeals ordinance, 2011-

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1 35, which would not allow for an appeal process to the
2 City Council or the Mayor.
3 MAYOR PITTMAN: Do I get a second?
4 COUNCILMEMBER PACHUTA: Are we passing the
5 ordinance or just voting on which version that we're
6 going -- because I think there was --
7 COUNCILMEMBER ROCHE: Well, that's why I
8 said "this version," the version of --
9 COUNCILMEMBER PACHUTA: But we're not --
10 ATTORNEY McLENDON: Where we are --
11 COUNCILMEMBER PACHUTA: -- passing?
12 ATTORNEY McLENDON: Where we are in this --
13 It got complicated.
14 Where we were was we had come up with the
15 motion, basically the amendment to amend it to have it
16 go back to the Mayor and Council. And what I'm
17 hearing -- The whole thing started on that version of
18 it.
19 COUNCILMEMBER ROCHE: Yeah.
20 MR. FELGIN: It started on the hearing
21 officer and the process.
22 ATTORNEY McLENDON: Right.
23 COUNCILMEMBER ROCHE: Yeah.
24 ATTORNEY McLENDON: We're on the hearing
25 officer and process. So we're on that.

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1 We made the one amendment on designee. We
2 have added another amendment adding section H, and
3 then you made a motion to add the language that would
4 make it go back to the Mayor and Council, and I'm
5 hearing that that's --
6 COUNCILMEMBER ROCHE: I don't think I made a
7 motion to do that.
8 MR. FELGIN: No, he never made that motion.
9 ATTORNEY McLENDON: Oh, okay.
10 COUNCILMEMBER ROCHE: I'm convinced that I'm
11 hungry. So anyway, I made the motion.
12 MR. FELGIN: I don't think there's another
13 motion that needs to be made. We're still in the
14 middle.
15 ATTORNEY McLENDON: And you can vote on the
16 main motion.
17 COUNCILMEMBER ROCHE: To pass the
18 ordinance --
19 ATTORNEY McLENDON: Yes.
20 COUNCILMEMBER ROCHE: -- in that state with
21 H.
22 ATTORNEY McLENDON: As amended.
23 COUNCILMEMBER BATES: My concern is that
24 this -- I think this is a first reading and we've made
25 some significant, I think, changes to the ordinance --

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1 i.e., removing the Mayor from the appeal as a hearing
2 officer, designating a hearing officer, putting some
3 language in there.
4 My personal preference would be to make a
5 motion to select the version that goes back to Council
6 to clean up, and then we'd come back on the 22nd with
7 a clean version to adopt. That would be my personal
8 preference.
9 ATTORNEY McLENDON: We've made a lot of
10 changes.
11 COUNCILMEMBER ROCHE: I'll withdraw my
12 motion in favor of Councilman Bates' motion to accept
13 draft dated 5 August 2011.
14 MAYOR PITTMAN: But yours was a second.
15 COUNCILMEMBER ROCHE: I'm sorry?
16 MAYOR PITTMAN: Didn't you make the motion?
17 COUNCILMEMBER PACHUTA: No, he made it.
18 MAYOR PITTMAN: Who --
19 COUNCILMEMBER BATES: I'll make the second.
20 Mr. Roche's initial motion was never
21 seconded, so he withdrew it, made a new motion, and
22 I'm seconding that motion.
23 MAYOR PITTMAN: There we go.
24 ATTORNEY McLENDON: But what we've just
25 decided was that we want now to say, Cecil, I've given

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1 you a bunch of direction. Please go make those
2 changes, bring this back as the second reading on the
3 22nd.
4 COUNCILMEMBER ROCHE: To the version dated -
5 ATTORNEY McLENDON: Yeah.
6 COUNCILMEMBER ROCHE: -- 5 August 2011.
7 COUNCILMEMBER BATES: Just to clarify, is
8 the version that takes it right from the hearing
9 officer to the Superior Court, writ of certiorari.
10 COUNCILMEMBER ROCHE: Right.
11 ATTORNEY McLENDON: Yes.
12 COUNCILMEMBER ALEXANDER: Because I guess
13 one of my concerns is I had additional questions as
14 far as when you're removing the Mayor and inserting
15 the hearing officer. For example, under section three
16 when it talks about witness list, are those to be
17 supplied to the hearing officer now --
18 ATTORNEY McLENDON: The hearing officer.
19 COUNCILMEMBER ALEXANDER: -- and not the
20 Mayor?
21 MR. FELGIN: Uh-huh.
22 COUNCILMEMBER ALEXANDER: Okay.
23 ATTORNEY McLENDON: Yeah. That's a big
24 deal.
25 COUNCILMEMBER BATES: So all of those

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1 changes.
2 COUNCILMEMBER ALEXANDER: So you're going to
3 go through and clean all that up.
4 ATTORNEY McLENDON: Yes.
5 COUNCILMEMBER ALEXANDER: Okay.
6 MAYOR PITTMAN: Additional discussion?
7 CLERK McCAIN: Is this coming back on the
8 22nd or on the 6th?
9 COUNCILMEMBER BATES: 22nd.
10 CLERK McCAIN: Thank you.
11 ATTORNEY McLENDON: Do we not have a meeting
12 on the 22nd?
13 MR. FELGIN: No, because I thought they
14 passed an ordinance to remove that.
15 COUNCILMEMBER ALEXANDER: We do have a
16 meeting on the 22nd. We have been requested by the
17 Clerk to have a special-called meeting.
18 COUNCILMEMBER BATES: So I'm sorry, the 6th.
19 Where are we? We're on the 15th. Yeah, that would be
20 next Monday.
21 MAYOR PITTMAN: Additional discussion?
22 - - -
23 (No response)
24 - - -
25 MAYOR PITTMAN: Call the roll, please.

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1 CLERK McCAIN: Councilmember Alexander?
2 COUNCILMEMBER ALEXANDER: Yes.
3 CLERK McCAIN: Councilmember Bates?
4 COUNCILMEMBER BATES: Yes.
5 CLERK McCAIN: Councilmember Fleming?
6 COUNCILMEMBER FLEMING: Yes.
7 CLERK McCAIN: Councilmember Pachuta?
8 COUNCILMEMBER PACHUTA: Yes.
9 CLERK McCAIN: Councilmember Roche?
10 COUNCILMEMBER ROCHE: Yes. Thank you.
11 MAYOR PITTMAN: Thank you. Nothing else on
12 this item?
13 Okay. Next is pension plan. I am working
14 on that. That is not something we want to work on
15 quickly, and if you could just keep it moving on the
16 agenda, I would appreciate it.
17 COUNCILMEMBER PACHUTA: What is the status
18 of looking into enhanced early retirement? because I
19 know at least one department head was hoping to use
20 that instead of potential layoffs.
21 MAYOR PITTMAN: We are looking into that as
22 we move through the process and even tonight later in
23 the meeting we will be talking about it.
24 COUNCILMEMBER PACHUTA: Because I think
25 there's only six weeks before the deadline.

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1 MAYOR PITTMAN: We know. We got it. Thank
2 you.
3 All right. Next on the agenda is going to
4 be the foreclosure registry.
5 This is to bring to you for just discussion,
6 input for you, the information that or questions you
7 may have. I've been working with Dekalb County and
8 speaking with them for several weeks. Mr. McLendon
9 and I actually had a conference call with them. You
10 know, the lack of adequate maintenance and security of
11 these foreclosed homes, and, oftentimes, it's a real
12 challenge for our police department and quality of
13 life to locate who really owns these; and if they are
14 required to register, as Dekalb County has implemented
15 -- they have some challenges, had some challenges, and
16 they are working through those.
17 But I just wanted to get it on to keep it
18 moving so at some point we could come to a conclusion
19 of how we wanted to deal with this. But I think it's
20 a good thing for the city, just wanted to get input
21 and, again, keep it rolling on the agenda.
22 COUNCILMEMBER BATES: Mr. McLendon, there's
23 House Bill 110 which has been introduced at the state
24 legislature. How would that impact Dekalb's
25 foreclosure registry as well as the city if we were to

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1 pass one?
2 ATTORNEY McLENDON: What we've had -- and as
3 I'm looking at 110, it states that a municipality or a
4 local government or a county can implement a
5 foreclosure -- basically a registry, but it has some
6 strict criteria about how that registry -- the
7 information that can be required and the amounts that
8 can be charged.
9 So if that passes, if you --
10 Go ahead. I'm sorry.
11 MAYOR PITTMAN: I'm sorry. The lady from
12 the County said it died, House 110 died.
13 ATTORNEY McLENDON: Right. If it comes to
14 life -- I don't know if it will, but if it came to
15 life, what would happen is if we passed an ordinance,
16 whatever it said, if they passed it, they got
17 something like that through the legislature, to the
18 extent that our ordinance was inconsistent with it, it
19 would be void, frankly.
20 What we'd have to do is go make sure our
21 ordinance was consistent with it if it passed.
22 COUNCILMEMBER BATES: Would it behoove us in
23 this process to work on an ordinance that mirrors the
24 State information under that?
25 Because what I would be concerned about is

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if we passed Ordinance X and it was inconsistent with a future State ordinance -- because my guess is is that whoever introduced it is probably going to reintroduce the same or a similar bill with similar criterias -- if we go through and pass something that's entirely different and then that gets passed, then we've created work that we don't need to create.

ATTORNEY McLENDON: This was my first -- you know, when the Mayor brought it up, the first time I had looked at the foreclosure registry and seen it in Dekalb County.

Yes, that is correct. To the extent we passed it and it was inconsistent and, you know, for some reason, it moved through the legislature and they passed it, we'd have to amend our ordinance.

Practically speaking, when I look at the foreclosure registry ordinance, what it's really doing is the big push of the ordinance as written is to get a responsible party, and it's basically saying if you ended up being the owner of a foreclosed property, you got to give me a responsible party. And really it's for enforcement purposes, because the problem you run into in foreclosed properties is, you know, it's a bank from California and there's no local agent and nobody who's responsible, so this says: You have to

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give us a responsible party.

To the extent that's all it requires, what I see them doing is not hugely complicated but it would be difficult to bring it into alignment. I could take the ordinance Dekalb has and align it with this State law and, frankly, achieve the same objectives, I believe.

COUNCILMEMBER BATES: Well, my second question would be, Mayor, since you've been in communication with Dekalb, would they be willing to serve as the entity of which to register the properties in the city --

MAYOR PITTMAN: Actually --

COUNCILMEMBER BATES: -- with and not have us pass our own foreclosure registry but fall under the County's?

MAYOR PITTMAN: That has been our most recent conversation with them, so she can't speak for the higher-ups, but it was a thought process between she and I --

COUNCILMEMBER BATES: And if --

MAYOR PITTMAN: -- and through even an IGA she was talking about.

COUNCILMEMBER PACHUTA: Well, are they currently only registering foreclosures in

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unincorporated Dekalb?

MAYOR PITTMAN: That is correct.

COUNCILMEMBER BATES: I mean if they've already got the mechanism and the process in place --

MAYOR PITTMAN: That's correct.

COUNCILMEMBER BATES: -- then it doesn't seem to make sense for us to recreate the wheel if we can through an IGA fall under their registry process.

ATTORNEY McLENDON: After speaking with the folks at Dekalb County, the one thing that struck me is they had taken an awful lot of effort to make sure everyone was aware, all the lenders and probably the regular players in the market were aware of their registry.

One of the concerns I had is if we pass the Doraville registry, we really don't have the resources like the County did to publish it out there. Apparently, they went to their real estate records and sent --

MAYOR PITTMAN: They did.

ATTORNEY McLENDON: -- a notice to everyone.

Actually, I like that idea. We'd have to look at an IGA, but it would probably be very simple through an IGA for Dekalb to suddenly come in and on their registry say, hey, by the way, Doraville is

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included; put it in here as well.

COUNCILMEMBER BATES: That would be my preference if y'all can -- I mean not to speak for the rest of the Council, but that's my preference.

ATTORNEY McLENDON: We would have to --

MAYOR PITTMAN: That's a good idea.

COUNCILMEMBER ROCHE: We had a recent issue where someone had gone to closing, bought a house and then found out, "Guess what? You owe Doraville money," and the closing attorney said, "How would I ever know this?" So I like the idea of going with the County.

COUNCILMEMBER ALEXANDER: When this first came up a year or so ago, there are challenges with Dekalb County. I don't know how successful they are being. There are also legal challenges, I believe, that one of the Dekalb County judges themselves did not like the way the ordinance was written and basically said that it's full of ambiguity about how to enforce it.

MAYOR PITTMAN: And we did talk about that, so they are working through that.

COUNCILMEMBER ALEXANDER: I would like to find out how everything is being rectified, what steps they're taking, before we initiate our own and

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1 duplicate their errors.
2 ATTORNEY McLENDON: One thing in talking
3 with the folks at the County is they said they were
4 currently revising their ordinance. And we would want
5 to be in the latest revision.
6 Mr. Felgin just brought up the fact that,
7 you know, we'd have to look at the Dekalb ordinance.
8 And if they're willing to work with us, that would be
9 great, but we might need to make sure their ordinance
10 doesn't need some amendment as well.
11 But if the instruction is to go forward and
12 talk to the County about --
13 MAYOR PITTMAN: Let's you and I do that.
14 ATTORNEY McLENDON: -- a cooperative --
15 MAYOR PITTMAN: Yeah.
16 ATTORNEY McLENDON: -- I think that's
17 something that we can definitely do.
18 MAYOR PITTMAN: Okay. Just keep it rolling
19 on the agenda, and we'll get back.
20 But we can do that, Mr. McLendon. Thank
21 you.
22 Anything else?
23 CLERK McCAIN: Just to clarify, you'd like
24 that on the 22nd or on the 6th?
25 MAYOR PITTMAN: On the 6th. I'm sorry.

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1 Thank you.
2 Okay. Next is going to be the first reading
3 of the amendment to Sanitation Code. It was brought
4 to our attention that the garbage cans were being --
5 when I guess they revised that ordinance, that they
6 did not include the time.
7 I think they want -- there were some
8 suggestions of making it later than 7 o'clock as
9 listed on this ordinance, because a lot of people do
10 not get in until later. There were some suggestions
11 to 9 o'clock, suggestions till the next morning. Just
12 wanted to get your opinion on that.
13 COUNCILMEMBER BATES: My preference is the
14 next business day. If it's 10 o'clock at night, we're
15 not going to have our police officers out there
16 issuing citations at 11 o'clock at night because your
17 garbage can's sitting out there. So the next business
18 morning makes perfect sense to me.
19 COUNCILMEMBER FLEMING: With no time? No
20 time listed?
21 COUNCILMEMBER ALEXANDER: But in Oakcliff,
22 that would be from Friday to Monday, so that's not
23 acceptable to me.
24 COUNCILMEMBER BATES: The next day?
25 COUNCILMEMBER ALEXANDER: Also there was

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1 time in there when the garbage can be put out. Is
2 that still in the ordinance as it is codified
3 currently?
4 CLERK McCAIN: I believe that that portion
5 is still in there.
6 The only part that was left out was the 7:00
7 p.m. to remove it from the curb.
8 MAYOR PITTMAN: Is there a certain time the
9 next morning, that you want by 10 o'clock? by 9
10 o'clock?
11 COUNCILMEMBER PACHUTA: By 8:00 a.m.
12 COUNCILMEMBER BATES: Ah.
13 COUNCILMEMBER PACHUTA: 7:00 a.m.?
14 COUNCILMEMBER BATES: Ms. Fleming?
15 COUNCILMEMBER FLEMING: My thought was 7:00
16 a.m., but that's entirely up to you guys.
17 COUNCILMEMBER BATES: You early birds, I
18 don't know. What was in my head was 9 o'clock, but
19 I'm good to --
20 COUNCILMEMBER FLEMING: 9:00 is fine.
21 COUNCILMEMBER BATES: If we could have 9
22 o'clock the next day.
23 MAYOR PITTMAN: Chief?
24 CHIEF KING: Just want to make sure that I
25 understand. If you take it out, you put it out there,

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1 right now, currently, the ordinance calls for 5
2 o'clock in the afternoon to put out the cans.
3 That would mean the next day at 9 o'clock?
4 COUNCILMEMBER PACHUTA: No, the next.
5 COUNCILMEMBER FLEMING: No, no, no, no.
6 COUNCILMEMBER PACHUTA: The day after
7 pickup.
8 CHIEF KING: That's what I want to make
9 sure, that we're all on the same page. Basically, a
10 24-hour.
11 COUNCILMEMBER FLEMING: The day following
12 the pickup.
13 COUNCILMEMBER BATES: Yes.
14 COUNCILMEMBER FLEMING: 9:00 a.m. of the day
15 following the --
16 CHIEF KING: That will work.
17 COUNCILMEMBER FLEMING: -- regularly-
18 scheduled pickup.
19 CHIEF KING: All right. Thank you for
20 clarifying that.
21 COUNCILMEMBER BATES: Yep.
22 MAYOR PITTMAN: This is first reading. Do
23 we want to put that language in and bring it back or
24 do we want to waive the first reading and go ahead and
25 move forward with it?

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1 COUNCILMEMBER BATES: I'm fine with having
2 it on this next.
3 COUNCILMEMBER PACHUTA: Yes, that's fine.
4 COUNCILMEMBER ALEXANDER: So did you guys
5 get the language?
6 MR. FELGIN: (Nods head)
7 MAYOR PITTMAN: Next on the agenda is the
8 resolution.
9 COUNCILMEMBER BATES: Thank you. As many
10 people realize, they're in the process of gerryman- --
11 redrawing the districts. And you know, 10 years ago
12 the Democrats did it, and now it's the Republicans'
13 turn, and 10 years from now it'll be the Democrats
14 again.
15 But anyway, my main concern when I reviewed
16 this was -- And it was very difficult to understand
17 these maps, but I did check. Essentially, it splits
18 Doraville in half between two House districts. In
19 fact, the northern House district will probably be one
20 party and the southern House district may well be
21 another party.
22 So as a Council, if we pass things that need
23 to be sent up to the Statehouse to be passed, instead
24 of one House district representative, we'd have to
25 worry about two; and if they don't like each other,

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1 you know, I don't want Doraville's business to get
2 tied up in Statehouse politics.
3 Secondly, we're called a -- where is the
4 phrase in here? -- we're a community of interest,
5 which means as the city of Doraville within the city
6 limits, we all have corresponding interests and we
7 shall be treated basically the same way.
8 So I requested -- and I know Councilman
9 Bates has also spoken to our House district rep.,
10 Elena Parent, about this -- that the Council send a
11 clear message to those who are doing this
12 redistricting in the form of a resolution in this
13 case, that whichever way it goes, at least that the
14 city of Doraville all be contained within one House
15 district.
16 And I've had a chance to read over the
17 resolution. It looks fine to me.
18 I assume it's okay from a legal --
19 ATTORNEY McLENDON: Fine, yes.
20 COUNCILMEMBER ROCHE: -- standpoint?
21 So I would hope that the Council would pass
22 a motion to adopt this resolution which may be
23 delivered in person by our Mayor tomorrow morning or
24 tomorrow in a meeting.
25 COUNCILMEMBER PACHUTA: Can we verify

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1 something real quick? Because I thought Chamblee was
2 also being split, and this says --
3 COUNCILMEMBER BATES: It looks to me -- and
4 the information that I got from Representative Parent
5 was that Chamblee was also split --
6 COUNCILMEMBER ROCHE: Right.
7 COUNCILMEMBER BATES: -- as was Decatur.
8 COUNCILMEMBER PACHUTA: And the way this
9 reads, it says city of Chamblee included in the
10 proposed District 79.
11 COUNCILMEMBER ROCHE: Well, yeah, I saw
12 that. I mean --
13 COUNCILMEMBER BATES: Well, Chamblee --
14 COUNCILMEMBER ROCHE: -- I'm not sure we
15 need to worry about Chamblee.
16 COUNCILMEMBER BATES: Well, I agree.
17 COUNCILMEMBER FLEMING: But that's where
18 your community of interest came in --
19 COUNCILMEMBER BATES: Right.
20 COUNCILMEMBER ROCHE: Well, I agree with
21 that.
22 COUNCILMEMBER FLEMING: -- was because we
23 are sharing the property of GM. I mean they're
24 backing to it and we're fronting to it, and so we are
25 going to --

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1 COUNCILMEMBER BATES: They actually split
2 Chamblee into three districts.
3 COUNCILMEMBER PACHUTA: Yeah. I think we
4 need to -- if we're going to put city of Chamblee with
5 all -- we have in here, with all the city of Chamblee
6 included in the proposed District 79, and I'm not sure
7 that that's accurate.
8 COUNCILMEMBER ROCHE: I'm just not sure that
9 that's our -- I mean maybe Chamblee wants to be in
10 three different districts. I don't know.
11 That was the only thing I was concerned
12 about. I mean should we be passing resolutions about
13 Chamblee?
14 COUNCILMEMBER BATES: Well, I don't disagree
15 with that.
16 COUNCILMEMBER PACHUTA: I don't disagree
17 with that either.
18 COUNCILMEMBER ROCHE: Yeah.
19 COUNCILMEMBER PACHUTA: I would almost
20 rather take Chamblee out of this.
21 COUNCILMEMBER ROCHE: I think that that's --
22 MAYOR PITTMAN: We can do that.
23 COUNCILMEMBER ROCHE: -- reasonable.
24 COUNCILMEMBER ALEXANDER: Well, we want to
25 be the communities of interest, though.

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COUNCILMEMBER FLEMING: Correct.
COUNCILMEMBER ALEXANDER: So what if you just put a period after divide the cities of Doraville and Chamblee into House District 79 and 81 and delete with all the city of Chamblee included proposed 79?
You know what I'm saying? Just make that the end of that paragraph. Do you understand?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER PACHUTA: Well, I want to make clear too it's not that -- Because then it reads to me more like Doraville's going to be 79 and Chamblee's going to be 81, and I want to make it very clear that Doraville itself is being split, with Donna's neighborhood going to Dunwoody.
COUNCILMEMBER BATES: Well, it does. It does. It says and the city of Doraville split with southern portions of District 79 and northern --
That's actually reversed.
COUNCILMEMBER PACHUTA: I thought that's what she was saying to delete.
COUNCILMEMBER BATES: No. She was --
COUNCILMEMBER PACHUTA: Oh, okay.
COUNCILMEMBER BATES: -- saying to delete the with all the city of Chamblee.
COUNCILMEMBER PACHUTA: Okay. I

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misunderstood.
COUNCILMEMBER BATES: That's actually reversed. It's the southern portions of District 81 and the northern portions of 79. So the resolution needs to be adjusted to correct which portions are in which district.
But I agree with Ms. Pachuta, that whatever we send down there needs to be strongly worded that we are a city and we need to be maintained as a city under one representative, not split between two, not split between three. And I would prefer -- my preference, my strongly-worded preference is that we be combined and share resources with Chamblee, which is our sister city, versus Tucker and Norcross which have nothing in common with the city of Doraville. And that's -- under the proposed map, that's where ...
COUNCILMEMBER ALEXANDER: Well, that is not really a true statement either, because I am showing Karen and I are OTP northern and we're still being shown in 81 if I'm reading this correctly.
COUNCILMEMBER PACHUTA: Yeah, we're still in 81. It's pretty much Donna's neighborhood.
COUNCILMEMBER ALEXANDER: So it's more like an east/west almost.
COUNCILMEMBER PACHUTA: I think Buford

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Highway is the split.
COUNCILMEMBER ROCHE: But it almost seems like we could just delete this on the second page after number nine where it says, whereas, the proposed State House bill would divide Doraville into two separate House districts respectively, and just simply delete the next paragraph.
COUNCILMEMBER BATES: I agree.
COUNCILMEMBER ROCHE: And then fix the preamble.
MAYOR PITTMAN: Which paragraph are you deleting?
COUNCILMEMBER BATES: The second.
COUNCILMEMBER FLEMING: The second whereas.
COUNCILMEMBER ROCHE: And then straighten out the first paragraph. Well, maybe we could leave the first paragraph.
COUNCILMEMBER FLEMING: Leave the first in there so they know which --
COUNCILMEMBER PACHUTA: Well --
COUNCILMEMBER FLEMING: -- ones they're affecting.
COUNCILMEMBER PACHUTA: -- and like the now therefor be it resolved, to me, I think we need to stress more that we need to keep Doraville together as

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one, because when I read it, it makes it sound like we're objecting more to just Doraville and Chamblee being split versus the fact that Doraville itself is being split, and I think that needs to come across more. Because, you know, I'm some House rep and I don't pay attention to borders; I would look at it and say, the entire cities of Doraville and Chamblee remain a single State House. Okay, well, let's keep Doraville and Cham- -- you know, this part of Doraville and this part of Chamblee and not concentrate on the fact that, you know, half of Doraville is being shifted over to the Dunwoody area.
COUNCILMEMBER ROCHE: I don't know. I guess I'm okay with the last paragraph, I mean, because we have been kind of talking about the --
COUNCILMEMBER ALEXANDER: Well, has anybody talked to Chamblee and seen what their opinion is?
COUNCILMEMBER PACHUTA: Other than a brief e-mail exchange with Elena Parent and Elena's preference to keep Doraville and Chamblee together, but I have not spoken to Chamblee itself.
MAYOR PITTMAN: And I have a call in to Eric but I have not heard back. Well, he might have called. I was in meetings.
COUNCILMEMBER PACHUTA: I guess my

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1 preference at this point is that we just more
2 emphasize the fact that Doraville is being split in
3 two.
4 COUNCILMEMBER FLEMING: I like the last
5 paragraph actually. I mean we could throw in the
6 first sentence be, now, therefor, be it resolved that
7 the city of Doraville needs to remain in one district
8 and it should be District 81, and then go on with the
9 rest of the paragraph.
10 COUNCILMEMBER BATES: Following alone those
11 lines, maybe the entire cities of Doraville and
12 Chamblee remain in a single State House District, 81,
13 adopt the -- and so we put in the specific House
14 district that we want to remain a part of.
15 Mr. McLendon, any objection?
16 ATTORNEY McLENDON: This is a resolution.
17 Y'all can send whatever you want.
18 COUNCILMEMBER ROCHE: I'm not --
19 ATTORNEY McLENDON: So I'm good with --
20 COUNCILMEMBER ROCHE: -- opposed. I'm
21 just -- Sorry.
22 I'm not opposed, but what if they decide to
23 renumber 81 to something else? I think it gets the
24 point across the way it is, frankly, I mean other than
25 deleting that paragraph.

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1 I mean we could spend all night fine tuning
2 language that, frankly, they're probably not going to
3 read it at that level of detail.
4 MAYOR PITTMAN: So you want to take that
5 paragraph out.
6 What about the "with all the city of
7 Chamblee included," taking that out? Would you-all
8 agree with that?
9 COUNCILMEMBER BATES: There's only one
10 paragraph --
11 MAYOR PITTMAN: No. This. And then --
12 COUNCILMEMBER FLEMING: No. Paragraph two,
13 we want out.
14 COUNCILMEMBER ROCHE: Yeah.
15 COUNCILMEMBER BATES: That's the only
16 paragraph that's being deleted.
17 COUNCILMEMBER ROCHE: But otherwise, I think
18 we're --
19 COUNCILMEMBER FLEMING: The whole
20 paragraph --
21 COUNCILMEMBER ROCHE: -- we're pretty close.
22 COUNCILMEMBER FLEMING: -- where -- the
23 second whereas, the whole thing.
24 MAYOR PITTMAN: Oh, you want the whole
25 thing. Okay.

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1 COUNCILMEMBER BATES: The whole second
2 whereas. The entire second whereas.
3 COUNCILMEMBER ROCHE: Right.
4 I make a motion to pass the resolution after
5 deleting the second whereas paragraph for presentation
6 tomorrow at the 2 o'clock meeting at the -- wherever
7 the 2 o'clock meeting is.
8 MAYOR PITTMAN: Second?
9 COUNCILMEMBER BATES: Second.
10 MAYOR PITTMAN: Discussion?
11 - - -
12 (No response)
13 - - -
14 MAYOR PITTMAN: Call the roll, please.
15 CLERK McCAIN: Councilmember Alexander?
16 COUNCILMEMBER ALEXANDER: Yes.
17 CLERK McCAIN: Councilmember Bates?
18 COUNCILMEMBER BATES: Yes.
19 CLERK McCAIN: Councilmember Fleming?
20 COUNCILMEMBER FLEMING: Yes.
21 CLERK McCAIN: Councilmember Pachuta?
22 COUNCILMEMBER PACHUTA: Yes.
23 CLERK McCAIN: Councilmember Roche?
24 COUNCILMEMBER ROCHE: Yes. Thank you.
25 MAYOR PITTMAN: Thank you.

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1 Okay. Reports. Any additional reports?
2 - - -
3 (No response)
4 - - -
5 MAYOR PITTMAN: All right. Public comments,
6 three minutes, please. Public comments, anyone?
7 MR. STUART ANDERSON: Stuart Anderson.
8 The mandatory hearing person, I was kind of
9 confused in the discussion. Are they going to be able
10 to make their decision relative to previous of actions
11 the employee? -- something I brought up a couple
12 meetings ago -- is a question.
13 And the redistricting. I assume when I read
14 about it this morning that it was by the population
15 situation, but it sounds to me more like -- and I'm
16 asking a question, I guess -- it sounds to me more
17 like it's just gerrymandering by the Republicans in
18 this case -- the Democrats did it before -- just
19 because they can.
20 How did this come up? Why did they
21 redistrict us?
22 COUNCILMEMBER BATES: Well, they're required
23 to by law because of the census figures and
24 population.
25 MR. ANDERSON: That's what I'm asking.

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1 COUNCILMEMBER BATES: But how they go about
2 doing that is political and not pragmatic. And in my
3 opinion, looking at the maps -- not just the city of
4 Doraville but all of the especially the metro maps --
5 it was done very politically.
6 MR. ANDERSON: But it's supposed to be by
7 census, and that's a factual discussion versus a --
8 COUNCILMEMBER BATES: But they're --
9 MR. ANDERSON: -- political discussion.
10 COUNCILMEMBER BATES: -- building the
11 districts to hit population numbers. They're just
12 drawing the lines differently to make sure that they
13 hit those population numbers, and, in so, they are
14 making some political decisions, complying with the
15 requirements of the law.
16 MR. ANDERSON: Thank you.
17 MAYOR PITTMAN: Thank you, Stuart.
18 MR. TOM HART: There was an administrative
19 hearing on NTB that was on the agenda the last time,
20 and it was postponed to this date, and I'm kind of
21 curious where that went and what happened to NTB.
22 COUNCILMEMBER FLEMING: If I'm not mistaken,
23 it's a September date, not August, but it was a
24 September date, Mr. Hart.
25 MR. HART: Okay. And the second thing is

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1 that on the Web site the Council members used to fill
2 out a form on an agenda item and give some detail to
3 the public as to what the agenda item might be about,
4 and that's disappeared.
5 CLERK McCAIN: Actually, if you were to
6 check the Web site right now, it was put up last
7 Friday and those agenda sheets are on the Web site --
8 MR. HART: Okay.
9 CLERK McCAIN: -- as requested by these two
10 Council members.
11 MR. HART: Okay. Thank you.
12 And the zoning areas, Planning Commission
13 meetings, they've all but disappeared, and we were
14 somewhat curious about that.
15 CLERK McCAIN: Those have been included now
16 in the meetings on the first or the third Monday of
17 the month.
18 MR. HART: Okay. And there was also a
19 report from the planner that gave some detail as to
20 what the -- you know, what buildings were being built,
21 what the variances and zoning changes were, and now
22 that's all disappeared.
23 CLERK McCAIN: As that comes up, he submits
24 applications like everybody else for the agenda and
25 presents it to the Council.

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1 MR. HART: For example, the map change
2 tonight, that was not on there.
3 COUNCILMEMBER BATES: We didn't have a
4 zoning hearing, Mr. Hart. That's been moved to have a
5 zoning hearing.
6 MR. HART: Well, we would have a detail
7 about the map and that map would be presented for
8 people to look at.
9 COUNCILMEMBER BATES: It was presented to us
10 for informational purposes only this evening, sir.
11 MR. HART: Thank you.
12 MS. JEAN GILBERT: I don't usually get up
13 and speak, but I got this mail Saturday. My name is
14 Jean Gilbert. And I got this on the mail on
15 Saturday -- this is just a copy -- and it's addressed
16 to my husband and myself, and it had Park Avenue,
17 Doraville, 3725.
18 And I was thinking at first it was from the
19 library, because I do do a lot of things with the
20 library. When I opened it, there's this propaganda in
21 there, and it starts off about amnesty days on August
22 the -- you know, what am I trying to say -- anything,
23 you know, speeding tickets. I've never had a speeding
24 ticket, and I thought, "Why am I getting this?"
25 And I go on down here and read, and it's

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1 just propaganda against Donna and the three million
2 dollars that hasn't been collected, and you know.
3 I had to stop and think. Three million
4 dollars, that's been going on for years. It can't be
5 Donna's fault, it can't be all of y'all's fault. This
6 has been going on for years. And you two are
7 mentioned in here as knowing about it, and I'm sure
8 you brought it to people's attention.
9 But I think this should have been addressed
10 years ago, not now, but it needs to be addressed. But
11 I think we got to quit pointing the fingers,and I
12 don't want any more of this propaganda sent to my
13 home. I mean I hope we are adults on this Council,
14 and if Donna fails, this whole Council is going to
15 fail. The whole city of Doraville is going to fail if
16 we don't start working together as citizens of
17 Doraville and work together and quit pointing the
18 finger and sending out all this.
19 And if any of you on the Council know who
20 sends this out with no name on it, then they need to
21 be addressed and say do not send that out with my name
22 in it. And I think that's the problem here, and y'all
23 got to grow up and quit being first-graders and
24 pointing the finger, and that's all I have to say
25 about it.

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COUNCILMEMBER BATES: Thank you.
MAYOR PITTMAN: Thank you.
COUNCILMEMBER ROCHE: Thank you.
MAYOR PITTMAN: Anyone else?
MR. RICK DOVI: Rick Dovi.
I wanted to support the foreclosure registry, and hopefully you'll explore it a little bit further.
But I want to see whether or not there might be a door opening on that little last line of the House bill for a rental property registry, because it seems as if it might give a little bit of an open door, possibly.
And I know it's kind of a stretch, but I'd like to see whether or not, you know, we can explore that, because the residential rental problem is probably a bit more monumental than the foreclosure, because it seems that the foreclosure problem is beginning to get a little better and that we're actually finding buyers for the homes. It's still a problem. But I think the rental is what we want to try to address, and hopefully maybe the 110 will come back to life and we can see some resolution of that.
Thank you.
MAYOR PITTMAN: Thank you. Anyone else?

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- - -
(No response)
- - -
MAYOR PITTMAN: All right. Can I have a motion to go into Executive Session regarding?
ATTORNEY McLENDON: We need to have an Executive Session tonight. I'm requesting one on an employment matter.
MAYOR PITTMAN: Thank you.
Do I get a motion to go into Executive Session?
COUNCILMEMBER ROCHE: So moved.
MAYOR PITTMAN: Second?
COUNCILMEMBER FLEMING: Second.
MAYOR PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.

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CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PITTMAN: Thank you.
COUNCILMEMBER ROCHE: Thank you.
- - -
(Executive Session from 9:30 to 9:50 p.m.)
- - -
MAYOR PITTMAN: Motion to come out of Executive Session?
COUNCILMEMBER ALEXANDER: So moved.
MAYOR PITTMAN: Second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.

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CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
COUNCILMEMBER PACHUTA: Motion to adjourn.
COUNCILMEMBER ALEXANDER: Second.
MAYOR PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PITTMAN: Meeting adjourned.
- - -
(Meeting adjourned at approximately 10:00 p.m.)
- - -

C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 25th day of August 2011.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

$

$1,200 (1)
68:17
$10,000 (1)
46:20
$150 (2)
106:2,7
$150.00 (1)
92:1
$2,000 (1)
46:15
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