In The Matter Of:

City of Doraville
State of Georgia

City Council Meeting
December 17, 2012

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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 December 3,

2012.

* * *

1   APPEARANCES:
2   Doraville City Council:
3   Mayor Donna Pittman
4   Councilmember Maria Alexander
5   Councilmember Brian Bates
6   Councilmember Trudy Jones Dean
7   Councilmember Pam Fleming
8   Councilmember Karen Pachuta
9   Councilmember Robert Patrick
10
11   Sandra Bryant, Acting City Clerk
12
13   Cecil G. McClendon, Jr., City Attorney
14   Leonid Felgin, Associate City Attorney
15   Riley McLendon, LLC
        315 Washington Avenue
16   Marietta, GA 30060
        (770) 590-5900
17
18
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1   P R O C E E D I N G S
2   MAYOR PITTMAN: Meeting come to order.
3   Welcome to everyone. Would you please rise
4   for the Pledge.
5   - - -
6   (Pledge of Allegiance)
7   - - -
8   MAYOR PITTMAN: Okay. Welcome to everyone.
9   If I could take a moment and ask that we make an
10 amendment to the agenda. In light of the horrific
11 tragedy this past week, we want to add a resolution to
12 the agenda. If I could get a motion to do that,
13 please.
14   COUNCILMEMBER PACHUTA: So moved.
15   COUNCILMEMBER ALEXANDER: Second.
16   MAYOR PITTMAN: Discussion?
17   - - -
18   (No response)
19   - - -
20   MAYOR PITTMAN: Call the roll, please.
21   CLERK BRYANT: Councilmember Alexander?
22   COUNCILMEMBER ALEXANDER: Yes.
23   CLERK BRYANT: Councilmember Bates?
24   COUNCILMEMBER BATES: Yes.
25   CLERK BRYANT: Councilmember Dean?

1   COUNCILMEMBER DEAN: Yes.
2   CLERK BRYANT: Councilmember Fleming?
3   COUNCILMEMBER FLEMING: Yes.
4   CLERK BRYANT: Councilmember Pachuta?
5   COUNCILMEMBER PACHUTA: Yes.
6   CLERK BRYANT: Councilmember Patrick?
7   COUNCILMEMBER PATRICK: Yes.
8   MAYOR PITTMAN: Okay. Thank you.
9   As we all know, there was just a horrible,
10 horrible tragedy this past week. I don't think words
11 can adequately describe the horror or the sadness
12 involved in this. And as a city, we want to show our
13 support to the families, to the mayor, to the city,
14 and we would like to pass a resolution. Following,
15 we'd also like to have a moment of silence.
16   I'll read just for a second here:
17   "Therefor, be it resolved that the Mayor and
18 City Council of Doraville, Georgia, do hereby extend
19 its sincerest and most heartfelt condolences to the
20 victims' families, the people and the elected leaders
21 of Newtown, Connecticut."
22   And if I could get a motion to pass this
23 please?
24   COUNCILMEMBER ALEXANDER: So moved.
25   MAYOR PITTMAN: Second?

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1   COUNCILMEMBER PATRICK: Second.
2   COUNCILMEMBER DEAN: Second.
3   MAYOR PITTMAN: Discussion?
4   - - -
5   (No response)
6   - - -
7   MAYOR PITTMAN: Call the roll, please.
8   CLERK BRYANT: Councilmember Alexander?
9   COUNCILMEMBER ALEXANDER: Yes.
10   CLERK BRYANT: Councilmember Bates?
11   COUNCILMEMBER BATES: Yes.
12   CLERK BRYANT: Councilmember Dean?
13   COUNCILMEMBER DEAN: Yes.
14   CLERK BRYANT: Councilmember Fleming?
15   COUNCILMEMBER FLEMING: Yes.
16   CLERK BRYANT: Councilmember Pachuta?
17   COUNCILMEMBER PACHUTA: Yes.
18   CLERK BRYANT: Councilmember Patrick?
19   COUNCILMEMBER PATRICK: Yes.
20   MAYOR PITTMAN: Okay. Thank you. If we
21 could just take a moment and have a moment of silence,
22 please.
23   - - -
24   (Audience complies)
25   - - -

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1   MAYOR PITTMAN: Okay. Thank you.
2   Next, one of my favorite parts of my job is
3 swearing in our officers, and we have two wonderful
4 officers here tonight. Would you like to come
5 forward.
6   - - -
7   (Officers comply)
8   - - -
9   MAYOR PITTMAN: These two officers have
10 worked for our city in other assignments, and they are
11 just a real asset, and we're just really honored and
12 we're honored that you are going to be a part of the
13 team. Congratulations.
14   - - -
15   (Bethany Lewis and Giovanni Mojica were
16   sworn as peace officers.)
17   - - -
18   MAYOR PITTMAN: Congratulations.
19   - - -
20   (Applause)
21   - - -
22   CHIEF JOHN KING: Mayor, would you mind
23 picture taking of the families and the officers?
24   MAYOR PITTMAN: No. Absolutely. In fact,
25 we're going to take a two-minute break.

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1   CHIEF KING: Okay. Thank you.
2   - - -
3   (Brief recess)
4   - - -
5   MAYOR PITTMAN: Call the roll, please.
6   CLERK BRYANT: Councilmember Alexander?
7   COUNCILMEMBER ALEXANDER: Here.
8   CLERK BRYANT: Councilmember Bates?
9   COUNCILMEMBER BATES: Here.
10   CLERK BRYANT: Councilmember Dean?
11   COUNCILMEMBER DEAN: Here.
12   CLERK BRYANT: Councilmember Fleming?
13   COUNCILMEMBER FLEMING: Here.
14   CLERK BRYANT: Councilmember Pachuta?
15   COUNCILMEMBER PACHUTA: Here.
16   CLERK BRYANT: Councilmember Patrick?
17   COUNCILMEMBER PATRICK: Here.
18   MAYOR PITTMAN: Okay. Thank you. I need
19 approval of minutes for November 5th, 2012.
20   COUNCILMEMBER ALEXANDER: So moved.
21   MAYOR PITTMAN: Second?
22   COUNCILMEMBER PACHUTA: Second.
23   MAYOR PITTMAN: Discussion?
24   - - -
25   (No response)

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1   - - -
2   MAYOR PITTMAN: Call the roll, please.
3   CLERK BRYANT: Councilmember Alexander?
4   COUNCILMEMBER ALEXANDER: Yes.
5   CLERK BRYANT: Councilmember Bates?
6   COUNCILMEMBER BATES: Yes.
7   CLERK BRYANT: Councilmember Dean?
8   COUNCILMEMBER DEAN: Yes.
9   CLERK BRYANT: Councilmember Fleming?
10   COUNCILMEMBER FLEMING: Yes.
11   CLERK BRYANT: Councilmember Pachuta?
12   COUNCILMEMBER PACHUTA: Yes.
13   CLERK BRYANT: Councilmember Patrick?
14   COUNCILMEMBER PATRICK: Yes.
15   MAYOR PITTMAN: Also need approval for
16 minutes for November 19th, 2012.
17   COUNCILMEMBER BATES: So moved.
18   MAYOR PITTMAN: Second?
19   COUNCILMEMBER PACHUTA: Second.
20   MAYOR PITTMAN: Discussion?
21   - - -
22   (No response)
23   - - -
24   MAYOR PITTMAN: Call the roll, please.
25   CLERK BRYANT: Councilmember Alexander?

1 COUNCILMEMBER ALEXANDER: Yes.
2 CLERK BRYANT: Councilmember Bates?
3 COUNCILMEMBER BATES: Yes.
4 CLERK BRYANT: Councilmember Dean?
5 COUNCILMEMBER DEAN: Yes.
6 CLERK BRYANT: Councilmember Fleming?
7 COUNCILMEMBER FLEMING: Yes.
8 CLERK BRYANT: Councilmember Pachuta?
9 COUNCILMEMBER PACHUTA: Yes.
10 CLERK BRYANT: Councilmember Patrick?
11 COUNCILMEMBER PATRICK: Yes.
12 MAYOR PITTMAN: Okay. Thank you.
13 Next will be public comments. If you wish
14 to make a public comment, if you could please line up
15 at the podium. Please limit your comments to three
16 minutes and state your name for the Clerk. Make sure
17 it's on the agenda items only. If you wish to speak,
18 please line up.
19 MR. THOM ABBOTT: There's a color copy on
20 top if you will share, but then there's black-and-
21 white copies for each one of you. Just easier to see
22 on the color copy.
23 My name is Thom Abbott. I live in
24 Northwoods.
25 This evening you will consider and most

1 likely determine the fate of the last --
2 Sorry, let me back up. I'm speaking on
3 behalf of Tim Snider, Lou Jenkins, Cindy Bradford and
4 Donald Connor this evening.
5 This evening you'll consider and most likely
6 determine the fate of the last operating hotel and
7 motel in Doraville. It's a big decision not only for
8 the applicant but for the City Council and the
9 citizens as well. It's not something to be taken
10 lightly.
11 The question this evening is, Why are we
12 here? Why do we have a 125-room hotel with some 12 to
13 13 thousand square feet of meeting space that can't
14 seem to operate at a profit?
15 Let's first look at the company that
16 currently manages and owns the property, Imperial
17 Investments Group. A visit to their Web site shows
18 they own and operate the following properties: the
19 Sheraton Atlanta - Perimeter North, the Holiday
20 Express Inn and Suites - Perimeter, which I might note
21 those two properties are directly across the street
22 from each other. A Hampton Inn and Suites at the
23 Galleria, Atlanta Airport North, and Southlake Mall.
24 Outside the city of Atlanta, they operate a
25 Holiday Inn Express in Simpsonville, South Carolina;

1 Hampton Inns in Gaffney, North Carolina, and
2 Spartanburg, South Carolina; a Super 8 and a Relax Inn
3 in Monroe, North Carolina, and the Comfort Inn of
4 Doraville.
5 I wanted to have some comparison so I
6 visited the Holiday Inn Express - Perimeter located on
7 Hammond Drive and have provided you with photos of the
8 subject property, and it's virtually no landscaping
9 around it as it's actually recessed down from Hammond
10 Drive and is surrounded by a driveway that circles the
11 building and sits atop a parking deck. It's
12 attractive inside as you can see, with a clean, well-
13 lit lobby and a very inviting breakfast area. There
14 is also a business center and a fitness room.
15 Within one mile of the Holiday Inn, you will
16 find the aforementioned Sheraton, a Hampton Inn next
17 door, a Comfort Suites, a Homestead Suites, a
18 Fairfield Inn, a Marriott Courtyard, a Microtel and an
19 Extended Stay America. That is seven like properties
20 within a one mile distance of the Holiday Inn. That
21 kind of market competition, and they can make those
22 two hotels profitable but we can't make the Comfort
23 Inn of Doraville.
24 So let's look at the competition within one
25 mile of the Doraville Comfort Inn. There is none.

1 The next closest hotel or motel is either Chamblee
2 Dunwoody Road, which is a Holiday Inn, or Northlake
3 Mall where you'll find a Doubletree, Hampton Inn and
4 such. Go north on I-85 and you have to travel to
5 Jimmy Carter Boulevard; go south on I-85 and you have
6 to travel to Clairmont Road.
7 Within that rather massive area, you have
8 virtually no competition, certainly nothing that has
9 12,000-plus square feet of meeting space.
10 Dekalb Peachtree Airport and Mercer
11 University are two major landmarks that stand out on
12 the map I provided you let alone all the other
13 businesses that could have hotel and meeting space
14 needs.
15 In an e-mail to the Doraville citizens,
16 Councilman Bates brought up some interesting points.
17 It's okay, Brian, I'm not going to get you
18 this time.
19 Quote: "The owners have owned this property
20 since 1991. They are not new to the city and I
21 believe have looked at multiple viable options to make
22 the hotel successful."
23 MAYOR PITTMAN: Sir, your time's up. I'm
24 sorry.
25 MR. ABBOTT: I'm speaking for five people.

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1 ATTORNEY McLENDON: Oh, you can't, you can't
2 be designated. If other folks want to speak, they can
3 speak, but you can't stack up a bunch of people's
4 time.
5 MR. ABBOTT: When did we change that policy?
6 ATTORNEY McLENDON: Has that been how y'all
7 have done it?
8 COUNCILMEMBER PACHUTA: No.
9 ATTORNEY McLENDON: I've never seen anything
10 like that.
11 MS. CINDY BRADFORD: I'm giving him my three
12 minutes.
13 ATTORNEY McLENDON: Generally I would --
14 typically, you wouldn't allow that.
15 COUNCILMEMBER PACHUTA: I would recommend
16 against it.
17 ATTORNEY McLENDON: If that's been a policy
18 of the City, that's one thing. I've never seen it. I
19 don't think --
20 MR. ABBOTT: I did it here before.
21 MS. BRADFORD: He did it here before.
22 ATTORNEY McLENDON: Yeah. I would -- That's
23 up to you.
24 MAYOR PITTMAN: Council?
25 COUNCILMEMBER DEAN: Can one of you guys --

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1 Well, I don't mind, I mean that's -- if he
2 wants to give it, or you guys can take over and
3 continue.
4 ATTORNEY McLENDON: The issue I see is when
5 you go down this road, what happens is if I want to
6 speak for 30 minutes I just find five citizens to go
7 and sort of say --
8 MR. ABBOTT: And what is --
9 ATTORNEY McLENDON: -- "I've stacked up
10 these people's time."
11 MR. ABBOTT: -- the difference if those
12 citizens all stood up and spoke for three minutes?
13 I'm just speaking on their behalf because they asked
14 me to.
15 ATTORNEY McLENDON: I think it's --
16 COUNCILMEMBER ALEXANDER: It's the Mayor's
17 decision, please.
18 ATTORNEY McLENDON: Yeah.
19 COUNCILMEMBER ALEXANDER: Let's move on.
20 ATTORNEY McLENDON: Uh-huh.
21 MAYOR PITTMAN: How long will it take you,
22 sir?
23 MR. ABBOTT: You know, I can go fast if you
24 want me to.
25 MAYOR PITTMAN: Well --

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1 MR. ABBOTT: She has a copy of it.
2 MAYOR PITTMAN: -- she can't -- she can't
3 follow it.
4 Go ahead.
5 COUNCILMEMBER FLEMING: Prior to continuing,
6 then I would suggest that Mayor and Council make a
7 directive because we have in the past, each individual
8 that he was representing or any other person he had
9 been representing, afforded their time to that one
10 person --
11 MAYOR PITTMAN: I --
12 COUNCILMEMBER FLEMING: -- and we do need to
13 make some type of policy.
14 MAYOR PITTMAN: Well, we can't make a policy
15 right this moment --
16 COUNCILMEMBER FLEMING: Right.
17 MAYOR PITTMAN: -- but that is correct, we
18 have done that.
19 And based on that, I will let you continue
20 because we have done that in the past.
21 MR. ABBOTT: All right. Thank you.
22 "They are not new to the city and I believe
23 they've looked at multiple viable options to make the
24 hotel successful and those options are just no longer
25 there for this property, based upon its age and the

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1 proximity to other newer, smaller hotels in the
2 surrounding areas as well as amenities that have been
3 built such as Perimeter Center and Peachtree Corners.
4 "In looking at the surrounding market and
5 with the likelihood of new hotels being developed at
6 the GM plant when it converts, the likelihood of this
7 property remaining a name brand hotel under this owner
8 or any other seems very unlikely. Thom recently
9 shared with us about a new Hyatt going in at
10 Perimeter. That is exactly what has caused this hotel
11 to fail over the last 10 years: new properties coming
12 online and drawing businesses and convention
13 facilities to those properties that are newer and in
14 areas that are newer and conducive to bringing in
15 events and conferences," end quote.
16 Councilman Bates is correct up to a certain
17 point. He mentioned the age of the property and the
18 proximity to other newer, smaller hotels. But none of
19 those properties with the exception of the Holiday Inn
20 on Chamblee Dunwoody Road has the gift of 12,000
21 square feet of meeting space.
22 A new Hyatt going in at the Perimeter is not
23 the complete reason this hotel is failing. It would
24 seem the lack of management, a viable and aggressive
25 sales staff and needed renovations would be part of

1 the problem.
2   So let's talk about the condition of the
3 Comfort Inn of Doraville. This afternoon, I
4 approached the hotel from I-285, exiting at Buford
5 Highway. I turned left at the Comfort Inn sign at
6 Jess Norman Way and proceeded to Stewart Road and a
7 stop sign. Nothing. There is no directional to turn
8 left or right. I live in Doraville, and I even had to
9 think which way to turn for a moment.
10   At Stewart Road and Clearview Avenue, again
11 there is no directional sign to indicate the hotel is
12 to my right. It might be obvious it's to my left, but
13 to an arriving guest, so far we've not made it very
14 easy for them to find it once they've left the
15 freeway. As you can see from the attached pictures,
16 it lacks curb appeal second to none.
17   I visited the hotel and toured it this
18 afternoon with the director of sales. I indicated to
19 her I was looking to book a college reunion next
20 summer.
21   To be quite frank, I was actually surprised
22 at the condition of the property, and I mean that in a
23 good way. The guest rooms I was shown were clean and
24 well furnished. The bathrooms had been renovated with
25 granite counters and granite shower surrounds.

1 Knowing that a hotel will often have show-ready rooms,
2 meaning they're picture perfect, I asked to see two
3 additional rooms at random. Both were equally well
4 furnished and clean.
5   The meeting space of the hotel is tired.
6 There were numerous indications of damage to walls,
7 carpets, etc., that were quickly obvious to me as I
8 looked at the meeting rooms. Yet the hotel has a
9 4,100 square foot ballroom, perfect for any number of
10 small group functions. It did, however, have an old
11 hotel smell it, and the same items I mentioned a
12 moment ago. I've attached a picture of the ballroom.
13   I was shown the breakfast area. There's
14 even a bar area and a separate private dining room.
15 My mind was filled with ideas of what this space could
16 be if brightened up and made inviting. The breakfast
17 space at the Holiday Inn is much more inviting. The
18 carpet appeared dingy and stained, but most of the
19 lights were off so it was hard for me to make a
20 further assessment.
21   So we're back to the question this evening
22 and why we're here. Why do we have a 125-room hotel
23 with 12,000 square feet of meeting space that can't
24 operate at a profit?
25   As Councilman Bates pointed out, the current

1 owners have owned this property since 1991. They've
2 really never had any competition as there are not any
3 like properties I'm aware of that have been torn down
4 since that time.
5   On the contrary, the Holiday Inn Chamblee
6 Dunwoody was a dump. I attended a meeting there and
7 was appalled that the organizer chose the place, but
8 since that time, the entire public area of that hotel
9 has been completely redone and it's a beautiful
10 facility.
11   As a former director of sales of two major
12 hotel companies, I can see the challenges this
13 property faces. I know they're not -- I know they are
14 not insurmountable, but they are there.
15   What has the marketing efforts and
16 renovations been to keep the Comfort Inn a viable,
17 competitive hotel in the area?
18   While I would question the management and
19 owners' ability to make the property appealing and
20 actively solicit business from the social, government,
21 educational and other such markets, I think that we,
22 the citizens of Doraville, and more importantly, the
23 City Council may have to look in the mirror.
24   Our own lack of ability to move our city
25 forward after several excellent studies giving us a

1 blueprint may be partly to blame for this management
2 company's challenge in attracting quality guests and
3 corporate meetings to the hotel.
4   All around us, the communities are
5 flourishing: Chamblee, the new Brookhaven, Tucker,
6 Peachtree Corners, and Dunwoody. Perhaps we have no
7 one to blame but ourselves that our city's come to
8 such a state that we are here considering losing the
9 only hotel we have.
10   Councilman Bates is absolutely correct. The
11 likelihood of another hotel being built in our area
12 until -- and I would even question that the GM site
13 development will bring one -- after the GM site is
14 developed is "snowball's chance in . . ."
15   The owners have said the sale of the
16 property to another company is not viable due to the
17 debt owed on the property. So now they will add an
18 additional 4 million dollars of government-backed
19 loans to create a senior living facility.
20   Who is to say that a senior living facility
21 will prosper here? What's the marketing plan for
22 that? The location offers no services outside of the
23 building for such people. If they are able to drive,
24 where will they go? Northlake or Perimeter for any
25 kind of reasonable shopping or restaurants like

1 Carrabba's Italian Grill or a clothing store? The
2 best we can offer them is a sideways McDonald's.
3   If you choose to approve this application
4 this evening, you will certainly write a chapter in
5 the history book of Doraville. We just have to wonder
6 if it will be one of success or one of yet another
7 failure not to see the future and take our city to the
8 higher ground, not the lower ground.
9   I can't really say I'm against this facility
10 but I just really hate to think that we'll be a city
11 without any hotel. And Brian has said it, we're not
12 going to get another one. We probably won't see one
13 in 10 or 15 years, and I just think that's a huge loss
14 for our community.
15   I can't say that what they've done is their
16 fault. I think we've kind of put them in that
17 position and it's just -- that's probably more frus-
18 trating to me than anything.
19   Thank you very much.
20   MAYOR PITTMAN: Thank you.
21   I'm assuming since no one has lined up,
22 there's no additional public comments?
23   Okay. If you want to speak, please line up.
24   MS. FRAYSSE: Yes, ma'am.
25   MAYOR PITTMAN: Thank you.

1   MS. FRAYSSE: I have e-mailed all of you
2 today my thoughts about it in some detail but I wanted
3 to just take this opportunity to summarize those, the
4 key points.
5   And Thom, were you at the presentation at
6 the Holiday Inn?
7   MR. ABBOTT: No, I was not.
8   MS. FRAYSSE: That was one of the key things
9 that helped me to visualize this as a good idea for
10 the city.
11   But essentially, I hope that you will
12 consider the conditional use permit and allow the
13 owner to move forward with his plans to convert this
14 failing hotel into an assisted living facility,
15 because I think it can be an asset for the city.
16   And three points I would make: Contrary to
17 some of what I've heard, I kind of welcome the idea of
18 HUD oversight in backing the loan. There are going to
19 be regulations. If he qualifies, if he's able to get
20 this HUD money, I think there will be strict
21 guidelines and he will have a very high probability of
22 success.
23   The funding for the assisted living
24 facilities is easier for this type of facility than it
25 is for a hotel.

1   They've already put money in. I was here
2 when, you know, they had the Holiday Inn remake. That
3 was all redone. My family came and stayed there after
4 that. We had a good time. I've been there for many
5 events.
6   I think one thing that I want to make clear
7 is that the current owner has maintained a reputable
8 hotel at this site since 1994. He has taken losses
9 due to the economy and a variety of factors, but I
10 think he has done well not to allow it to devolve nto
11 the kind of extended-stay places that dot all around
12 us here, so I give him credit for that.
13   I've been in this facility a number of times
14 for art shows, where they volunteered and opened up
15 the space. We had a meeting about annexation which
16 couldn't be held on City property. He made that
17 available to us, you know, at no charge. I've been to
18 Breakfast with Santa in that facility.
19   So I think he's demonstrated a commitment to
20 the community, and to go beyond his commitment and his
21 success, the Senior Solutions managers that we heard
22 at the presentation were very experienced. They run
23 seven other places in Tennessee and in Georgia. Their
24 ideas were welcome to me; they jive with what I know
25 about well run higher end private-pay assisted-living

1 facilities in other parts of the state.
2   So they were welcoming and offering a lot of
3 the resources that are there to the city in the same
4 way that they have in the past but it would be a
5 larger way, and I, for one, would be very happy to
6 work with them on things like that: the fitness room,
7 the dining hall, a variety of things that they have
8 there.
9   So in summary, I think that the up side is
10 far greater than the possible down side. The down
11 side is basically what we have now: a failing hotel.
12 And the worse-than-that would be an extended-stay
13 crime magnet.
14   So I'm all for giving the process a chance,
15 and I hope that you-all will consider this conditional
16 use permit tonight.
17   MAYOR PITTMAN: Ms. Fraysse.
18   MR. TOM HART: This is the last hotel in the
19 city. We've lost the other ones. We lost the
20 Dogwood, we lost the other places. And I had guests
21 from out of town, and they didn't stay there because
22 of problems with bed bugs at the time.
23   My aunt lived in an assisted living over on
24 Hammond Drive. They had a kitchen. We had a little
25 lobster dinner there. It's just like an apartment. I

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1 don't see that coming here.
2   I think this has a lot of parallels with
3 Tommy's Hardware Store. Tommy's Hardware Store failed
4 because of the City of Doraville, not because of Tommy
5 and his hardware store.
6   We tore down the city across the street from
7 him and put a MARTA station there. We moved the post
8 office down into the hole on the other side of town.
9 Fifty percent of his business went away.
10   This hotel has seen the city transformed
11 from a vibrant commercial center to a wholesale place.
12 And do the people that visit these wholesale places
13 frequent this hotel? Did all the massage parlors that
14 they voted -- the Council voted to put into town, did
15 that help his situation? Did the drug rehab center
16 across the street from him help that and did the jail
17 outsourcing center next to that help his situation?
18   You know, it's one of these situations like
19 the transfer station across town here. These are all
20 self-inflicted wounds, and then we vote to blight the
21 city. Did voting to blight the city help his
22 situation?
23   I'm afraid the problem here doesn't lie with
24 the hotel owner; it lies with the leadership in this
25 city. I don't see anything that's been done in the

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1 last four years on Buford Highway that leads me to a
2 decision that this is a place I would tell other
3 people to move here, this is a city that's moving
4 forward.
5   We tried to put a coffee shop at the top of
6 the hill. That was supported by the businesses. The
7 Council and the Mayor at the time decided that wasn't
8 a good idea.
9   These are all self-inflicted wounds by this
10 Council, and we've got 50 bad decisions here to think
11 about. Are you going to add to that pile? because
12 clearly the people in that neighborhood don't want
13 this to happen. They want to retain the hotel. They
14 want a marketing plan that'll move the city forward.
15   Thank you.
16   MR. STUART ANDERSON: Stuart Anderson.
17   Just a couple comments. I'm looking forward
18 to the presentation by the assisted-living folks.
19   Two things, comments. If this is assisted
20 living, I would hope that the Council will as a
21 condition make sure that any Federal moneys or State
22 moneys or what-not are abetted by a condition wherein
23 the facility, if it failed for some reason or other or
24 if it was given up or whatever, does not become HUD
25 housing. And I think that's been discussed a lot, but

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1 I want to see that or I want to hear that addressed.
2   The other thing is kind of on the other
3 side, something Tom said. And I agree with the
4 accessibility to this thing. If, in your decision-
5 making, you decide to leave it a hotel, I would like
6 you to incentivize the people that own this thing to a
7 certain extent by addressing GDOT ourselves so that we
8 have signage, so that there is signage so that people
9 can know where this thing is. Perhaps a question or a
10 situation to GDOT about changing that intersection so
11 people can get to it if there was signage so that the
12 hotel might have a chance to function that way.
13   So I'm both ways. If it's assisted living,
14 I want to make sure that it doesn't become Section 8
15 or some similar thing that people are screaming about.
16 And the other is that I see that this could have been
17 a hotel or it was an excellent hotel and could be
18 again, but it needs accessibility and advertising and
19 GDOT kind of work.
20   Thank you.
21   MR. BEN CRAWFORD: Ben Crawford, Oakcliff
22 Estates.
23   I was actually at their last presentation
24 and I thought they did a good job in their presenta-
25 tion.

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1   I'm not really opposed to it being an
2 assisted living at this point. I think if it was to
3 remain a hotel, I think they would probably, I guess,
4 bring it up to some better standards if they did have
5 to put a lot of money into it as a hotel, too.
6   I think that if they do meet current codes
7 as far as life safety codes and all the codes they
8 have to to address to bring it up to have a safe
9 environment for the people that are going to live
10 there, then I am not opposed to it.
11   Thank you.
12   MAYOR PITTMAN: Okay. Thank you.
13   Next on the agenda is going to be Chief,
14 request for exemption on policy for PTO. I believe
15 you had sent the information to Council and I believe
16 Council have some really good questions, and I believe
17 all of them we got answered today, so.
18   CHIEF JOHN KING: Ladies and gentlemen of
19 the Council, really wanted to make this -- I know
20 you've got a very full impact agenda, and I'm going to
21 basically try not to -- I would ask respectfully that
22 don't really get me to get into a long policy
23 discussion whether fairness or not fairness of PTO.
24 The policy is what it is.
25   When we first -- several months ago, I

1 brought this question up to the -- to the H.R.
2 provider, and they said, "Yeah, you know, we'll
3 address it as we get closer to the end of the year.
4 The Mayor has the full authority to review it and
5 approve it if necessary."
6 And then we got -- you know, I sent my
7 request to the Mayor, and that's why I'm here.
8 I've looked at the appropriate code section,
9 Ordinance 2012-07, which is the personnel policies, in
10 Section 2-242, Section 5.2. And in Section 5.2.4,
11 Carried PTO, and I hope you-all don't mind, this is a
12 very short paragraph: (Reading) "All eligible
13 employees may carry over a maximum of 80 hours of PTO
14 from one calendar year to the next calendar year. All
15 unused accrued PTO beyond 80 hours shall be forfeited
16 on December 31st of each eligible year unless
17 requested by a department head based on extenuating
18 circumstances and approved by the Mayor."
19 Thus, I wrote a letter to the Mayor
20 requesting an exemption to the policy for 30 days to
21 get us through the holidays and apply it not to the
22 employees who just sat around, you know, although I
23 don't have too many employees sitting around wishing
24 their PTO -- they're not using their PTO because the
25 way our system is is you use it or you lose it.

1 But I wanted to -- my request to the Mayor
2 is to apply it to the employees who I forced to work
3 in our radio room and the jail because of the short
4 staff that we are. Whether they wanted to, even if
5 they wanted, I could not have allowed them to take
6 that time off. We are, as you know, unlike any other
7 department in the City.
8 I have nine employees that this affects that
9 it was my plan to try to extend by 30 days to get them
10 to take as much time as possible, not to make them --
11 you know, not to make it perfect, but the ones that I
12 held -- the ones that I held their feet to the fire in
13 that radio room and our jail because of the shortening
14 of staff, and that's what I wanted to make my request.
15 I respectfully have a difference of opinion
16 with the city attorney. As the approach, I mean he's
17 -- he's a lawyer. I stayed at the Holiday Inn hotel,
18 but I have a master's degree in strategic studies from
19 the United States Army War College, and that paragraph
20 to me is pretty clear: that the Mayor would have the
21 authority to grant me that extension if I make a
22 compelling case.
23 The case now is, Have I made a compelling
24 case or does the Mayor, you know, have the authority
25 to grant that if not?

1 So what I respectfully ask, I guess, at this
2 point is yes or no. It's just one of those -- and I
3 know I hated to put this in this meeting, but this is
4 the "last chance Texaco" that I have to get an answer
5 to my employees, because, clearly, after this meeting,
6 I will be try -- You know, to try to do that and get
7 the, you know, the finance director to try to go back
8 and retroactive, it's just not even worth the trouble.
9 And again, it does not apply to the
10 employees who just did not schedule their time off,
11 that they had the opportunity and just did not. This
12 would only apply to the employees that I said, "I'm
13 sorry. I can't let you take off. You got to work in
14 the radio room because we're short," or, "You have to
15 work in the jail because we have people in custody."
16 I know a lot of questions have been, a lot
17 of comments. I've talked to a few of you-all back and
18 forth, and I really -- I don't want this request to
19 turn into a policy discussion, respectfully.
20 Perhaps if the policy discussion needs to
21 take place, we probably ought to do that next year
22 when we all have a little bit more clarity about where
23 the City's going to -- you know, what direction the
24 City's going.
25 This is about the immediate need that I have

1 for these nine employees. Hopefully, that makes sense
2 to what -- to what I'm asking. And based on that,
3 I'll open to questions the Mayor and the members of
4 the Council may have.
5 MAYOR PITTMAN: Well, just for clarifi-
6 cation, H.R. did say it was at my discretion, but
7 legal came back and said that it was at the discretion
8 of the Council.
9 COUNCILMEMBER DEAN: Why?
10 ATTORNEY McLENDON: One of the things we
11 have is we've got two questions here. Based upon the
12 nature of the request to extend the time, I believe
13 that it was the Council decision. I looked at the
14 language and I understand where the Chief's coming
15 from on it.
16 The issue we do have to decide is I don't
17 know I can point at nine people and say, "You nine
18 people get --" We got to create a system of putting
19 together a group that you can define them and not just
20 say, "I chose nine people," and let this go forward.
21 CHIEF KING: Respectfully, my position is is
22 that the department head, based on extenuating circum-
23 stances, makes the case to the Mayor to approve or
24 disapprove. That is the process. It's in the policy.
25 It's in the regula -- it's in the ordinance. If I

1 cannot bring myself to look at the Mayor in the eye
2 and say, "Mayor, you know, my guys just goofed up and
3 didn't schedule their time off," I would --
4 　　　ATTORNEY McLENDON: Well, Chief, you know,
5 one of the things that would have been good is when we
6 had this conversation, we didn't exactly sit and look
7 at this particular language together. It would have
8 been nice to hear about that prior to this meeting,
9 would have given me some assistance in looking at it.
10 　　　COUNCILMEMBER BATES: So to put them in the
11 box, the nine employees fit within two departments:
12 the 911 communications center --
13 　　　CHIEF KING: And jail.
14 　　　COUNCILMEMBER BATES: -- and the jail. So
15 does it apply to all employees in those two depart-
16 ments?
17 　　　CHIEF KING: Well, it applies to employees
18 that I moved to make them work. For example, the guy
19 that just ran out to run -- probably handle a call
20 right now, I forced him to go into radio and work
21 several shifts in radio. He couldn't take off the
22 time off.
23 　　　COUNCILMEMBER BATES: So it's nine employees
24 that fit within the jail or the communication center.
25 It's not road officers, it's not detectives.

1 　　　CHIEF KING: They aren't -- they are -- I
2 mean they are. It's nine employees total for the
3 police department.
4 　　　COUNCILMEMBER BATES: Okay.
5 　　　CHIEF KING: You know, what I'm trying to do
6 is get 30 days so I can get them to eat up more of our
7 PTO time that they did not have time to take off.
8 　　　COUNCILMEMBER BATES: Okay.
9 　　　CHIEF KING: Some of them will make it, sir,
10 some of them will not, but I want to make a good-faith
11 effort to try to at least give them some opportunity
12 to take the time off.
13 　　　COUNCILMEMBER BATES: Thank you.
14 　　　COUNCILMEMBER DEAN: One of my questions is
15 how much time are we talking about in terms of
16 employees versus number of days, and the answer came
17 back, one answer being three employees have more than
18 10 days to carry over.
19 　　　And that's above the 80 hours?
20 　　　CHIEF KING: That is correct.
21 　　　COUNCILMEMBER DEAN: So how much time is
22 that, and are those three employees -- because I was
23 talking City-wide -- are those three employees in the
24 police department, and how many more hours than 10 do
25 they have?

1 　　　CHIEF KING: Ma'am, what I -- my intent is
2 only to get them to the 80-hour mark. There's no way
3 do I want to change the policy at this point.
4 　　　COUNCILMEMBER DEAN: Right. So let me --
5 　　　CHIEF KING: All I'm trying to do --
6 　　　COUNCILMEMBER DEAN: -- ask over 80. That's
7 what I'm asking.
8 　　　CHIEF KING: Well, that is what -- what the
9 finance director was referring to is that was the 10
10 hours I think it was? Is the response you got?
11 　　　COUNCILMEMBER DEAN: 10 or more days over.
12 My question was, How many days over the 80-hour limit?
13 　　　CHIEF KING: There's a number. It's not a
14 whole bunch. Right now, I'm still trying to work
15 those times on these people that I can get to take
16 off. You know, I'm still working on it to try to get
17 them there.
18 　　　What I'm trying to do is try to get the
19 flexibility so I can spread them out. I don't want to
20 have one dispatcher on duty on Christmas, on Christmas
21 Eve, with an unqualified dispatcher --
22 　　　COUNCILMEMBER DEAN: Right.
23 　　　CHIEF KING: -- and then something horrible
24 happen.
25 　　　COUNCILMEMBER DEAN: Well, here is my

1 position on this, because we have -- I asked my list
2 of questions. 22 employees in the City have this
3 situation, and so if we say, "Okay. You know, go
4 ahead with your nine employees," then is that fair
5 really to the other City employees who do not have
6 that?
7 　　　I understand safety is an issue here, but
8 that's still --
9 　　　CHIEF KING: Well --
10 　　　COUNCILMEMBER DEAN: -- their time.
11 　　　CHIEF KING: -- I would respond this way;
12 Every department head, by this ordinance, has the
13 authority to write a compelling letter to the Mayor
14 stating the extenuating circumstances and make his
15 case.
16 　　　COUNCILMEMBER DEAN: Well, when I was in
17 H.R. --
18 　　　CHIEF KING: There's not -- there's not a
19 whole lot of department heads here making that case.
20 　　　COUNCILMEMBER DEAN: Well, I absolutely
21 understand, because when I was in H.R., if there was
22 someone who wanted an employee, the employee wanted to
23 extend more time than he or she was allowed, they
24 would come to me and they would say blah-blah-blah,
25 and I think it was like a week over the amount

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1 allotted. Any amount over that, I would have to go to
2 the managing partner of the law firm and say, "Look.
3 This is above my pay grade. This is what this
4 employee asked to do," and he or she would make the
5 decision, but then it would come back to me because
6 that's a management issue.
7   I mean that's okay, this is what we have,
8 and here is where the problem is. This is 2012. Now,
9 if we go a month into 2013, now we're decreasing that
10 by one month, so we're making that an 11-month year
11 with the same problems. And so this person that's
12 using up all this time in the first month, it seems to
13 me that where is the -- where is the solution?
14   CHIEF KING: The solution is to staff these
15 critical places at the right staffing level. That is
16 the solution.
17   COUNCILMEMBER PATRICK: I'd like to add that
18 I thought that when we had Flex H.R. here, that they
19 had initially suggested 120 hours --
20   COUNCILMEMBER DEAN: Yeah, they did.
21   COUNCILMEMBER PATRICK: -- rollover for the
22 year to avoid --
23   COUNCILMEMBER DEAN: They did.
24   COUNCILMEMBER PATRICK: -- this similar
25 situation.

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1   COUNCILMEMBER PACHUTA: Well, okay. I have
2 several problems. One, that it's December 17th --
3   CHIEF KING: Yep.
4   COUNCILMEMBER PACHUTA: -- and we just heard
5 about this Friday.
6   CHIEF KING: That's correct.
7   COUNCILMEMBER PACHUTA: Two, as I've known
8 every year I've been on Council, PTO has been an issue
9 every year and it's been problems with employees
10 gaming the system.
11   We ended at one point cash payout of PTO and
12 then we found out they were still paying out cash
13 during the year and saying, "Oh, well, we will just
14 start paying it out at the end of the year." So we
15 went to no carryover, and then we changed that to 80
16 hours carryover.
17   And my problem -- and I brought this up with
18 Lisa, and Lisa's comment was, "There is no requirement
19 to take PTO before comp time."
20   And my issue is comp time, compensatory time
21 off, never goes away. FLSA, you are always going to
22 keep that comp time; it's never going away; and once
23 you accrue a certain number of hours, it's going to be
24 paid to you. That never goes away.
25   I have a problem if employees are taking

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1 comp time which never goes away before PTO which does
2 go away, and then at the end of the year, they're
3 like, Oh, I haven't used my PTO. I have an issue with
4 that.
5   Lisa couldn't really tell me if that's been
6 a -- you know, specific instances of that's been
7 occurring, but I do have an issue if employees are
8 taking time off under something that never goes away
9 and then complaining, "Oh, now I'm going to lose my
10 PTO. Can I please have it?"
11   CHIEF KING: Let me make it very clear,
12 ma'am: Not a single employee of mine has requested
13 this. This is John King initiative. This is because
14 something that I feel is inherently --
15   COUNCILMEMBER PACHUTA: But --
16   CHIEF KING: Ma'am, please let me finish
17 because I think this is an important point. You
18 brought some very important points.
19   I have no evidence right now of any employee
20 gaming the system. This is nine employees who I
21 ordered to work and not take time off.
22   COUNCILMEMBER PACHUTA: But have they taken
23 compensatory time off during the year?
24   CHIEF KING: Yes, they have.
25   COUNCILMEMBER PACHUTA: But did not use

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1 their PTO.
2   CHIEF KING: No. They've used -- I try to
3 get them to take the time off, I mean. The challenge,
4 you know, is employees who are working in the jail.
5 There's three people working in the jail and there's
6 four shifts. That means nobody can take time off;
7 they can't get sick, they can't take vacations.
8 Nothing can happen. There's zero flexibility in
9 there.
10   COUNCILMEMBER PACHUTA: But you just said
11 they have taken compensatory time off during the year.
12   CHIEF KING: What I'm doing is I'm drafting
13 people from other sections of the police department
14 and put them to work there. But as I can, what I've
15 tried to do is I've looked with Lisa to try to get the
16 highest salary employees and get them to take as much
17 time off as I can, but there's only certain level --
18 certain employees who can qualify to work in that
19 radio.
20   Ma'am, I don't -- and I agree we've had some
21 challenges, and we've looked really hard and I think
22 I've worked I think very diligently to cut out some of
23 the abuses. Clearly, there were some problems in the
24 way we -- the policy was interpreted in all respects,
25 and ma'am, loud and clear.

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1   But not a single employee has complained
2   about this. I'm only referring to the employees who I
3   ordered to work, and it's a sense of fairness of
4   trying to get them to try to get a opportunity to take
5   some time off.
6   If they don't make it within 30 days, I can
7   say that the City has made a good-faith effort to get
8   them to take the time off. If they don't get time
9   off, the policy stands: You lose it.
10   COUNCILMEMBER FLEMING: Chief --
11   CHIEF KING: Yes, ma'am.
12   COUNCILMEMBER FLEMING: -- if you don't
13 mind, I'd like to say a couple of words.
14   I'm very sympathetic to your request and to
15 the rest of the City itself because we have had a
16 reduction in force. There may be in the very near
17 future, based on what may happen with a city manager
18 coming on board, that there may be additional
19 employees reduced in force.
20   Now, it comes to the point of not just your
21 department, sir, but the other departments in
22 scheduling that employee that has gone over in PTO or
23 have not taken PTO by December 17. First of all, it
24 was their responsibility to have taken it; secondly,
25 it should have been their supervisor keeping track of

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1   their time; and thirdly, it would have fell on the
2   department director's shoulders in poor scheduling or
3   the lack of directorship to the employees.
4   So though I, as I said -- and this is not a
5   direction to you or a directive to you; I am stating
6   it for the City -- that there will be changes right on
7   the horizon that will state that this is a poor
8   scheduling issue, not a reduction-in-force issue,
9   okay. So I just -- I want to make that as a comment
10 from my point of view.
11   CHIEF KING: Well, ma'am, let me respect-
12 fully respond to you: I think you're wrong. If you
13 don't have a body to sit in the 911 center, no magic
14 amount of scheduling is going to put a body in
15 answering those 911 calls. Zero equals zero.
16   And we've talked a lot back and forth, and I
17 really did not want this to turn into a policy
18 decision. I made a request to the Mayor; it's either
19 yes or not. I mean I'm a soldier. I'm --
20   MAYOR PITTMAN: And I just want to say that
21 if legal had said that I could have done this, I would
22 have -- I would have approved this. I think that it's
23 necessary, I think that I understand the shortages
24 there and I also understand not having jailers and
25 dispatchers available, and a shortage, especially in

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1   the jail, is a huge danger.
2   And I know that, again, H.R. did make the
3   recommendation of something different, and it might
4   behoove us at some point to revisit that.
5   But since it has been put on Council, I
6   would like to either make a -- somebody to make a
7   motion and let's move either yes or no rather than
8   have all this discussion. I think that policy
9   discussions need to be taken up at another time.
10   COUNCILMEMBER BATES: Yeah. I make a motion
11 to authorize the 30-day extension for the nine
12 employees.
13   MAYOR PITTMAN: Do I get a second, please?
14   COUNCILMEMBER ALEXANDER: Second,
15   MAYOR PITTMAN: Discussion?
16   COUNCILMEMBER FLEMING: I only have one
17 question for Ms. Ferguson.
18   Do you have any idea how many hours that
19 entails?
20   MS. LISA FERGUSON: I only have the hours
21 for the whole city with me but I can go back and get
22 it.
23   COUNCILMEMBER DEAN: 950 throughout all
24 departments.
25   COUNCILMEMBER FLEMING: Oh, but you don't

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1   have it specifically for the police department.
2   COUNCILMEMBER PATRICK: One quick question
3   is is are we creating a problem by not offering this
4   -- by not offering this to all employees, by a select
5   group has been kind of hinted at?
6   ATTORNEY McLENDON: You can create a -- you
7   can create a particular group based upon the circum-
8   stances, and I think the Chief has put forward his
9   circumstances, and it sounds like he is saying the
10 individuals who had been working the radio to be able
11 to cover those shifts. So I would interpret that to
12 be that group of folks who were working in that place.
13   COUNCILMEMBER PATRICK: Radio and jail.
14   ATTORNEY McLENDON: Radio and jail to take
15 care of the short staffing there.
16   COUNCILMEMBER DEAN: Well, I think
17 definitely it should be more specific, I mean, because
18 if we're talking about nine employees, then that
19 should somehow be stated.
20   But I, too -- I did not have a chance to
21 really look at this today. I got the packet Thursday,
22 sent out my questions Friday. I got my answers today,
23 wasn't near a computer today, so I haven't even had a
24 chance to look at this closely.
25   And again, so I'm supposed to get this, read

1 this quickly and then make a decision. I need more
2 time. And so I mean even if there is some way that we
3 can move this to the next meeting, understanding that
4 it's in January, it's either going to be yes or no,
5 and they can serve that time in January either way.
6 But I need more time to look at this and see. I mean
7 this is complex, and I would like --
8   MAYOR PITTMAN: Okay. Well, at this time,
9 we have a motion and a second, so --
10   COUNCILMEMBER DEAN: And I'm discussing my
11 position on this.
12   MAYOR PITTMAN: Right, but I'm just --
13   COUNCILMEMBER DEAN: I understand. Thank
14 you.
15   MAYOR PITTMAN: Anything else?
16   COUNCILMEMBER DEAN: I'm done. Thank you.
17   COUNCILMEMBER FLEMING: I have one other
18 question for Ms. Ferguson.
19   The PTO salary is or the PTO is based on our
20 personnel policy of December 31st; however, in our
21 budget, it goes through June 30th, does it not?
22   MS. FERGUSON: Yes, it does.
23   COUNCILMEMBER FLEMING: Okay. So those
24 hours if they do roll over would have to be taken, the
25 request of the 30 days' extension, but we would not

1 have a budgetary shortfall if they did not take them
2 prior to June the 30th.
3   MS. FERGUSON: We would not, but, in theory,
4 they would roll over to the end of January and then if
5 they hadn't used them, they would lose them.
6   COUNCILMEMBER FLEMING: Okay. Thank you.
7   COUNCILMEMBER DEAN: And there's no way that
8 this will be -- I mean the thing is I don't want a
9 situation, for example, the situation Ms. Pachuta
10 described is that, "Here's my comp time. I want to
11 cash out on it."
12   That's not going to happen here; right?
13   COUNCILMEMBER PACHUTA: I think you can cash
14 out comp time at any time. PTO cannot be cashed out.
15   COUNCILMEMBER DEAN: Or PTO. I'm sorry.
16 PTO.
17   COUNCILMEMBER PACHUTA: PTO cannot be cashed
18 out.
19   COUNCILMEMBER DEAN: Okay.
20   MAYOR PITTMAN: Okay. Call the roll,
21 please.
22   CLERK BRYANT: Councilmember Alexander?
23   COUNCILMEMBER ALEXANDER: Yes.
24   CLERK BRYANT: Councilmember Bates?
25   COUNCILMEMBER BATES: Yes.

1   CLERK BRYANT: Councilmember Dean?
2   COUNCILMEMBER DEAN: Yes.
3   CLERK BRYANT: Councilmember Fleming?
4   COUNCILMEMBER FLEMING: Yes.
5   CLERK BRYANT: Councilmember Pachuta?
6   COUNCILMEMBER PACHUTA: No.
7   CLERK BRYANT: Councilmember Patrick?
8   COUNCILMEMBER PATRICK: Yes.
9   MAYOR PITTMAN: Okay. Thank you.
10   Thank you, Chief.
11   Next on the agenda is the Retail Motor
12 Vehicle Excise Tax Ordinance, Mr. Howe.
13   MR. LUKE HOWE: Yes, ma'am. Thank you.
14 This is the second reading of the Rental Motor Vehicle
15 Excise Tax Ordinance.
16   If there aren't any questions, I'll ask
17 Council for a motion to adopt.
18   COUNCILMEMBER FLEMING: I do have some
19 questions, or did you want to start from one end?
20   MAYOR PITTMAN: I'll start with Ms.
21 Alexander.
22   COUNCILMEMBER ALEXANDER: This question may
23 have been asked and answered before. I apologize if
24 it was. Are these funds restricted like hotel/motel
25 tax funds?

1   MR. HOWE: Yes, ma'am.
2   COUNCILMEMBER ALEXANDER: Okay. Thank you.
3   MAYOR PITTMAN: Mr. Bates? Ms. Pachuta?
4   COUNCILMEMBER PACHUTA: But we get to keep
5 all of them. None --
6   MR. HOWE: Yes, ma'am.
7   COUNCILMEMBER PACHUTA: -- has to go back to
8 Dekalb; correct?
9   MR. HOWE: We -- we get to administer.
10   COUNCILMEMBER PACHUTA: Okay.
11   MR. HOWE: We don't have to contract with
12 a --
13   COUNCILMEMBER PACHUTA: And we don't --
14   MR. HOWE: -- convention bureau.
15   COUNCILMEMBER PACHUTA: -- need to set up
16 any kind of board or anything like you would with
17 hotel.
18   MR. HOWE: No, ma'am.
19   MAYOR PITTMAN: Mr. Patrick?
20   COUNCILMEMBER PATRICK: No.
21   MAYOR PITTMAN: Ms. Fleming?
22   COUNCILMEMBER FLEMING: Have we created the
23 reporting procedures yet?
24   MR. HOWE: Reporting procedures?
25   COUNCILMEMBER FLEMING: Yeah.

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1   MR. HOWE: For -- for the company? Well, we
2 created a form, a remittance form, yes, ma'am. That
3 was provided in the first-reading packet.
4   COUNCILMEMBER FLEMING: But our procedures
5 as to when we're going to request payment, etc., etc.
6   MR. HOWE: Yes, ma'am. That's in the
7 ordinance.
8   Payment will be due -- like I said, January
9 will be the first -- January 1st will be the first
10 month this ordinance goes into effect. Establishments
11 would pay for January by February the 20th.
12   COUNCILMEMBER FLEMING: Okay. And who will
13 be the responsible staff person for collecting and
14 reporting?
15   MR. HOWE: The ordinance says Clerk and/or
16 finance director, so.
17   MAYOR PITTMAN: Ms. Dean?
18   COUNCILMEMBER DEAN: And we do have a
19 tracking system implemented; I mean we will be able to
20 keep track of what's coming in?
21   MR. HOWE: It's very crude; yes, ma'am.
22 It's Excel work sheets, it's scanning remittance
23 forms, so it's a tracking system.
24   COUNCILMEMBER DEAN: Okay. And I asked you
25 before the first reading, during the first reading, to

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1 check into the car dealerships to see if they rent
2 vehicles?
3   MR. HOWE: Ma'am, the law -- you know,
4 according to the law, and let's -- you know, let's
5 backtrack and talk about the definitions. But the law
6 defines a motor vehicle rental company as an
7 individual or business entity whose business activity
8 is renting motor vehicles to consumers under rental
9 agreements for a period of 90 days or less. So that
10 would not apply to a long-term lease --
11   COUNCILMEMBER DEAN: Lease, right.
12   MR. HOWE: -- like a car dealership. And
13 they lease cars and then they lend cars for customers
14 who are having their -- their primary car worked on.
15 So this would not apply to car dealerships.
16   COUNCILMEMBER DEAN: And so if you lease a
17 car, it is not the same -- but it's not defined the
18 same as leasing? There seems to be some question
19 about that?
20   MAYOR PITTMAN: (To the audience) No. No.
21   UNIDENTIFIED: Okay.
22   MR. HOWE: 90 days or less. That's the
23 operative phrase.
24   COUNCILMEMBER DEAN: That's the legal
25 definition? Is that true?

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1   MR. HOWE: Yes, ma'am.
2   ATTORNEY McLENDON: It's in the ordinance, I
3 believe --
4   COUNCILMEMBER DEAN: Okay.
5   ATTORNEY McLENDON: -- which is taken from
6 the State.
7   MR. HOWE: Would not apply to limousine
8 outfits or bus rentals, so just commercial rental
9 facilities.
10   MAYOR PITTMAN: Any more questions?
11   - - -
12   (No response)
13   - - -
14   MAYOR PITTMAN: Is anyone willing to make a
15 motion?
16   COUNCILMEMBER PACHUTA: I'll make a motion
17 to pass the Rental Motor Vehicle Excise Tax Ordinance.
18   MAYOR PITTMAN: I need a second.
19   COUNCILMEMBER BATES: Second.
20   MAYOR PITTMAN: Discussion?
21   - - -
22   (No response)
23   - - -
24   MAYOR PITTMAN: Call the roll, please.
25   CLERK BRYANT: Councilmember Alexander?

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1   COUNCILMEMBER ALEXANDER: Yes.
2   CLERK BRYANT: Councilmember Bates?
3   COUNCILMEMBER BATES: Yes.
4   CLERK BRYANT: Councilmember Dean?
5   COUNCILMEMBER DEAN: Yes.
6   CLERK BRYANT: Councilmember Fleming?
7   COUNCILMEMBER FLEMING: Yes.
8   CLERK BRYANT: Councilmember Pachuta?
9   COUNCILMEMBER PACHUTA: Yes.
10   CLERK BRYANT: Councilmember Patrick?
11   COUNCILMEMBER PATRICK: Yes.
12   MAYOR PITTMAN: Thank you.
13   Thank you, Mr. Howe.
14   I believe Mr. Ibsen had a report that he
15 wanted to make.
16   MR. JOHN IBSEN: Yes. John Ibsen, and I
17 live on Pontiac Circle. I'm currently the chair of
18 the Planning Commission.
19   Just wanted to come before the Council
20 today, as in our last meeting it was brought up that
21 several times, I guess, one of our former members --
22 and I don't want to mention the name specifically just
23 out of privacy -- is no longer a member of our
24 commission. And we are a commission of five, and we
25 need a quorum of three to pass anything up to -- up to

1 the Council.
2   We're requesting a member from District 3
3 and also another at-large member from the Council to
4 be appointed. Several times this year, we have not
5 been able to establish a quorum and therefore we've
6 not been able to pass any motions up to the Council.
7   So I guess that's all I really had to say.
8 We just need to respectfully request two additional
9 members of the Planning Commission as soon as
10 possible.
11   COUNCILMEMBER FLEMING: Do you have any
12 recommendations at this time?
13   MR. IBSEN: Honestly, no. I believe Carol
14 Gilman does have some people that she's been talking
15 to but I believe we're not actually able to put any
16 names forth.
17   COUNCILMEMBER FLEMING: Right. Thank you.
18   COUNCILMEMBER PACHUTA: Okay. And Maria and
19 I still have not been able to find someone from
20 District 3. If anyone has suggestions for the at
21 large, if they could send them to City Council.
22   COUNCILMEMBER BATES: I'll have a name to
23 present to Council --
24   COUNCILMEMBER PACHUTA: Okay.
25   COUNCILMEMBER BATES: -- in January.

1   COUNCILMEMBER ALEXANDER: Please, if you
2 know anybody from District 3 that you think might be
3 interested or available, e-mail us and let us know.
4 Thank you.
5   MAYOR PITTMAN: Mr. Ibsen, thank you so
6 much.
7   Okay. Next on the agenda is public
8 hearings. We have the second read Ordinance to Revise
9 Zoning Text for the Sexually Oriented Business, and I
10 believe -- sir?
11   ATTORNEY BERGTHOLD: Good evening, Mayor and
12 members of the Council. I'm going to hand out a
13 handout for each of you (presenting). Take one down
14 and pass them around.
15   This is mostly a housekeeping meeting with
16 regard to the zoning text amendment as part of the
17 update and overhaul of the City's Sexually Oriented
18 Business regulations.
19   This is second reading. You previously in
20 September heard a presentation on the negative
21 secondary effects of sexually oriented businesses,
22 which is the foundation for regulating in this area of
23 the law.
24   You'll hear an abbreviated version of that
25 presentation and a little bit of new material for the

1 zoning amendment, because there's two separate
2 ordinances, you remember: there's a licensing
3 ordinance and then this is the zoning text amendment.
4   This essentially just cleans up the Zoning
5 Code so that where terms that are used in the
6 licensing ordinance need to be integrated into the
7 Zoning Ordinance, we changed those references and made
8 those consistent.
9   It eliminates the categorization of adult
10 uses as conditional uses. Because of the discretion
11 that's inherent in that process, the courts have not
12 looked with favor upon treating these as conditional
13 uses, but, instead, they must be permitted uses. The
14 zoning district classification doesn't change, it's
15 still M-2, so that's where adult uses would be allowed
16 going forward.
17   What you have in front of you in addition to
18 a paper of my handout with the slides presented there,
19 just a more recent article that is very much, in a
20 sense, cumulative of what we heard a presentation on
21 extensively back in September, but this is a November
22 2012 -- November 29, 2012 scholarly article that was
23 published in The Journal of Crime and Delinquency, and
24 it was based on an extensive study done by Professor
25 Eric McCord and another gentleman named Richard

1 Tewksbury, two criminologists in the field out of
2 Louisville, Kentucky, at the University of Louisville,
3 which is another city that's one of our clients.
4   But basically the documentation of a study
5 of 30 different adult businesses found that there were
6 significantly higher levels of crime, both violent
7 property and public-disorder offenses, within the
8 immediate vicinity of adult businesses, and even where
9 there were better neighborhoods, so to speak, that the
10 adverse impact of the adult use overwhelmed those
11 beneficial characteristics of the neighborhood, and as
12 you move farther away from the site, your
13 victimization risk of crime goes down but it still
14 remains significant at the city-block level. So
15 that's what that study is about.
16   If you turn to the document that has -- and
17 again, I'm going to make this abbreviated, but it is
18 important to make a proper record for both
19 ordinances -- that has --
20   COUNCILMEMBER ALEXANDER: Can I stop you for
21 a second.
22   ATTORNEY BERGTHOLD: Yes.
23   COUNCILMEMBER ALEXANDER: Can you identify
24 yourself for the record --
25   ATTORNEY BERGTHOLD: Oh.

1   COUNCILMEMBER ALEXANDER: -- because I don't
2 think you did.
3   ATTORNEY BERGTHOLD: I apologize. I'm
4 getting very comfortable here, and I should do that.
5   My name is Scott Bergthold with the Law
6 Office of Scott Bergthold.
7   COUNCILMEMBER ALEXANDER: Thank you.
8   ATTORNEY BERGTHOLD: Thank you.
9   On the opening slide, we talked about the
10 seminal case in this area, which is City of Renton
11 essentially is the Supreme Court case that lays the
12 groundwork for regulating this area makes it clear
13 that cities can't prohibit adult businesses outright
14 but they must allow someplace for them to go in the
15 city, and there where they're allowed to go, they can
16 be subject to stringent time, place and manner
17 restrictions.
18   This deals with place, but most of the
19 regulations of course in the City's Code will be found
20 in the licensing ordinance that was passed in
21 September and went into effect October 1.
22   There are a number of different secondary-
23 effect sources. I think what you were provided with
24 originally in the summer, both in paper -- some in
25 paper and then electronic form was about 2500 pages of

1 studies that are criminology studies like this one but
2 also affidavits documenting these adverse secondary
3 effects.
4   At the top of page two, that tells us what
5 those are. Negative impacts on surrounding
6 properties. There was a lot of talk earlier with
7 regard to the hotel and the potential assisted-living
8 center, but the theme of all parties in that debate or
9 that discussion, I think, is making Doraville a place
10 that's attractive for positive commercial development
11 going forward. And a number of these studies have
12 said that strictly regulating the licensing and zoning
13 of adult uses is an important piece of that long-term
14 strategy to make the city attractive for positive
15 economic development.
16   Number two is personal and property crimes,
17 three would be the sexual crimes that have been
18 documented time and time again in these studies and
19 then also the drug use that is associated with these
20 types of adverse uses.
21   The secondary-effects finding like in the
22 licensing ordinance has been explicitly written into
23 the preamble and the findings section of the zoning
24 text amendment so that if 10 years down the road
25 there's a challenge, they'll be able to see the text

1 where this was the predicate.
2   We relied on a series of cases, but in this
3 discussion I want to talk about a couple that the
4 courts have upheld regulation of adult uses limiting
5 them to industrial or manufacturing districts, which
6 is what this text amendment does.
7   One of the cases we argued was out of the
8 Eleventh Circuit in 2007, and it's called the Daytona
9 Grand v. City of Daytona Beach case that upheld that
10 type of regulation.
11   On pages three and four, you have citations
12 to specific cases and expert studies documenting the
13 adverse impact of alcohol combined with adult
14 entertainment and the secondary effects that that
15 engenders, and those have been documented in a number
16 of cases including the Daytona Beach case I just
17 mentioned.
18   There are some additional cases that are at
19 the bottom of pages four that tell us basically the
20 road map. This city has been very -- this Council
21 particularly has been careful to follow with adopting
22 these updated amendments, both when it comes to
23 licensing -- that's the City of Littleton case at the
24 bottom of page four that we were involved with at the
25 Supreme Court, that basically gave us the framework

1 for how to do the licensing ordinance as well as the
2 Renton case which gives us insight into the zoning
3 process.
4   At the top of page five, there's very recent
5 authority -- I'm talking 2010 and 2011 -- from the
6 U.S. Court of Appeals for the Eleventh Circuit that
7 sits here in Atlanta. One case dealt with the Fulton
8 County ordinance, which is in some respects how the
9 City of Doraville has proceeded with regulation on the
10 alcohol issue and some other issues.
11   The other case is a case we argued out of
12 Manatee County, Florida, that upheld a licensing and
13 zoning set of restrictions very similar to this.
14   At the bottom of page five, I won't repeat
15 the details -- a lot of them are quite graphic, and
16 it's not necessary here -- but to note that whether it
17 be illicit sexual behavior or adverse impacts on
18 surrounding properties and surrounding property
19 values, there's sort of a common denominator or a
20 "thread that runs so true" in these studies that vary
21 from jurisdiction to jurisdiction, some large cities,
22 some small cities. But the common denominator is that
23 these uses have adverse impacts and if the city does
24 have the legislative authority to control, which the
25 City has done.

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1   And then on the last page, page six -- I
2 think seven is just a citation of cases, but page six
3 summarizes the three main expert findings in this area
4 of the law, and that is that the negative secondary
5 effects of sexually oriented businesses is a scien-
6 tifically robust finding because it's been confirmed
7 in a wide variety of data sources over many years.
8   The City of Doraville does have a
9 substantial government interest in regulating to
10 prevent each of those effects, and so that's why you
11 have a "one-two" approach that's comprehensive,
12 because certain regulations address certain secondary
13 effects.
14   And then number three, the industry counter-
15 studies that were often thrown up in this area to
16 claim that there's no valid basis for regulation
17 violate basic methodological rules, like relying just
18 on calls for police service when a lot of crimes that
19 are associated -- vice activities particularly that
20 are associated with these land uses, do not come in
21 through a 911 call and things like that.
22   And then finally, on the last page, just
23 notice that these voluminous secondary-effects
24 material are separately made a part of the legis-
25 lative record for this text amendment and this

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1 ordinance just like they were for the 2012 licensing
2 ordinance adopted in September. I have previously
3 provided those to Madam Clerk, and those will be made
4 a part of the minutes for this meeting.
5   And with that, that concludes my
6 presentation; if you have any questions.
7   MAYOR PITTMAN: Thank you. We're going to
8 bring it up to the table for a few minutes.
9   Ms. Alexander?
10   COUNCILMEMBER ALEXANDER: I'm done, thank
11 you.
12   MAYOR PITTMAN: Mr. Bates?
13   COUNCILMEMBER BATES: I've had my questions
14 answered. Thank you.
15   MAYOR PITTMAN: Okay. Ms. Pachuta?
16 Mr. Patrick? Ms. Fleming?
17   COUNCILMEMBER FLEMING: I have two
18 questions, please.
19   On page five of the ordinance, we have -- in
20 Section 23-402, we have struck out the "adult enter-
21 tainment establishment" and created the SOB defi-
22 nition.
23   My question to you regarding this is --
24   ATTORNEY McLENDON: Public hearing?
25   MAYOR PITTMAN: Yes.

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1   ATTORNEY McLENDON: Yeah.
2   MAYOR PITTMAN: Yes, we are, but we're going
3 to get questions from Council first.
4   ATTORNEY McLENDON: And I apologize.
5   MAYOR PITTMAN: Go ahead, Ms. Fleming.
6   COUNCILMEMBER FLEMING: Are we substituting
7 "adult cabaret" to mean "erotic entertainment/dance
8 establishment?"
9   ATTORNEY BERGTHOLD: No, but that --
10 basically, this definition is a better definition than
11 what pre-existed in the term of "erotic dance
12 entertainment" in the current Code.
13   But when you go to the definition in Chapter
14 6, Article X, which is the licensing ordinance that's
15 crossed referenced here for the definitions, it's just
16 a better, more narrowly tailored definition, but it
17 covers the same kind of establishment.
18   COUNCILMEMBER FLEMING: Could there be any
19 type of misinterpretation of "adult cabaret" by any
20 type of an establishment that said, "We're an adult
21 cabaret," but yet they are erotic entertainment?
22   ATTORNEY BERGTHOLD: You mean claiming not
23 to be an adult cabaret but they're erotic entertain-
24 ment?
25   COUNCILMEMBER FLEMING: No. We're going to

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1 allow an SOB --
2   ATTORNEY BERGTHOLD: Uh-huh.
3   COUNCILMEMBER FLEMING: -- in M-2.
4   ATTORNEY BERGTHOLD: Uh-huh.
5   COUNCILMEMBER FLEMING: And therefore, they
6 could be an adult cabaret.
7   ATTORNEY BERGTHOLD: Uh-huh.
8   COUNCILMEMBER FLEMING: So are we saying
9 that that adult cabaret is indeed an erotic enter-
10 tainment/dance establishment?
11   ATTORNEY BERGTHOLD: Well, we're not using
12 that term anymore, but basically they have semi-nudity
13 and they regularly feature persons who appear in a
14 condition of semi-nudity, which is a better way of
15 saying what was in the erotic dance definition, erotic
16 dance studio definition. They would be governed by
17 Chapter 6, Article X, which is all the regulations:
18 no alcohol, six-foot rule, no touching, hours of
19 operation and all of that.
20   COUNCILMEMBER FLEMING: Okay. On page
21 seven, in the beginning of your discussion with us
22 this evening, you made a comment about permitted use
23 versus conditional use --
24   ATTORNEY BERGTHOLD: Yes.
25   COUNCILMEMBER FLEMING: -- in M-2?

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1   ATTORNEY BERGTHOLD: Uh-huh.
2   COUNCILMEMBER FLEMING: And did you make the
3 comment that we had to provide a permitted use in some
4 district --
5   ATTORNEY BERGTHOLD: Yes.
6   COUNCILMEMBER FLEMING: -- for this item?
7   ATTORNEY BERGTHOLD: That's exactly what I'm
8 saying.
9   COUNCILMEMBER FLEMING: And that we could
10 not make it conditional use?
11   ATTORNEY BERGTHOLD: That's exactly what I'm
12 saying.
13   COUNCILMEMBER FLEMING: And why is that?
14   ATTORNEY BERGTHOLD: That's because of a
15 case called Lady J Lingerie, Incorporated, vs. City
16 of Jacksonville, Florida, that was decided in 1999 by
17 the Eleventh Circuit Court of Appeals, and basically
18 the court said that there were like 95 sites in the
19 city of Jacksonville that would allow adult use, but
20 like 93 of them were in a zone where they were only
21 allowed by conditional use. And basically because of
22 the discretionary process that's associated with
23 conditional-use permitting, the court disallowed and
24 discounted all 93 out of those 95 sites and then said
25 they didn't have enough. They struck it down,

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1 basically.
2   COUNCILMEMBER FLEMING: I appreciate your
3 explanation, and I believe our previous comments were
4 that the City of Doraville has specific M-2 areas.
5   Well, M-2 area is my district, and we've
6 reduced the buffer to 350 feet, and now we're going to
7 have a permitted use within a residential district,
8 and I have issues with that.
9   ATTORNEY BERGTHOLD: Well, let me clarify a
10 number of things here that I think might be the source
11 of some misunderstanding.
12   The 350 refers to the licensing fee, the
13 dollar amount that's paid for a licensing fee. I
14 don't think M-2 is a residential district.
15   But the genesis of all these changes -- I
16 mean there's two big points to get here.
17   COUNCILMEMBER FLEMING: Let me stop you.
18   ATTORNEY BERGTHOLD: Sure.
19   COUNCILMEMBER FLEMING: The M-2 district,
20 zoning district in my District 1 abuts residential.
21   ATTORNEY BERGTHOLD: That's right.
22   COUNCILMEMBER FLEMING: Okay. So --
23   ATTORNEY BERGTHOLD: Are you talking about
24 the tank farm or Bankers --
25   COUNCILMEMBER FLEMING: Yes, sir, I am.

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1   ATTORNEY BERGTHOLD: -- Bankers Industrial
2 Circle? That's right, that's right and --
3   COUNCILMEMBER FLEMING: And -- and --
4   ATTORNEY BERGTHOLD: Go ahead.
5   COUNCILMEMBER FLEMING: -- and bear with me,
6 but we did a reduction in the buffer --
7   ATTORNEY BERGTHOLD: Yes.
8   COUNCILMEMBER FLEMING: -- to 350 feet --
9   COUNCILMEMBER PATRICK: Probably eliminated.
10   COUNCILMEMBER FLEMING: -- because I --
11   MAYOR PITTMAN: I think we eliminated that.
12   COUNCILMEMBER FLEMING: Or we eliminated it
13 completely.
14   ATTORNEY BERGTHOLD: Yeah, yeah. There was
15 elimination of the buffer. That's what the ordinance
16 does.
17   And let me explain this for two reasons just
18 so there's no confusion. This is something we
19 addressed in November. There are economic
20 considerations of trying to go into the tank farm.
21   With regard to Bankers Industrial Circle,
22 there is a geographical barrier in the sense of forest
23 or trees like a tree line that separates the two and
24 some elevational differences between those two --
25 between the apartments that are there and what's up in

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1 Bankers Industrial Circle.
2   But here's the rubric under which we're
3 working: The City of Doraville by adopting this
4 ordinance and the one that was adopted on October 1st,
5 essentially, I believe has the strongest ordinances
6 that it can have that are constitutionally sound to
7 protect the citizens from two problems.
8   Number one would be all the secondary
9 effects that go with the operation of a business.
10 Number two would be the problem of having an adult
11 business open right on Buford Highway and being
12 grandfathered at that location because they could
13 successfully strike down the zoning requirements for
14 lack of sites anywhere in the city.
15   The nature of Doraville is that it's so
16 built out and it's very residential, that you have to
17 allow them somewhere and you have to choose where to
18 put that or the business will choose for you because
19 they could successfully get the zoning standard struck
20 down.
21   COUNCILMEMBER FLEMING: Okay. Thank you
22 very much.
23   ATTORNEY BERGTHOLD: Thank you.
24   MAYOR PITTMAN: Ms. Dean?
25   COUNCILMEMBER DEAN: I'm good.

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1   MAYOR PITTMAN: Okay. At this time, we're
2 going to open the public hearing portion.
3   We will take those wishing to speak for.
4 You will have 10 minutes. That's 10 minutes complete.
5 I'm sorry, I'm losing my voice. So if you speak for
6 10 minutes, no one else will have that opportunity to
7 speak. Anyone wishing to speak for please come
8 forward.
9   MR. ANDERSON: Stuart Anderson. I never
10 know if I'm speaking for or against these things.
11   I might point out that Good Earth Environ-
12 ments, which is an abomination on our city, is for
13 sale. They're piling up and have been piling up all
14 sorts of amazingly nasty stuff over the years, and it
15 is for sale, and it absolutely abuts an R-1 district.
16 I don't think we can beat this, don't get me wrong,
17 but I'm just pointing out that that M-2 is not the
18 secure situation that it used to be as far as keeping
19 people out. That piece of property, that Good Earth
20 Environment and the tank farm in that area --
21   MAYOR PITTMAN: Are you speaking for passing
22 this?
23   MR. ANDERSON: I guess I'm speaking for
24 passing it, but I'm pointing out some -- some
25 situations here.

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1   The other thing that I'm trying to say is
2 that particular piece of property and the adjacent
3 tanks in that area are on, regardless of this church
4 across the street from here, is the highest piece of
5 property this side of Stone Mountain. It is extremely
6 important property, high -- high value property. The
7 Oasis and businesses like that have extremely deep
8 pockets. Good Earth Environments is for sale.
9   MAYOR PITTMAN: Thank you. Anyone wishing
10 to speak for passing this?
11   MR. HART: I'm for passing it but with some
12 caveats.
13   Currently if you build a new building in M-2
14 -- now, the City has never followed this rule, but
15 there's supposed to be 500 feet between the new
16 structure and residential.
17   When the houses caught on fire in Doraville
18 it is because they violated that rule. The duplexes
19 that you refer to violate that rule. Okay? Things
20 catch on fire when they're next to a fuel tank when it
21 catches on fire.
22   New construction of an adult nightclub
23 should meet that same rule of being 500 feet, not 350
24 feet if you believe in equal protection and that sort
25 of thing. Okay. So the minimum variance if it's

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1 going to meet the rest of the M-2 district, it should
2 be 500 feet for new construction of a club.
3   And I think that they've got deep pockets,
4 and if they want to build -- we've got all kind of
5 issues with like the motel having adult sex parties or
6 you have massage parlors. That's all adult industry,
7 okay. I mean where does all that fall in this
8 situation?
9   Thank you.
10   MAYOR PITTMAN: Okay. Anyone wishing to
11 speak against please come forward. Anyone wishing to
12 speak against. Again, you have 10 minutes.
13   - - -
14   (No response)
15   - - -
16   MAYOR PITTMAN: Okay. All right. At this
17 time, we're going to close the public hearing portion,
18 bring it back up to the table if they have additional
19 questions.
20   - - -
21   (No response)
22   - - -
23   MAYOR PITTMAN: Okay. Anyone willing to
24 make a motion?
25   COUNCILMEMBER ALEXANDER: So moved.

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1   MAYOR PITTMAN: Second?
2   COUNCILMEMBER PACHUTA: Second.
3   MAYOR PITTMAN: Discussion?
4   - - -
5   (No response)
6   - - -
7   MAYOR PITTMAN: Call the roll, please.
8   CLERK BRYANT: Councilmember Alexander?
9   COUNCILMEMBER ALEXANDER: Yes.
10   CLERK BRYANT: Councilmember Bates?
11   COUNCILMEMBER BATES: Yes.
12   CLERK BRYANT: Councilmember Dean?
13   COUNCILMEMBER DEAN: Yes.
14   CLERK BRYANT: Councilmember Fleming?
15   COUNCILMEMBER FLEMING: Yes.
16   CLERK BRYANT: Councilmember Pachuta?
17   COUNCILMEMBER PACHUTA: Yes.
18   CLERK BRYANT: Councilmember Patrick?
19   COUNCILMEMBER PATRICK: Yes.
20   MAYOR PITTMAN: Thank you. And we're going
21 to take a five-minute break.
22   - - -
23   (Brief recess)
24   - - -
25   MAYOR PITTMAN: Okay. Next on the agenda is

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1 the conditional use permit at 2001 Clearview Avenue,
2 Mr. Cooley.
3   MR. COOLEY: Good evening, Mayor.
4   MAYOR PITTMAN: Well, excuse me just a
5 minute. I understand this is not a public hearing
6 this time? Is that correct?
7   MR. COOLEY: That is correct. This is a
8 continuation of the hearing, but the public hearing
9 was closed at the October 15th. It was held and
10 closed, so this is a continuation.
11   Council requested the applicant to come back
12 I believe with both the additional information for
13 discussion and also information about the management
14 company. So this is a continuation of the hearing for
15 the 2001 Clearview Avenue. For the record, it's
16 parcels 18-311-21-001 and 18-311-21-002.
17   As I said before, the public hearing was
18 held on October 15th, deferred to today for a decision
19 and additional discussion by Council and by the
20 applicant.
21   The applicant, there was a question that
22 came up about which different conditions. As you will
23 recall, this was a combination where it was a rezoning
24 and then a conditional use permit. The rezoning was
25 to O&I which was passed by the Council with

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1 conditions. They were kind of combined as far as the
2 conditions go because it was set up as a looking for
3 the assisted-living facility, and in order to do that,
4 they have to get the rezoning and then the conditional
5 use permit.
6   You've been given also a kind of a summary
7 of the conditions proposed by the applicant regarding
8 the conditional use permit, and these are the
9 conditions that were specifically related to the
10 conditional use permit. I won't go through and read
11 them, but you do have a sheet that it was condition 1,
12 condition 2 and condition 8, and that was from the
13 letter of September 28th by James Ney, counsel for the
14 applicant. Mr. Ney also further wished to clarify,
15 and at the bottom of the sheet you'll see condition 7,
16 and relating to this would like to have this tied
17 directly to the conditional use permit also, and that
18 was the one addition of it.
19   So you're basically looking at 1, 2, 7 and 8
20 -- 8 and 7 as revised here is what has been requested
21 by the applicant. And the applicant is here along
22 with the folks in the management company, I believe.
23   COUNCILMEMBER ALEXANDER: And the sidewalk;
24 correct?
25   MR. COOLEY: The sidewalk was already

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1 included, yes, ma'am, but I just wanted to make sure
2 that you-all were aware of that because that was part
3 of.
4   COUNCILMEMBER PACHUTA: Was that included in
5 the rezoning or no, it is included in the --
6   MR. COOLEY: That was in -- I'll doublecheck
7 but I believe --
8   COUNCILMEMBER PACHUTA: Okay.
9   MR. COOLEY: -- that was in the rezoning,
10 but I'll check while he's making the discussion.
11   MAYOR PITTMAN: Mr. Ney?
12   ATTORNEY JAMES NEY: Yes, thank you.
13   Mayor and Council, I am Jim Ney and I'm
14 delighted to be with you this evening. I'm here on
15 behalf of the applicants in this conditional use
16 permit application for an assisted living facility.
17   Let me first answer the question: Yes.
18 Condition number 9 was one that was specifically asked
19 for, and it was for a sidewalk all along Clearview.
20 We put that in at the request of the gentleman to your
21 right, Mayor, so we're all set in that regard.
22   Let me introduce -- and I want to do exactly
23 what you're trying to do and do it with you if I can,
24 and that would be to introduce the people who I'd like
25 to bring before you. I'd like to go rather rapidly,

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1 but not too rapidly so that we're making sure we're
2 doing all the things.
3   The people that I'd like to introduce to you
4 now are the experts who we have been utilizing and who
5 you've met I think one or other occasions, but one you
6 have not met, and I want you to be sure and meet them
7 and have an opportunity to talk to them this evening.
8   Mr. Jeff Seeley, our architect with Foreman
9 Seeley and Fountain, he will go rapidly and thoroughly
10 over the plans, taking it very --
11   Mr. Chris Sides who is with our management
12 company. Mr. Sides is with Senior Solutions in
13 Suwanee, Georgia. They run and manage seven of these
14 facilities. They're well known in this industry.
15 They are the people who we have selected to manage
16 this facility. We selected them, they selected us,
17 and we have a commitment to go forward with them.
18   I have with me Mr. John Bryce who is the
19 president of Bryce Brothers, Inc., and he is here.
20 He's our construction supervisor for questions.
21   Mr. Naren Shah, who is the chief operating
22 officer of Imperial Investments-Doraville is also with
23 us if you have questions.
24   We seek your support this evening and we are
25 available to answer your questions in any way we can.

1 We're seeking a conditional use permit to conduct or
2 convert a failed hotel to an assisted living facility.
3 This is far, far better than having a closed hotel, a
4 fenced-in hotel that's out of business on this 5.4
5 acre tract of land, and we beg and plead with you to
6 help us make sure we're doing something to keep it in
7 operation if you will.
8   We had the great pleasure of having a
9 community meeting on November 28th, 2012. It was well
10 attended, and I think there were probably 20, 21, 22
11 people there altogether. We thank those people who
12 attended, we hope we answered their questions, but
13 more importantly, we hope we expressed to them our
14 desire to be a good part of the Doraville city
15 community, and we very specifically want to do that if
16 we can.
17   Our undertaking here today is born out of
18 the fact that we started off by looking at market
19 feasibility studies in 2010 and in 2011. You have
20 been supplied with copies of those studies. They were
21 quite favorable and indicated there was a consistent
22 demand for having and needing an assisted living
23 facility in this part of the world, and it said within
24 the local parameters, if you would, indicating within
25 a 5-mile radius of exactly where the facility is.

1   Your fine Planning Commission considered
2 this matter in depth and voted 4-0 in favor of the
3 request.
4   Your fine planning staff which undertook an
5 incredible analysis, an in-depth analysis of this
6 matter, and after coming back, they recommended the
7 approval not only of the zoning but also of the
8 conditional use permit which you have before you this
9 evening. They did so with conditions, and we have
10 agreed to each and every one of those conditions which
11 they have recommended to us.
12   You were kind enough as a city council, I
13 think probably on October 15th, to pass the O&I
14 provision of this. We thank you for doing so, but I
15 want to call your attention that that is already done
16 and behind us.
17   Let me take just a moment and talk to you
18 about what I think are some of the very exciting and I
19 think very extremely beneficial features of this
20 proposal that I want you to be aware of and to focus
21 on with me, if you will.
22   The hotel presently employs approximately 20
23 employees. They're all from the Doraville area,
24 generally.
25   The new assisted living facility will create

1 a large number of very good jobs and employment
2 opportunities. The assisted living facility will
3 create as many as 50 employment opportunities, and
4 we're delighted about that. There will be high-paying
5 jobs, there will be jobs that will be considerably
6 more than those that the hotel people are receiving
7 simply because these will be trained, experienced
8 nurses, caretakers, staff -- care givers and staff, if
9 you would, and for that reason, there will be a good
10 deal more compensation for them, if you would.
11   This is a dynamic addition and an uplifting
12 addition for Doraville. We are delighted it's going
13 to occur. It will be great for employment and employ-
14 ment opportunities, if you would.
15   Secondly, we run -- and this is something we
16 hope you can work with us with -- that here in
17 Doraville that you're looking for a senior adult
18 community center such as a hall or building in which
19 you might house such a facility. We'd like to explore
20 with you in every way we possibly can and offer our
21 assisted living facility to carry out and fulfill that
22 role.
23   The single-story portion of the building
24 which forms the hotel contains a number of incredible
25 areas which we think once renovated will be ideal to

1 take care of not only our clients but some of the
2 elderly people here in your fine city.
3   Some of the facilities that will be
4 available at that time will be a community and private
5 dining room, a concierge and service desk, an informal
6 bistro area, a beauty parlor or beauty shop, an art
7 room, a chapel and a sitting parlor. All that will
8 give you plenty of room and plenty of area in which we
9 can accommodate people who would be willing to come in
10 and share time with us.
11   I'll ask our architect to briefly show you
12 those as he goes through this evening so you'll have a
13 good, clear picture of exactly where they'll be
14 located.
15   Now, certainly with all this space and all
16 these accommodations, it's ideal first and foremost
17 for our clients, and I admit that it is for our --
18 And secondly, we hope it will serve an incredible
19 purpose of being that adult center that will take
20 place for the adult population of Doraville. We want
21 to share it, we want to use it and we want to make
22 great use of it if you will. We invite this; we want
23 this to occur.
24   There is room for movies, parties, dances,
25 dinners, cards, games, meetings, exercise classes and

1 all sorts of wholesome activities. It'll take a good
2 deal of work and planning but we are willing to expend
3 that time and energy. We want to make this happen, we
4 want to be a part of the community, but more
5 importantly, we think it'll be a great savings to
6 Doraville not to have to duplicate this expense when
7 it can be covered single-handedly by our facility
8 alone.
9   Third and foremost, if you would, we want to
10 provide a shuttle bus service that will take residents
11 from our facility all across Doraville to shop, dine
12 and visit other people in Doraville. This will be a
13 real financial boost and plus for the local shops and
14 stores and restaurants in this area. People will be
15 new people who aren't otherwise shopping there; we
16 will bring them to your marketplace.
17   Again, we want to be a very positive part of
18 your community and hope that you will let us do so.
19 We're going to design, build and operate this facility
20 as a first class, professionally operated full-pay
21 facility, and as you will hear this evening
22 particularly from our management company, that's
23 exactly what we're planning and what we'll carry
24 forward.
25   We're agreeing to and accepting the

1 condition -- it's condition number 8, and you can take
2 a look at it in a few moments, if you will -- that
3 will not allow us to become an apartment or any form
4 of Section 8 subsidized or housing for the poor. And
5 the way we've done that in condition number 8, we've
6 done it at the recommendation of your fine staff and
7 counsel. Your counsel recommended that we tie the
8 sheer leasing of the space to always requiring it to
9 have an assisted-living segment or feature that has to
10 be paid for separately; therefore, it could never
11 become subsidized Section 8 or other kind of housing
12 in any sense whatsoever.
13   If I could now at this point, I'm going to
14 pass up to you, if I may, three letters, if you will.
15 The letters are a letter dated September 28th, 2012.
16 It contains eight conditions. There's a letter of
17 October 5th, 2012, that contains one condition. And
18 you already -- you've already accepted all those
19 conditions, and I think it was part of the last motion
20 that was made. Every one of those conditions have
21 been accepted except number 1, 2 and 8, just as you've
22 heard from Mr. Cooley, as a matter of fact.
23   In addition to that, we're asking you to
24 also adopt a condition number 7, which we've sort of
25 jointly worked on to bring before you. It appears on

1 Exhibit A which is in the package you have there and
2 it's also . . .
3   Now, I wanted you to see that because we
4 have submitted those, but Mr. Cooley has given you a
5 one-page document. That one-page document he outlines
6 and we agree with those conditions as he has submitted
7 them: 1, 2, 8 and number 7, if you would. And I
8 think it covers the points beside of it very
9 specifically, if you would.
10   We ask for your support. To fully show you
11 what we want to do, we'd like to show you our plans
12 this evening, rapidly. We'd like to be available to
13 you to show you what the facility looks like and how
14 it will be run as a matter of fact.
15   We'll ask our architect to give you an in-
16 depth --
17   MAYOR PITTMAN: Mr. Ney?
18   ATTORNEY NEY: Yes.
19   MAYOR PITTMAN: I'm sorry. With all due
20 respect, I know I've had a couple of Council members
21 ask me a question.
22   I don't know if they want to see the
23 presentation, so I'm going to ask them if they would
24 like to see that presentation tonight --
25   ATTORNEY NEY: Can we --

1   MAYOR PITTMAN: -- prior to.
2   ATTORNEY NEY: Surely. May we bring our
3 manager on, then?
4   MAYOR PITTMAN: It's up to them. I'm --
5   ATTORNEY NEY: Surely.
6   MAYOR PITTMAN: -- open for it, but I do
7 want to ask them if they want to see the whole
8 presentation.
9   COUNCILMEMBER FLEMING: I personally am not
10 inclined to. I think we have already gone through the
11 presentation during the rezoning, and tonight we're
12 here to determine whether we are going to approve or
13 deny the conditional use permit.
14   COUNCILMEMBER DEAN: I agree. I met with
15 them individually, I saw the presentation, so I'm
16 good.
17   COUNCILMEMBER ALEXANDER: I would like to
18 hear from the management company. I've never met with
19 them or heard from them before.
20   COUNCILMEMBER PACHUTA: And the reason we
21 postponed the decision is because we wanted the
22 management company to be here, so.
23   ATTORNEY NEY: Indeed. Let me stop, then,
24 Madam Mayor, and I'll stop at this juncture, and let
25 me bring on our management company. We will skip the

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1 architect feature of things and simply move to the --
2   And let me introduce Mr. Chris Miles [sic]
3 of Senior Solutions. We have selected Chris and his
4 fine firm and he's selected us. We're going to move
5 forward with Chris; he will manage our facility.
6   Thank you, and let me turn it to Chris.
7 We're available for any questions you may have. Thank
8 you very much.
9   MAYOR PITTMAN: Thank you, Mr. Ney.
10   MR. CHRIS SIDES: Ladies and gentlemen of
11 the Council, I'm simply here tonight to tell you what
12 we do with senior citizens, and what we do as a
13 company. Myself -- I'd like to point out my partner,
14 Todd Barker. We've been in business since 2004.
15   Just give you a quick snapshot and point out
16 -- this is a particular map that we did that you can't
17 see it very well, but that's two and a half in a five-
18 mile radius. There's no formal assisted living
19 building within a five-mile radius of what would be
20 Silver Leaf Senior Living. So we feel like that there
21 is definitely a need for assisted living in the area,
22 or senior care.
23   Would point out as a company, it's very hard
24 to see up there, but we have seven communities, we
25 have about close to 400 residents in our care at this

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1 point in time. Seven -- we have 200 and -- about 250
2 employees thereabout.
3   Currently I just would point out that you
4 can see or I invite you to go on our Web site. This
5 basically all came off of there. I would point out
6 three communities in particular, which is River Oaks
7 Place, one in Lenore City, one in Lowden. The one in
8 Lenore City was the old Lenore City High School. Our
9 experience is conversions, or, as I was told today,
10 repurposing, if you will. So I would tell you, we get
11 about four to six calls a year from current hotel
12 owners looking to convert facilities into senior
13 housing of some form or fashion.
14   The old River Oaks Place there in Lowden,
15 that was the old Lowden County Hospital built back in
16 the 1900s. Both of those are on historic preservation
17 registers. They do very well and we've had extremely
18 good occupancy there as well.
19   Todd, if you'll flip on to the next one
20 there, I would point out Lakewood Place, which again
21 was the -- when they moved from the original Lowden
22 County Hospital, this became the Lowden County
23 Hospital and they've since built a new purpose-built
24 facility. It's all assisted living as well.
25   We are working on two more repurpose

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1 facilities, if you will. We have photos of those in
2 the next slide. One of them is being sponsored by the
3 City of Knoxville. It's an old school built in 1903,
4 here again on the historic preservation, historic
5 register. It's being redone.
6   And the one on the right down here is the --
7 what was called "the guest house," the old Alexander
8 Inn in Oakridge, Tennessee. And if you're familiar
9 with The Manhattan Project, the government actually
10 built that back in the early 40s, and that's where the
11 scientists came in and stayed when they would come
12 into Oakridge to do work on a project.
13   So here again, our experience with
14 conversions or repurpose, we've been doing it now --
15 these will be number 5 and number 6 on the conversions
16 for us. We like that fact because we try to tie the
17 history of that particular community or setting back
18 into the community. So where you've got the hotel
19 over here, we may try to go back to the glory days of
20 the GM plant and find history and find maybe photos
21 and things like that that could recreate what GM once
22 brought to the community here.
23   Go on to the next one. Besides
24 conversions -- Todd and I both come from a hospitality
25 background. He actually graduated with a degree in

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1 hospitality; I was a professional chef in hotels and
2 country clubs for 15 years before I moved into senior
3 housing. So we promote senior care with hospitality.
4 Food and hospitality is the best medicine. That's
5 what we look towards.
6   We generated a cookbook amongst our
7 communities. We've got 313 recipes from residents,
8 families and employees. It was a joint with our
9 sponsors, with our owners, with everyone in there, and
10 we've had great success promoting this at the grass-
11 roots level as a marketing tool. You can only get
12 Barbecue Doctor meat, sauces, recipes at a Senior
13 Solutions community, and it has been a phenomenal
14 success for us.
15   Over the last two years, we've maintained
16 occupancies in the high 90 percent range. Part of
17 that is assisted living is need driven. There's a
18 need there; we fill that need.
19   Obviously, I think the best thing that we do
20 -- Go on to the next one, Todd -- is we really promote
21 partnerships with residents, families and
22 professionals. Mr. Ney mentioned transportation.
23 These photos -- and I wish you could see it better,
24 but these are our facilities where we've gone out.
25 You know, we work with the police department, we work

1 with the paramedics, we work with the fire department.
2 We take them food, we partner with them.
3   Rehab companies, anybody who may offer a
4 service to seniors, we try to participate and we try
5 to partner with. There's no money in it for us. The
6 more services we can put in that facility to help keep
7 them there and promote good health as best you can is
8 a win-win for everybody. It's a win-win for them;
9 it's a win-win for us because we get to keep them in
10 the facility.
11   I would also tell you that very key to the
12 success of any assisted living, we partner with a lot
13 of senior centers within our counties that we operate
14 in. Sometimes they're just right down the street;
15 sometimes they're at the other side of the county.
16 But we try to provide a meal to the senior center at
17 least once a month on our behalf. We provide bingo
18 prizes, we provide other things, here again looking
19 for that partnership. And I will just tell you that
20 if the city and the county participates in assisting
21 the community, it will be a success. It really can't
22 fail.
23   If there is an opportunity for a senior
24 center within this community -- and there's plenty
25 enough space -- that would really be a win-win for

1 everybody. That would be an opportunity to where
2 we're together; we're not the senior center, we're not
3 the assisted living community. So really it's not a
4 hard process. It's not an expensive process. It's
5 just about getting on the same page and making it
6 work, and we have the experience to do that.
7   At this point, I'll be glad to answer any
8 questions that the Council may have or -- I know there
9 may be some. We did do the presentation and we had
10 some people here tonight that was for that, so if I
11 can answer anything, I'll be glad to.
12   MAYOR PITTMAN: Ms. Alexander?
13   COUNCILMEMBER ALEXANDER: I'm sorry. How
14 many years have you been in the business?
15   MR. SIDES: We founded the company in 2004,
16 so this'll be our eighth year. Prior to that, Todd
17 owned his own facility down in Middle Georgia for
18 about 15 years and I was in a corporate environment in
19 senior housing for several years beyond that.
20   COUNCILMEMBER ALEXANDER: Thank you.
21   MAYOR PITTMAN: Mr. Bates? Ms. Pachuta?
22   COUNCILMEMBER PACHUTA: Huh-uh.
23   MAYOR PITTMAN: Mr. Patrick?
24   COUNCILMEMBER PATRICK: No.
25   MAYOR PITTMAN: Ms. Fleming?

1   COUNCILMEMBER FLEMING: I have no questions
2 for him.
3   MAYOR PITTMAN: Ms. Dean?
4   COUNCILMEMBER DEAN: I have a question.
5   MR. SIDES: Yes, ma'am.
6   COUNCILMEMBER DEAN: One of the conditions
7 is the company is asking 36 months during which time
8 to find the financing, and you guys are going to be
9 the management company if and when that happens. So
10 how exactly does that work?
11   MR. SIDES: One thing that you couldn't
12 really see on the slides, I think four of our seven
13 communities now are currently HUD financed, and we're
14 a HUD-approved manager, which is an intensive process
15 if you can imagine what we have to provide and get
16 checked out against, and one thing, then the next.
17   Simply put, we are agreeing to be the
18 manager if the facility comes to be. At this point,
19 we're just on a consulting basis on a per-hour as they
20 need and we'll continue that way up until such time
21 that they are granted financing. So some things we
22 have to provide in the financing process, be that our
23 background or be that financial pro formas or whatever
24 may be -- may need to be the case.
25   But we've signed on to do that on an hourly

1 consulting basis until such time that they would be
2 ready for the manager to come on, which would be about
3 six months before they were actually scheduled to open
4 when we would come in, bring on staff and begin to
5 market and that kind of stuff.
6   COUNCILMEMBER DEAN: Okay. So you're not
7 the management company right now; you're a consultant
8 right now. And at such time as they get funding, then
9 you will become --
10   MR. SIDES: No. I am the manager today. As
11 soon as we get approval to proceed with the facility,
12 then we'll finish up the agreement. Right now until
13 we can get approved, we don't have a facility, but I
14 am the manager today.
15   COUNCILMEMBER DEAN: Okay. Okay. I think
16 I'm good.
17   MAYOR PITTMAN: Okay. Thank you.
18   COUNCILMEMBER PATRICK: One quick question.
19   With your experience, is there a need for 36
20 months?
21   MR. SIDES: I have no -- I can simply tell
22 you that typically HUD financing that we've done on
23 what would be considered new construction, and this is
24 typically new construction, is about 12 to 18 months.
25 That varies depending upon what the work load is,

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1 where things stand, but I'm really not -- can't really
2 tell you that 36 months is the number or not the
3 number.
4   COUNCILMEMBER PATRICK: Okay.
5   MAYOR PITTMAN: All right, sir. Thank you.
6   MR. SIDES: Thank you.
7   MAYOR PITTMAN: Mr. Cooley?
8   MR. COOLEY: Any further comments or
9 questions I'll be happy to answer if I can.
10   MAYOR PITTMAN: Okay.
11   COUNCILMEMBER PATRICK: Just to be on the
12 safe side, there is no opportunity for a drug rehab to
13 come in here?
14   MR. COOLEY: No.
15   COUNCILMEMBER PATRICK: Just to hear that
16 again.
17   This cannot be a halfway house for people
18 coming out of jail or prison?
19   MR. COOLEY: No. And extended stays neither
20 are allowed uses within O&I, and this is a conditional
21 use. It has to get you-all's approval.
22   MAYOR PITTMAN: Okay. If there's nothing
23 further --
24   COUNCILMEMBER DEAN: I -- oh, I'm sorry. I
25 have a question. I actually have a question for

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1 Cecil.
2   MAYOR PITTMAN: Sure. Go ahead.
3   COUNCILMEMBER DEAN: On condition 7, it
4 says, "In the event the property which is the subject
5 of the rezoning application is not able to become an
6 Assisted Living Facility due to lack of financing,
7 within three years after the date of this rezoning
8 [sic] of said property, the owner agrees to either
9 initiate rezoning or not to object to the City-
10 initiated rezoning."
11   Now, this is something -- this is -- this
12 legally -- Talk to me about this in legal terms.
13   ATTORNEY McLENDON: Basically it's a
14 condition that at the end of the period, if the
15 condition has not been met, it would revert back to
16 the C-2. I think we would probably want an action to
17 do it. At that time, it would --
18   COUNCILMEMBER DEAN: It's because --
19   ATTORNEY McLENDON: -- need to be --
20   COUNCILMEMBER DEAN: -- the property --
21   ATTORNEY McLENDON: -- an action.
22   COUNCILMEMBER DEAN: -- in a zoning action
23 doesn't just revert back; right? I mean we would have
24 to do something to --
25   ATTORNEY McLENDON: You have --

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1   COUNCILMEMBER DEAN: -- initiate that or
2 something.
3   ATTORNEY McLENDON: -- people that have
4 disagreement on that, but I tend to believe that that
5 has to have an action that is accompanied with it to
6 revert it back to the C-2 zoning, because to go
7 through the zoning process, you need to meet the
8 Zoning Procedures Act and go through the Zoning
9 Procedures Act.
10   COUNCILMEMBER DEAN: Okay. And also with
11 condition 8 where it talks about "no lease or
12 utilization arrangement shall be merely for space, but
13 also shall include consideration and compensation for
14 services that are being supplied and delivered at this
15 Assisted Living Facility." Will you read that and
16 talk to me about that.
17   ATTORNEY McLENDON: I think what's happening
18 with that is they're saying it can't be something that
19 just becomes a way to have an extended stay. Because
20 any time that you -- these are going to be longer term
21 leases than you are allowed with just a hotel use.
22 Generally that's got to be limited to less than 30
23 days.
24   What this is saying is we won't lease to
25 anyone for an extended period without also having part

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1 of the cost be these additional services, which keeps
2 it out of just, "I can come and rent it by the month,"
3 that kind of thing.
4   COUNCILMEMBER DEAN: Okay. But it's not --
5 I mean how would that -- how would that happen? In an
6 agreement? a contract? I mean how could that happen?
7   ATTORNEY McLENDON: As a zoning condition,
8 basically it is a condition of zoning, so if they
9 began doing that, it would be a violation of the
10 zoning conditions and we could go in and cite them and
11 bring them into court for operating in contravention
12 of that condition.
13   COUNCILMEMBER DEAN: Okay. Thank you.
14   MAYOR PITTMAN: Did you have something you
15 want to say?
16   COUNCILMEMBER FLEMING: I'll wait until the
17 motion comes out and then I'll speak then.
18   MAYOR PITTMAN: Okay. Anyone wanting to
19 make a motion?
20   COUNCILMEMBER PACHUTA: I'll go ahead and
21 make a motion but I wanted to point out that our
22 decision is based on the requirements in the
23 ordinance, our Zoning Ordinance under the conditional
24 use permit process, and I wanted to emphasize that our
25 Comprehensive Plan mentions that we have a lack of

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1 senior housing and assisted living facilities.
2   MR. COOLEY: That is correct.
3   COUNCILMEMBER PACHUTA: This property is
4 surrounded by OI and M-1. We recently last year
5 approved just south of this property a dormitory. An
6 assisted living facility is a permitted -- or a
7 conditional use within that area.
8   The footprint of the building is not
9 changing, so I don't think that will impact the
10 surrounding neighborhood because that footprint is not
11 changing, and I think the impact will actually be less
12 because there will be less of that constant overnight
13 traffic.
14   And I don't think there will be any adverse
15 effects or adverse visual impacts because they have
16 come up with a plan to increase the landscaping and
17 the outside to improve that property.
18   So I just wanted to bring that up before
19 making a motion to grant the conditional use permit
20 with the following conditions, that if we could make
21 this part of the record,
22   MR. COOLEY: And I would just state that is
23 the document titled Conditions Proposed by Applicant
24 Imperial Investments Doraville, Inc., and Castlestone,
25 LLC, for in a letter dated September 28, 2012, from

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1 James Ney, legal counsel for the applicant," to --
2   COUNCILMEMBER PACHUTA: And I'll just --
3   MR. COOLEY: -- identify the document.
4   COUNCILMEMBER PACHUTA: -- also just
5 summarize that the conditional use permit would only
6 be in effect for 36 months, that the facility would be
7 an assisted living and senior housing facility to meet
8 the definitions of our ordinance and also Federal
9 guidelines; that if due to a lack of financing within
10 three years, the owner would agree to either initiate
11 rezoning or would not object to a City-initiated
12 rezoning, and that they would agree that the services
13 that are being supplied and delivered is for an
14 assisted living facility and will not merely be the
15 rental of space, and that the rental space is tied to
16 the delivery of services as is customary in an
17 assisted living facility.
18   MR. COOLEY: And if I may --
19   COUNCILMEMBER PACHUTA: That's a summary.
20   MR. COOLEY: -- those are conditions 1, 2, 8
21 and 7 as identified on that document, the summary of
22 them.
23   ATTORNEY McLENDON: Those are the operative
24 conditions, not the condition to revert back
25 automatically. They are agreeing that it would have

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1 to go through a zoning process to go back to C-2.
2   MR. COOLEY: And that's correct. That was
3 an issue that was brought up at the last time about
4 the constitutionality of that, so it was modified
5 accordingly to make this where it would withstand
6 constitutional review.
7   MAYOR PITTMAN: Okay. Do I get a second?
8   COUNCILMEMBER ALEXANDER: Second.
9   MAYOR PITTMAN: Discussion?
10   COUNCILMEMBER DEAN: I would like to say
11 that if we change the zoning to allow this, it may be
12 in the Comp Plan but if we change the zoning to
13 accommodate this -- I think that the owners of the
14 hotel did a stellar job in finding the representation,
15 because you guys are -- you've all done an amazing
16 job, and I applaud you for that.
17   And I still have a lot of questions. My
18 biggest concern is giving 36 months, because 36 months
19 -- if we give 36 months, then if someone else knocks
20 on our door and says, "Hey, we want 36 months to do
21 Y," then we're going to have a difficult time saying
22 no, and that is -- that's a huge concern of mine.
23   And also I appreciate the few comments I
24 have a received in favor, but I have received far more
25 who are not in favor.

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1   COUNCILMEMBER FLEMING: The 36 months is a
2 condition on the conditional use permit that the City
3 provide that number of months to accommodate
4 financing.
5   It has also been said that if this
6 conditional use permit is not awarded, that the
7 location as a hotel will be non-existent, will close
8 up, and that's been stated several times.
9   But during the 36 months that we're trying
10 to acquire financing, the hotel is still operative,
11 and so I find that even though it may be in the red
12 and losing money, that Mr. Patel, the applicant --
13 excuse me -- other hotels are flourishing, making
14 money, and that this particular hotel has been used as
15 a possible tax write-off, and I don't want to see the
16 City encumber themselves with a 36-month agreement to
17 one particular applicant, and so those are my
18 comments.
19   MAYOR PITTMAN: Okay. Anything additional?
20   - - -
21   (No response)
22   - - -
23   MAYOR PITTMAN: Call the roll, please.
24   CLERK BRYANT: Councilmember Alexander?
25   COUNCILMEMBER ALEXANDER: Yes.

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1 CLERK BRYANT: Councilmember Bates?
2 COUNCILMEMBER BATES: Yes.
3 CLERK BRYANT: Councilmember Dean?
4 COUNCILMEMBER DEAN: No.
5 CLERK BRYANT: Councilmember Fleming?
6 COUNCILMEMBER FLEMING: No.
7 CLERK BRYANT: Councilmember Pachuta?
8 COUNCILMEMBER PACHUTA: Yes.
9 CLERK BRYANT: Councilmember Patrick?
10 COUNCILMEMBER PATRICK: Yes.
11 MAYOR PITTMAN: Motion carried. Thank you.
12 Okay. Next on the agenda is the rezoning of
13 properties being annexed into the City under Senate
14 Bill 532.
15 MR. COOLEY: Good evening again. This is a
16 public hearing and first reading for rezoning or
17 properties within tract one and tract two as
18 identified by Senate Bill 532.
19 You have in your packet a list of all the
20 parcels with the existing Dekalb County zoning and the
21 proposed City of Doraville zoning. What we've tried
22 to do is select the closest corresponding City zoning
23 district to the existing Dekalb County to make the
24 transition as smooth as possible, and this is for each
25 parcel and again is identified on that spreadsheet.

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1 And just for reference, it's Existing and Proposed
2 Zoning District Classifications for Properties in
3 Annexation Areas Tract 1 and 2 as per SB-532.
4 This is part of the process of the
5 annexation. We cannot actually act -- the City cannot
6 take final action until it's actually within the city,
7 which will be effective the morning of Monday,
8 December 31st. So just so there's no confusion,
9 that's Sunday night or Monday morning, whichever way
10 you look at it. It's not New Year's Eve party night;
11 it's the morning before.
12 COUNCILMEMBER PACHUTA: And that is when
13 we're passing this; is that correct?
14 MR. COOLEY: That is when --
15 COUNCILMEMBER PACHUTA: -- because this is
16 the first reading.
17 MR. COOLEY: That is when final action may
18 be taken.
19 COUNCILMEMBER PACHUTA: Okay. That's --
20 yeah.
21 MR. COOLEY: On the public hearing and --
22 COUNCILMEMBER PACHUTA: This --
23 MR. COOLEY: -- the first reading can be --
24 COUNCILMEMBER PACHUTA: First reading is
25 tonight, but then --

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1 MR. COOLEY: And public hearing tonight.
2 COUNCILMEMBER PACHUTA: -- we actually take
3 it up at midnight --
4 MR. COOLEY: 12:01 --
5 COUNCILMEMBER PACHUTA: -- 12:01.
6 COUNCILMEMBER FLEMING: No. 12:30.
7 MR. COOLEY: What ever y'all set.
8 COUNCILMEMBER PACHUTA: Okay.
9 MR. COOLEY: It just has to be past
10 midnight.
11 COUNCILMEMBER FLEMING: Mr. McLendon
12 indicated that we had to be here on 12/30, not 12/31.
13 ATTORNEY McLENDON: It's the Sunday night
14 going into --
15 COUNCILMEMBER FLEMING: 12/30/12 at midnight
16 we are required to be here.
17 ATTORNEY McLENDON: That's when this'll be
18 coming up.
19 COUNCILMEMBER BATES: Brookhaven just did
20 that last night, didn't they?
21 MR. COOLEY: Right.
22 MAYOR PITTMAN: Yes, they did.
23 ATTORNEY McLENDON: Sunday night going into
24 Monday.
25 MR. COOLEY: Just for a little further

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1 information instead of trying to add all this up,
2 which we've got total parcels as 226 parcels within
3 both Tract 1 and Tract 2, 24 commercial, 15 manu-
4 facturing, 119 residential multi-family, 61
5 residential single-family, and four O&I and three that
6 actually belong to Dekalb County which are remainder
7 segments of road expansions.
8 COUNCILMEMBER BATES: Could we make changes
9 to this?
10 MR. COOLEY: Certainly.
11 COUNCILMEMBER BATES: And I'm just looking
12 at two particular -- I'm on Tract 2, which is going to
13 be page three. It's going to be lines 88 and 89.
14 MR. COOLEY: Okay.
15 COUNCILMEMBER BATES: They're identified
16 apparently by Dekalb as OI.
17 MR. COOLEY: That's correct.
18 COUNCILMEMBER BATES: Those are contiguous
19 with existing C-2, and the only reason I know that is
20 that's where my office complex is.
21 So I would -- I would actually suggest
22 that -- and I'll verify this tomorrow, but I would
23 suggest that we convert those to C-2 so it's like use
24 in that area.
25 MR. COOLEY: Okay. What we were trying to

1 do -- and that's fine if y'all wish to do that; I
2 don't see it as a problem. What we want to make sure
3 we're doing is that we're having - if it's an allowed
4 use now, we want to bring it into something it's
5 allowed use now.
6   Our zoning districts are a little bit
7 different. Regardless, anybody who comes in,
8 whatever, they will be grandfathered in, but, you
9 know, I just don't want to get in a situation that we
10 are intentionally -- or not intentionally, but we are
11 grandfathering a use, creating where it has to be
12 grandfathered, creating a legal --
13   COUNCILMEMBER BATES: Yeah.
14   MR. COOLEY: -- nonconforming use.
15   COUNCILMEMBER BATES: Those two buildings
16 are actually office complexes.
17   MR. COOLEY: They are, so it would fit in --
18   COUNCILMEMBER BATES: Yeah.
19   MR. COOLEY: -- with OI or --
20   COUNCILMEMBER BATES: C-2.
21   MR. COOLEY: -- with C-2.
22   COUNCILMEMBER BATES: Well --
23   MR. COOLEY: Well, that's --
24   COUNCILMEMBER BATES: I mean realistically,
25 all of those properties should probably be OI because

1 they're all office.
2   MR. COOLEY: Right, and it may be better to
3 keep that OI and then look at rezoning some of the
4 others.
5   We've got a couple situations in the city
6 like that where we've got kind of strange adjacent
7 uses, but we didn't want to get into the specifics of
8 each individual parcel at this point and let y'all
9 address those as rezoning more appropriately when
10 you've got the time to really get into the details of
11 each one.
12   COUNCILMEMBER BATES: Yeah. I'm good to
13 leave it as is --
14   MR. COOLEY: Okay.
15   COUNCILMEMBER BATES: -- and address it as
16 we need to.
17   COUNCILMEMBER ALEXANDER: My question was
18 regarding the advertising and the sign posting and all
19 of that. What are the requirements on this?
20   ATTORNEY McLENDON: When you do a -- There
21 is no posting required when you do a bulk rezoning
22 like this because you couldn't post every parcel.
23 That's specifically in State law.
24   But we do still have the same advertising
25 requirements which we have met. Correct?

1   MR. COOLEY: That is correct.
2   MAYOR PITTMAN: Anything additional?
3   - - -
4   (No response)
5   - - -
6   MAYOR PITTMAN: Okay.
7   MR. COOLEY: Then you have -- at this point,
8 we'll go to public hearing.
9   MAYOR PITTMAN: Yes. We are going to open
10 the public hearing portion.
11   Ten minutes. Those wishing to speak for
12 please come forward. Those wishing to speak for.
13   - - -
14   (No response)
15   - - -
16   MAYOR PITTMAN: Okay. Anyone wishing to
17 speak against? Last call.
18   - - -
19   (No response)
20   - - -
21   MAYOR PITTMAN: All right. At this time
22 we'll close the public hearing portion.
23   Mr. Cooley?
24   MR. COOLEY: Again, this is public hearing
25 and a first reading so no action is required by

1 Council. We'll carry over that till Sunday night.
2 Well, Sunday/Monday.
3   MAYOR PITTMAN: Okay. Thank you very much.
4   And I know it's just 20 till, but I know for
5 a fact that we're not going to get through at 9
6 o'clock, so if I could go ahead and get a motion to
7 extend the meeting please.
8   COUNCILMEMBER PACHUTA: So moved.
9   MAYOR PITTMAN: Second?
10   COUNCILMEMBER BATES: Second.
11   MAYOR PITTMAN: And is that to finish the
12 agenda?
13   COUNCILMEMBER PACHUTA: Yes.
14   MAYOR PITTMAN: Discussion?
15   - - -
16   (No response)
17   - - -
18   MAYOR PITTMAN: Call the roll, please.
19   CLERK BRYANT: Councilmember Alexander?
20   COUNCILMEMBER ALEXANDER: Yes.
21   CLERK BRYANT: Councilmember Bates?
22   COUNCILMEMBER BATES: Yes.
23   CLERK BRYANT: Councilmember Dean?
24   COUNCILMEMBER DEAN: Yes.
25   CLERK BRYANT: Councilmember Fleming?

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1   COUNCILMEMBER FLEMING: Yes.

2   CLERK BRYANT: Councilmember Pachuta?

3   COUNCILMEMBER PACHUTA: Yes.

4   CLERK BRYANT: Councilmember Patrick?

5   COUNCILMEMBER PATRICK: Yes.

6   MAYOR PITTMAN: Thank you.

7   Next under Old Business --

8   COUNCILMEMBER DEAN: Well, before we begin,

9 I just -- because it is a public hearing, the

10 notification of the hotel, the notice is dated October

11 15th, the one that's out there today.

12   MR. COOLEY: By continuing to a date

13 specific, as this Council did, that is automatic

14 continuation of notice. We changed it the one time

15 because it was way back, it was further back. We

16 changed it to the date of the public hearing. This

17 was not a public hearing. That's what has to be

18 advertised.

19   COUNCILMEMBER DEAN: So the public hearing

20 was the 15th and this is a continuation of it.

21   MR. COOLEY: That's correct. The Council

22 wanted some additional information so they closed --

23 y'all closed the public hearing and then moved into

24 the specific time for discussion.

25   MAYOR PITTMAN: All right. Next is the

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1 discussion of city manager search update.

2   Mr. Baenziger, welcome; if you would like to

3 come forward. And also welcome to your son tonight.

4 We are glad to have you.

5   MR. BAENZIGER: Thank you. It's good to be

6 here again. Colin Baenziger, Colin Baenziger &

7 Associates, and I guess we're here to talk about the

8 city manager search.

9   We did provide the Council with background

10 materials on seven candidates. I think we're supposed

11 to have them held confidential at this point --

12   COUNCILMEMBER PACHUTA: Yes.

13   MR. BAENZIGER: -- so do we go into

14 Executive Session or what's that?

15   MAYOR PITTMAN: We had to open it in this

16 portion.

17   MR. BAENZIGER: I see.

18   MAYOR PITTMAN: If there's anything the

19 Council wanted to say prior to.

20   COUNCILMEMBER FLEMING: I'd like to ask some

21 questions, not regarding the -- because it's questions

22 I have not had answered yet.

23   You indicated that we have 92 to 97

24 applicants; is that correct?

25   MR. BAENZIGER: That is correct; 92.

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1   COUNCILMEMBER FLEMING: And have you

2 determined how many of them were female gender?

3   COUNCILMEMBER PACHUTA: That was in your

4 e-mail.

5   MR. BAENZIGER: It was --

6   COUNCILMEMBER PACHUTA: You didn't read --

7   COUNCILMEMBER FLEMING: It was after 5:30.

8   COUNCILMEMBER PACHUTA: No. He replied to

9 you earlier. When you replied to him, it actually

10 included his answers even in the e-mail you replied to

11 him.

12   MR. BAENZIGER: I don't mind answering them.

13   COUNCILMEMBER FLEMING: I don't --

14   COUNCILMEMBER PACHUTA: Yes.

15   COUNCILMEMBER FLEMING: I printed it, and it

16 did not. Sorry.

17   COUNCILMEMBER PACHUTA: It did.

18   COUNCILMEMBER FLEMING: Please do.

19   MR. BAENZIGER: Judging from the names, I

20 would say approximately 13.

21   COUNCILMEMBER FLEMING: Okay. And will we

22 be receiving the hard copies?

23   MR. BAENZIGER: If the Council so wishes,

24 yes --

25   COUNCILMEMBER FLEMING: Okay.

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1   MR. BAENZIGER: -- I mean. and they're

2 available.

3   COUNCILMEMBER FLEMING: Thank you.

4   Oh. One other question.

5   Did you provide this to the GMA Web site?

6   MR. BAENZIGER: Yes.

7   COUNCILMEMBER FLEMING: Thank you.

8   MAYOR PITTMAN: Anything else?

9   COUNCILMEMBER DEAN: Oh, I have a question

10 for Cecil.

11   The Charter language, when is that going to

12 go in, the proposed changes?

13   ATTORNEY McLENDON: I think we still have

14 another meeting that we have to come back together on

15 some of that language and look at it again. I would

16 assume that would be at the beginning of January.

17   You know, once that language is agreed upon,

18 at that point we would move forward through the

19 proximate 60-day process of actually adopting it into

20 the Charter. So there's still work to be done on that

21 language based on where we left it in the last

22 meeting.

23   COUNCILMEMBER DEAN: And we're going to make

24 it in the next legislative session; right?

25   COUNCILMEMBER PACHUTA: No. It's Home Rule.

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1   ATTORNEY McLENDON: Yeah. This is all
2 things that can be done via the Home Rule Act --
3   COUNCILMEMBER DEAN: Okay.
4   ATTORNEY McLENDON: -- and we don't -- I
5 don't think we need to go through the legislature to
6 get them to approve it.
7   COUNCILMEMBER DEAN: Okay.
8   COUNCILMEMBER PACHUTA: I would like to make
9 a motion to go into an Executive Session to discuss
10 hiring of personnel.
11   And since we have these enormous books, if
12 we could stay in Council chambers rather than having
13 to balance these big books on our laps in the Mayor's
14 Office.
15   MAYOR PITTMAN: That's fine.
16 Second?
17   COUNCILMEMBER PATRICK: Second.
18   MAYOR PITTMAN: Discussion?
19   - - -
20   (No response)
21   - - -
22   MAYOR PITTMAN: Call the roll, please.
23   CLERK BRYANT: Councilmember Alexander?
24   COUNCILMEMBER ALEXANDER: Yes.
25   CLERK BRYANT: Councilmember Bates?

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1   COUNCILMEMBER BATES: Yes.
2   CLERK BRYANT: Councilmember Dean?
3   COUNCILMEMBER DEAN: Yes.
4   CLERK BRYANT: Councilmember Fleming?
5   COUNCILMEMBER FLEMING: Yes.
6   CLERK BRYANT: Councilmember Pachuta?
7   COUNCILMEMBER PACHUTA: Yes.
8   CLERK BRYANT: Councilmember Patrick?
9   COUNCILMEMBER PATRICK: Yes.
10   MAYOR PITTMAN: Thank you.
11   - - -
12   (Executive Session: 8:50 p.m. to 9:20 p.m.)
13   - - -
14   COUNCILMEMBER PACHUTA: I make a motion to
15 come out of Executive Session.
16   MAYOR PITTMAN: Second?
17   COUNCILMEMBER BATES: Second.
18   MAYOR PITTMAN: Discussion?
19   - - -
20   (No response)
21   - - -
22   MAYOR PITTMAN: Call the roll, please.
23   CLERK BRYANT: Councilmember Alexander?
24   COUNCILMEMBER ALEXANDER: Yes.
25   CLERK BRYANT: Councilmember Bates?

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1   COUNCILMEMBER BATES: Yes.
2   CLERK BRYANT: Councilmember Dean?
3   COUNCILMEMBER DEAN: Yes.
4   CLERK BRYANT: Councilmember Fleming?
5   COUNCILMEMBER FLEMING: Yes.
6   CLERK BRYANT: Councilmember Pachuta?
7   COUNCILMEMBER PACHUTA: Yes.
8   CLERK BRYANT: Councilmember Patrick?
9   COUNCILMEMBER PATRICK: Yes.
10   MAYOR PITTMAN: Okay. Thank you.
11   Next is public comments. Anyone wanting to
12 make a public comment?
13   - - -
14   (No response)
15   - - -
16   MAYOR PITTMAN: Motion to adjourn?
17   COUNCILMEMBER ALEXANDER: So moved.
18   MAYOR PITTMAN: Second?
19   COUNCILMEMBER DEAN: Second.
20   MAYOR PITTMAN: Discussion?
21   - - -
22   (No response)
23   - - -
24   MAYOR PITTMAN: Call the roll, please.
25   CLERK BRYANT: Councilmember Alexander?

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1   COUNCILMEMBER ALEXANDER: Yes.
2   CLERK BRYANT: Councilmember Bates?
3   COUNCILMEMBER BATES: Yes.
4   CLERK BRYANT: Councilmember Dean?
5   COUNCILMEMBER DEAN: Yes.
6   CLERK BRYANT: Councilmember Fleming?
7   COUNCILMEMBER FLEMING: Yes.
8   CLERK BRYANT: Councilmember Pachuta?
9   COUNCILMEMBER PACHUTA: Yes.
10   CLERK BRYANT: Councilmember Patrick?
11   COUNCILMEMBER PATRICK: Yes.
12   MAYOR PITTMAN: Thank you.
13   Meeting adjourned.
14   - - -
15   (Meeting concluded at 9:20 p.m.)
16   -o0o-
17
18
19
20
21
22
23
24
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 1              C E R T I F I C A T E
 2   STATE OF GEORGIA]
 3   COUNTY OF DEKALB]
 4        I hereby certify that the foregoing transcript
 5   was taken down, as stated in the caption, and the
 6   proceedings were reduced to typewriting under my
 7   direction and control.
 8        I further certify that the transcript is a true
 9   and correct record of the evidence given at the said
10   proceedings.
11        I further certify that I am neither a relative
12   or employee or attorney or counsel to any of the
13   parties, nor financially or otherwise interested in
14   this matter.
15        This the 27th day of December 2012.
16
17        _____
18                    Theresa Bretch, CCR
19                    Permit No. B-755
20
21
22             [SEAL]
23
24
25
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[

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