



CITY COUNCIL

AGENDA • JANUARY 6, 2014

Regular Meeting

City Hall Council Chambers

6:30 PM

3725 Park Ave, Doraville, GA 30340

1. CALL TO ORDER

2. SWEARING NEW CONCILMEMBERS

A. Dawn O'Connor

B. Sharon Spangler

3. ADDITIONAL IQM2 TRAINING

4. ROLL CALL

5. PLEDGE OF ALLEGIANCE

6. APPROVAL OF MINUTES

A. October 21, 2013 Minutes

B. November 04, 2013 minutes

C. November 12, 2013 Minutes

D. November 18, 2013 Minutes

E. Approval of Minutes for Dec 2, 2013

7. APPROVAL OF MEETING AGENDA

8. PUBLIC COMMENT

9. CONSENT AGENDA

10.ORGANIZATIONAL AND PROCEDURAL ITEMS

11.REPORTS AND PRESENTATIONS

A. City Manager**B. Planning & Zoning****12.UNFINISHED BUSINESS**

- A. Stormwater Policy

13.NEW BUSINESS

- A. Amendment to C-2 Zoning for New Auto Dealerships along PIB
- B. Adoption of 2012 International Property Maintenance Code update
- C. Adoption of State Updated Building Codes
- D. Subdivision of Parcel at 3300 Chestnut Drive (Parcel # 18 296 06 009) by The Church of the New Covenant Presbyterian Church
- E. EPA Brownfield RLF Grant Resolution
- F. Executive Session

14.OTHER BUSINESS**15.COUNCIL COMMENTS****16.ADJOURNMENT**



City Council

Meeting: 01/06/14 06:30 PM Category:

Minutes

STATUS: SCHEDULED

Prepared By: Sandra Bryant

Initiator: Sandra Bryant

AGENDA ITEM (ID # 1029)

October 21, 2013 Minutes

- [OCT 21 minutes](#) (PDF)

In The Matter Of:*City of Doraville**State of Georgia*

City Council - Special Called Meeting
October 21, 2013

American Court Reporting Company, Inc.
52 Executive Park South
Suite 5201
Atlanta, Georgia 30329-2217
(404) 892-1331 - (800) 445-2842

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

SPECIAL CALLED MEETING

Transcript of the City Council meeting

held in the Council Chamber at Doraville
City Hall, 3725 Park Avenue, Doraville,
Georgia, Mayor Donna Pittman presiding,
before Theresa Bretch, Certified Court
Reporter, commencing at 6:30 p.m. on
October 21, 2013.

* * *

1 PROCEEDINGS
2 MAYOR PITTMAN: Meeting come to order.
3 Call the roll, please.
4 DEPUTY CLERK ROCKELEIN: Council Alexander
5 COUNCILMEMBER ALEXANDER: Here.
6 DEPUTY CLERK ROCKELEIN: Council Bates
7 COUNCILMEMBER BATES: Here.
8 DEPUTY CLERK ROCKELEIN: Council Dean
9 COUNCILMEMBER DEAN: Here.
10 DEPUTY CLERK ROCKELEIN: Council Fleming
11 COUNCILMEMBER FLEMING: Here.
12 DEPUTY CLERK ROCKELEIN: Council Pachuta
13 COUNCILMEMBER PACHUTA: Here.
14 DEPUTY CLERK ROCKELEIN: Council Patrick
15 COUNCILMEMBER PATRICK: Here.
16 MAYOR PITTMAN: Okay. Thank you.
17 And welcome to everyone; if you could please
18 rise for the Pledge.
19 (Pledge of Allegiance)
20 MAYOR PITTMAN: I need approval of minutes
21 for October 7th, 2013.
22 COUNCILMEMBER ALEXANDER: Motion to approve
23 MAYOR PITTMAN: Second?
24 COUNCILMEMBER BATES: Second.
25 MAYOR PITTMAN: Discussion?

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 Shawn Gillen, City Manager
11 Connie Rockelein, Deputy City Clerk
12 Cecil McLendon, City Attorney
13 Leonard Felgin, Assistant City Attorney
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1 (No response)
2 MAYOR PITTMAN: Call the roll, please.
3 DEPUTY CLERK ROCKELEIN: Council Alexander
4 COUNCILMEMBER ALEXANDER: Yes.
5 DEPUTY CLERK ROCKELEIN: Council Bates
6 COUNCILMEMBER BATES: Yes.
7 DEPUTY CLERK ROCKELEIN: Council Dean
8 COUNCILMEMBER DEAN: Yes.
9 DEPUTY CLERK ROCKELEIN: Council Fleming
10 COUNCILMEMBER FLEMING: Yes.
11 DEPUTY CLERK ROCKELEIN: Council Pachuta
12 COUNCILMEMBER PACHUTA: Yes.
13 DEPUTY CLERK ROCKELEIN: Council Patrick
14 COUNCILMEMBER PATRICK: Yes.
15 MAYOR PITTMAN: Thank you.
16 Okay. We need approval of the meeting
17 agenda but we do have a couple of minor changes. We
18 are going to remove the Red Ribbon Week Proclamation
19 off -- we have not heard back from the young man that
20 we were going to present that to -- and we're going to
21 add the Breast Cancer Awareness in that place.
22 And I believe under New Business 11(c), I
23 believe Ms. Dean wanted to move that to the first
24 meeting in November?
25 COUNCILMEMBER DEAN: Yes.

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1 MAYOR PITTMAN: Okay. If there's no further
2 comments or questions, I need approval of the meeting
3 agenda tonight, please.
4 COUNCILMEMBER ALEXANDER: Motion to approve
5 agenda as revised by the Mayor's comments.
6 MAYOR PITTMAN: Second?
7 COUNCILMEMBER PACHUTA: Second.
8 MAYOR PITTMAN: Discussion?
9 (No response)
10 MAYOR PITTMAN: Call the roll, please.
11 DEPUTY CLERK ROCKELEIN: Council Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 DEPUTY CLERK ROCKELEIN: Council Bates?
14 COUNCILMEMBER BATES: Yes.
15 DEPUTY CLERK ROCKELEIN: Council Dean?
16 COUNCILMEMBER DEAN: Yes.
17 DEPUTY CLERK ROCKELEIN: Council Fleming?
18 COUNCILMEMBER FLEMING: Yes.
19 DEPUTY CLERK ROCKELEIN: Council Pachuta?
20 COUNCILMEMBER PACHUTA: Yes.
21 DEPUTY CLERK ROCKELEIN: Council Patrick?
22 COUNCILMEMBER PATRICK: Yes.
23 MAYOR PITTMAN: Thank you.
24 All right. Before we get to public comment,
25 I do have a question for Legal.

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1 ATTORNEY McLENDON: Okay.
2 MAYOR PITTMAN: Are we going to be doing the
3 public hearing tonight for --
4 ATTORNEY McLENDON: No.
5 MAYOR PITTMAN: -- (b) or are we going to
6 continue that?
7 ATTORNEY McLENDON: My understanding is
8 there's been a request for a deferral, and that of
9 course is in the discretion of the Council.
10 If you chose to accept the deferral,
11 probably the best way to do it would be to open the
12 public hearing. You really don't have to take the
13 comments today but you could continue it to a date
14 certain with that public hearing remaining open so it
15 preserves the advertising; you don't have to
16 readvertise it. And you just kick it out to whatever
17 date certain you want to set it; you start the
18 meeting, and the public hearing continues.
19 MAYOR PITTMAN: Okay. And I ask that
20 because if someone wished to make a comment on that
21 under Public Comment if we were going to have the
22 public hearing, I was going to ask them to wait until
23 we got to that point.
24 ATTORNEY McLENDON: Yeah, that would -- you
25 know, you can allow the public hearing however you-all

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1 want to do it, but it should be opened tonight and --
2 MAYOR PITTMAN: Okay.
3 ATTORNEY McLENDON: -- continued to any
4 future date.
5 MAYOR PITTMAN: All right. Thank you.
6 All right. At this time, we are going to
7 open the Public Comment portion. Please limit your
8 comments to three minutes; state your name for the
9 court clerk.
10 If you wish to speak, please come forward,
11 line up. Yes, it is on all agenda items; on anything
12 you wish to speak on, actually.
13 MS. SUSAN FRAYSSE: Susan Fraysee, Oakcliff
14 Estates.
15 Two items. One, as a member of the steering
16 committee of the form-based code effort since early
17 this year -- well, in June and earlier -- I want to
18 speak strongly in support of that. It's in its fourth
19 iteration now, and I've seen the fourth, the document
20 and the map, and it is really I think taking advantage
21 of all of the input we've had at all of the meetings
22 of the steering committee so far, so that I hope you-
23 all will be strongly interested in, on this first
24 reading, clearing -- if there's any confusion or any
25 doubts about it, let's go ahead and get that out now,

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1 because I think it's something that I've been hoping
2 for for the city for a long time.
3 And secondly, if it's appropriate to comment
4 on the rezoning, I strongly, strongly, strongly oppose
5 the rezoning of the UAW site and I hope that you-all
6 will, however long it takes, remain resolute and not
7 create a problem in that central area of Doraville.
8 Thanks.
9 MAYOR PITTMAN: Okay. Thank you.
10 Anyone else wishing to make public comment?
11 MR. SEAN O'SHEA: Hi. Sean O'Shea, a
12 resident of Northwoods a long time.
13 So I just wanted -- I wasn't sure whether to
14 comment relative to the request for the zoning or
15 spot zoning for M-1 from C-2 for the old union hall.
16 I had considered a lot of the details regarding it,
17 and one of the things that I came to conclusion on
18 from the long-term aspect of it is I really would
19 strongly recommend against doing such spot zoning.
20 And one of my key concerns is not so much
21 for the original intentions of the owner now but the
22 impact on the property down the road, because
23 intentions can change as business necessitates. And
24 so once you change the zoning, the value of the
25 property will change, and its use can be used beyond

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1 what may have been originally intended.

2 My concern is that an M-1 usage zoning would
3 permit something like a bus terminal and a truck
4 terminal. Either one of those are accepted uses under
5 our current M-1 zoning. And those are items that
6 would fit completely, I think, against what the long-
7 term vision and plan is for the city and its use and
8 it being a walking area and pleasant for folks to be
9 in in the area.

10 So I just wanted to state those concerns
11 before you took the consideration regarding zoning.
12 Thank you.

13 MAYOR PITTMAN: Thank you.

14 MR. STUART ANDERSON: Stuart Anderson.

15 I don't think I could have much more to say.
16 I'm against the zoning change also.

17 MR. STEVE DEAN: Steve Dean, Northwoods
18 area.

19 I want to speak out along with my fellow
20 citizens about the spot zoning for the UAW hall. I
21 think three employees would not really drive the
22 behavior that we're trying to drive with the
23 businesses. We want to really attract multi-employee
24 companies that would really drive the revenues for our
25 local businesses as well as create some seed money for

1 this. I have personal feelings about the building
2 because I worked for 10 years for the UAW and for
3 awhile in that building after the plant closed. I
4 would like to see it -- it's an historical building as
5 far as I can see, and I see no reason to go forward
6 with this.

7 Thank you.

8 MAYOR PITTMAN: Thank you.

9 Anyone else wishing to make public comments?

10 MS. LINDA RAWLINS: Linda Rawlins from
11 Oakcliff.

12 I ask Mayor and Council to please consider
13 and not approve this change for the UAW building. As
14 a Doraville citizen, and many others, I think we don't
15 want any more wholesale businesses. I don't care who
16 they're opened by. And if all of our ordinances and
17 codes were so unconstitutional, why did they not
18 realize this in the first place instead of now?

19 We have constitutional rights also to decide
20 what we want to see in the city and participate with.
21 Another wholesale business would not allow the
22 majority of citizens in our city to participate unless
23 you were a business owner.

24 And like they said, the memorabilia that's
25 in the United Auto Workers' building would not be seen

1 others.

2 Thank you.

3 MAYOR PITTMAN: Thank you.

4 MS. CAROL GILMAN: Carol Gilman, Planning
5 Commission.

6 Council, you may have already received the
7 minutes from the Planning Commission where this zoning
8 change application was received and reviewed. And for
9 the record this evening, may I say that it was
10 unanimous, the vote against such a rezoning, and I'd
11 like to underscore that.

12 On the LCC, on the form-based code, as we on
13 the Planning Commission study it, questions have
14 arisen as to perhaps the Buford Highway strategy
15 should be separate from the strategy looking at the GM
16 property. And as we go line by line and look at the
17 two different types of properties, the established
18 businesses, the new development, the question has
19 arisen -- and I think it's a very valid question --
20 that perhaps we should have two separate approaches.

21 Thank you.

22 MAYOR PITTMAN: Thank you.

23 MS. SUSAN CRAWFORD: Susan Crawford,
24 Oakcliff and Planning Commission.

25 And yes, we did unanimously vote against

1 by most of us because most of us could not go in
2 there.

3 We need quality businesses in Doraville to
4 participate with so it will draw residents that we
5 really want in Doraville.

6 The location I think would be in the middle
7 of a live-walk-play-and-work area which we're wanting
8 for our city, and I don't think the wholesale business
9 would fit into that.

10 I don't believe our Planning Commission
11 would have turned this down if they truly thought it
12 was unconstitutional, and I ask that you really look
13 at this because a lot of our citizens go to other
14 cities to purchase and to eat and to spend our money
15 where we could be spending money here if we had more
16 quality businesses.

17 Thank you.

18 MAYOR PITTMAN: Thank you.

19 MR. BEN CRAWFORD: Ben Crawford, Oakcliff
20 Estates.

21 Mayor, City Council, I sat in on the
22 Planning Commission meeting and I think they handled
23 this very fairly. I think one thing we have to
24 remember going forward is that we're looking to create
25 a community that's live-work-and-play, and having a

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1 wholesaler down in our downtown section, first of all,
2 it's not zoned for them to be there. They're coming
3 back and say, "Whoops, we made a mistake. Now we have
4 the right to be there. You got to give it to us,"
5 well, if I bought a car and the transmission was no
6 good, shame on me; buyer beware.
7 So I think it's something the City Council
8 needs to look at as far as the citizens of Doraville
9 go and vote in favor of the citizens this time. If
10 the gentleman would like to sue, then, anybody can
11 sue.
12 Thank you.
13 MAYOR PITTMAN: Thank you.
14 Anyone else?
15 (No response)
16 MAYOR PITTMAN: Okay. We're going to close
17 the Public Comment portion at this time.
18 I don't believe we have anything for a
19 consent agenda, nothing for number 8, and we have
20 removed the Red Ribbon Week Proclamation, and we will
21 be --
22 Actually, today was designated as Breast
23 Cancer Awareness Day in Doraville, and that was in
24 hopes to bring more awareness to a very serious
25 illness.

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1 I want to thank Holly Sinclair. She made
2 some extra ribbons. If you do not have a ribbon
3 tonight and would like one, they're outside in the
4 hallway, and I want to thank everyone that wore a
5 ribbon or is wearing pink tonight.
6 I also would like to thank Mr. O'Shea --
7 where's Mr. O'Shea? There you are. He actually
8 donated the pink ribbon out in front of the building
9 -- he is with Industrious Designs -- and so we much
10 appreciate that too. Thank you so much.
11 We will be presenting a proclamation to the
12 Susan G. Komen Foundation. Mr. Howe will be sending
13 that out, and I'll just read this real quickly:
14 "Over 30 years ago, Nancy Brinker promised
15 her dying sister, Susan G. Komen, she would do
16 everything in her power to end breast cancer
17 forever. In 1982, that promise became Susan G.
18 Komen for the Cure, which officially launched
19 the global breast cancer movement. Since then,
20 the Komens have been responsible for raising
21 nearly 2 billion for groundbreaking research,
22 community health, outreach, advocacy, and
23 programs throughout the U.S. and in more than 50
24 countries. Today more than 70 percent of women
25 over 40 receive annual mammograms, and the

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1 mortality rate associated with breast cancer has
2 declined 33 percent since Komen Foundation was
3 founded.
4 "Before Komen came along, the five-year
5 relative survival rate for woman diagnosed with
6 early-stage breast cancer was about 74 percent.
7 Today that number is 99 percent."
8 So we have made some significant differences
9 there. There's some very good information that is on
10 the web site if you wish to look. But again, I do
11 appreciate that. It's a very serious illness, and we
12 just want to make sure that the City recognizes that.
13 So thanks to all of you tonight. Appreciate it.
14 And next on the agenda is going to be
15 Unfinished Business, it's the Form-Based Code;
16 Dr. Gillen.
17 DR. GILLEN: Thank you. As the Council
18 recalls from our last meeting, you asked to have this
19 on the agenda tonight for the Council to take action
20 to have the Planning Commission review it. So with a
21 motion to send this to the Planning Commission, the
22 Planning Commission then can take it under their wing
23 and begin the process there.
24 MAYOR PITTMAN: Did anyone have any comments
25 before we make a motion?

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1 COUNCILMEMBER DEAN: I have some comments.
2 MAYOR PITTMAN: Okay.
3 COUNCILMEMBER DEAN: I wasn't here last
4 time, and I apologize for that. This was an important
5 matter, and I would have liked to have been here.
6 I did watch the DVD of the meeting, and I
7 want to know, Ms. Alexander had some excellent
8 questions at the beginning about the taxes. Did we
9 get an answer on that?
10 DR. GILLEN: Which question specifically was
11 it?
12 COUNCILMEMBER PATRICK: How are taxes
13 assessed on land, commercial versus residential?
14 COUNCILMEMBER ALEXANDER: Combination
15 zoning.
16 DR. GILLEN: Right, and we were -- I was
17 working with Lisa to get a definitive answer to it.
18 but essentially it boils down to it's taxed by use of
19 the property. Yeah, I think that in general I guess
20 is the answer to the question.
21 But as far as any separate use inside a
22 different zoning, if you have a commercial versus
23 residential, you get taxed at the residential value. I
24 mean the commercial value, I should say. But there
25 aren't two different tax rates for commercial versus

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1 residential, so.

2 COUNCILMEMBER ALEXANDER: But residential
3 has homestead exemption.

4 DR. GILLEN: Correct. They would not get
5 the homestead exemption if they were a commercial
6 property, commercial use.

7 But it was decidedly more complicated than
8 that, and so we're trying to get a clear and distinct,
9 definitive answer on that, so.

10 COUNCILMEMBER DEAN: Okay. And just on
11 this, I'm assuming that this is the draft that was
12 referred to that was sent to us by email dated October
13 15? This was with the changes integrated.

14 It says residential materials and the use of
15 fake stucco also known as EIFS, on page 1, was
16 prohibited.

17 Well, why residential? Why not residential
18 and business, do we know? Is there --

19 COUNCILMEMBER BATES: My only understanding
20 -- and we talked about this -- the commercial didn't
21 have specific architectural standards listed. It only
22 listed the residential. So I think it was because the
23 commercial was going to be covered with the archi- --

24 COUNCILMEMBER DEAN: Architectural stan-
25 dards?

1 and how it's being used right now. I mean if we were
2 going in knowing, wow, we're going to have a lot of
3 people asking for exceptions to this rule, maybe we
4 should take another look at the rule.

5 DR. GILLEN: Those are valid points, and I
6 think the Planning Commission will take that --

7 COUNCILMEMBER DEAN: Okay.

8 DR. GILLEN: -- into consideration, and I
9 think -- after her comments, I think they're on the
10 same track as where you're going with that.

11 COUNCILMEMBER DEAN: Okay. Okay. Al
12 right. And that's what I -- I mean I have some
13 comments, and I know that I wasn't here, so that's not
14 really fair for me to like bring that out now.

15 But it will come back to us after the
16 Planning Commission reviews, then we --

17 DR. GILLEN: Yes.

18 COUNCILMEMBER DEAN: -- can talk about them
19 Okay.

20 MAYOR PITTMAN: Okay.

21 DR. GILLEN: Lots more time for input and --
22 and design of the code.

23 MAYOR PITTMAN: Okay. Anyone else with
24 comments?

25 (No response)

1 COUNCILMEMBER BATES: -- tectural standards
2 and that these were going to run in tandem.

3 COUNCILMEMBER DEAN: Okay. And then my
4 biggest, my overall concern, because I expressed --
5 and thank you for asking about the 50-percent thing.

6 At the last meeting when I was in
7 attendance, Caleb said something to the effect of
8 this is not a true form-based code because we are
9 stipulating the uses, etc.

10 And then at the last meeting, the 50
11 percent, I mean, he wouldn't do that for newly
12 developed property; it would be 80 or 90 percent. But
13 this was kind of as a -- as a balance to serve as the
14 developed and the underdeveloped properties.

15 And so I guess this would attach to
16 Ms. Gilman's comments, too: I mean why not have
17 either like an overlay project for the Buford Highway
18 area and then just focus on the form-based code on the
19 GM property because it's brand new, it's new
20 development -- I mean it starts from the ground up --
21 and that way, we could manage that, because Caleb even
22 said we're going to be seeing a lot of variances
23 regarding that 50-percent issue.

24 And him saying that indicates that this is
25 not something that would work smoothly for our city

1 MAYOR PITTMAN: Okay. Do I get a motion?

2 COUNCILMEMBER BATES: Make a motion to refe
3 the form-based code or Livable Community Code to the
4 Planning Commission.

5 MAYOR PITTMAN: Second?

6 COUNCILMEMBER BATES: Version 4.

7 COUNCILMEMBER ALEXANDER: Second

8 MAYOR PITTMAN: Discussion?

9 (No response)

10 MAYOR PITTMAN: Call the roll, please.

11 DEPUTY CLERK ROCKELEIN: Council Alexander

12 COUNCILMEMBER ALEXANDER: Yes.

13 DEPUTY CLERK ROCKELEIN: Council Bates'

14 COUNCILMEMBER BATES: Yes.

15 DEPUTY CLERK ROCKELEIN: Council Dean'

16 COUNCILMEMBER DEAN: Yes.

17 DEPUTY CLERK ROCKELEIN: Council Fleming

18 COUNCILMEMBER FLEMING: Yes.

19 DEPUTY CLERK ROCKELEIN: Council Pachuta

20 COUNCILMEMBER PACHUTA: Yes.

21 DEPUTY CLERK ROCKELEIN: Council Patrick

22 COUNCILMEMBER PATRICK: Yes.

23 MAYOR PITTMAN: Okay. Thank you.

24 And before we go into New Business, we're
25 going to take a three-minute break, and if you wish to

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1 have a ribbon, there's plenty out there.

2 (Brief recess)

3 MAYOR PITTMAN: Meeting come back to order.

4 Okay. The next item is going to be the

5 First Read on the Proposed Amendment to the Fiscal
6 Year 2-13 Budget, Lisa.

7 MS. LISA FERGUSON: Okay. The purpose of
8 this amendment is to do a little bit of clean-up on
9 last year's budget. This is the money that we've
10 already spent and we've already gotten in, but in
11 order to stay in compliance with state law and to make
12 our auditors happy, we're going to adjust a few
13 things.

14 The main thing is the Business and
15 Occupational Taxes. They are a lot higher than we
16 anticipated due to the increase in gross receipts from
17 the tankers. And then the other thing that we really
18 need to adjust is the Hotel Motel because we received
19 more money in that category than we had anticipated.
20 And then on the expenditure side, we're just adjusting
21 a couple of the budgets to keep them within a
22 reasonable variance of what was actually spent.

23 So if you have any questions, let me know.

24 MAYOR PITTMAN: Okay. Ms. Alexander?

25 COUNCILMEMBER ALEXANDER: No, ma'am.

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1 MAYOR PITTMAN: Mr. Bates?

2 COUNCILMEMBER BATES: I'm good. Thank you.

3 MAYOR PITTMAN: Ms. Pachuta?

4 COUNCILMEMBER PACHUTA: Huh-uh.

5 COUNCILMEMBER PATRICK: I'm fine.

6 MAYOR PITTMAN: Ms. Fleming?

7 COUNCILMEMBER FLEMING: Yes. I don't have
8 any questions. I want to make a statement in regards
9 to our legal expense. It appears that we're about

10 \$45,000 more than we ought to be. Legal expenses
11 appear to be \$40,000 more than we had budgeted for.

12 Now, comment. I'm going to make two
13 comments. One: If our current insurance company is
14 not going to fund our lawsuits, then we need to find
15 somebody else such as GMA, and also I think we need to
16 go out for an RFP the first of the year. Those are my
17 comments.

18 MAYOR PITTMAN: Okay. Thank you.

19 Ms. Dean?

20 COUNCILMEMBER DEAN: I do have a couple of
21 questions.

22 One is for the swimming pool. It was
23 increased by \$3,000 when we first started this budget
24 and now it's going to be increased by an additional
25 \$16,025?

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1 MS. FERGUSON: I did not fix everything that
2 could be fixed in this budget.

3 COUNCILMEMBER DEAN: Uh-huh.

4 MS. FERGUSON: I increased the line items
5 that needed to be increased in order to get rid of the
6 variances, but I could have redone the entire budget.
7 But in order to simplify things, I just added to what
8 needed to be added to, because the primary purpose of
9 this amendment is to add in the revenues.

10 COUNCILMEMBER DEAN: Right.

11 MS. FERGUSON: So the one thing that I will
12 say is when we look at the budget next year, we'll be
13 looking at the expenditures versus the budget, so it
14 will be -- you know, the comparison will be less.

15 COUNCILMEMBER DEAN: All right, because now
16 it's \$70,000, almost \$71,000 for a pool that we use
17 three months of the year; right? And that --

18 MS. FERGUSON: Yes.

19 COUNCILMEMBER DEAN: -- seems kind of
20 excessive, particularly since it's not really a -- you
21 know, it's not really a first-class kind of place to
22 go, right?

23 My other question is operating transfers.

24 What exactly does that mean for the solid waste?

25 MS. FERGUSON: If you recall last year when

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1 we did the 2012 budget, I explained to you that there
2 was going to be a gap in the billing because when
3 Dekalb County took it over they only billed for half a
4 year. That's what that operating transfer is for is
5 to make up the difference in the revenue.

6 COUNCILMEMBER DEAN: Okay.

7 MS. FERGUSON: We will always be six months
8 behind on that, so this is going to be a one-time
9 thing, and it shouldn't happen this year.

10 COUNCILMEMBER DEAN: Okay. All right.

11 And finally, my last question is the
12 interfund transfers to the sanitation and to the 911
13 for \$118,000.

14 MS. FERGUSON: That's the one that I was
15 talking about. The \$118,000 is for the gap in the
16 funding, in the billing.

17 The \$422,000 to the 911 is just to make up
18 the difference in the budget because we just don't
19 receive nearly enough money in 911 fees to operate the
20 911 center.

21 COUNCILMEMBER DEAN: Wow. Really?

22 MS. FERGUSON: Yes.

23 COUNCILMEMBER DEAN: So we were like
24 \$422,000 short?

25 MS. FERGUSON: Yeah.

1 COUNCILMEMBER DEAN: \$422,000 short for 911.
2 Okay. All right.
3 MAYOR PITTMAN: Anything else?
4 COUNCILMEMBER FLEMING: I have a question.
5 MAYOR PITTMAN: Yes, ma'am.
6 COUNCILMEMBER FLEMING: I stand to be
7 corrected, but I believe you made a comment to
8 Ms. Dean that the purpose of the amendments to the
9 budget at the present time to update the 2013 budget
10 was to basically include just the revenues?
11 MS. FERGUSON: The main purpose is to
12 include the revenues. The additional purpose is to
13 address any variances that would trigger an audit
14 finding, so that's why some of these other things are
15 in here.
16 COUNCILMEMBER FLEMING: So let me understand
17 correctly, then. This amendment is just for those
18 purposes and not to update our expenditures. Is that
19 correct?
20 MS. FERGUSON: We are updating some of the
21 expenditures in order to address any variances that
22 might trigger an audit finding.
23 COUNCILMEMBER FLEMING: But not all of them.
24 MS. FERGUSON: Not all of them.
25 COUNCILMEMBER FLEMING: Okay. Thank you

1 going to cost you roughly a month; or you could oper
2 the public hearing, and then at that point, just set
3 it to a date certain and then move forward from there,
4 and we could have basically public comments, staff
5 report, everything of that sort at that presentation
6 just for consistency. So it's really Council's
7 choice.
8 MAYOR PITTMAN: Let's get their input.
9 We'll start with Ms. Alexander.
10 COUNCILMEMBER ALEXANDER: I'm fine with
11 continuation of the public hearing. I don't want us
12 to have to incur expenditures to readvertise to the
13 Council meeting on November the 4th which I believe
14 will be at the Civic Center.
15 MAYOR PITTMAN: Mr. Bates?
16 COUNCILMEMBER BATES: That would be my
17 preference as well.
18 MAYOR PITTMAN: Ms. Pachuta?
19 COUNCILMEMBER PACHUTA: Same here
20 COUNCILMEMBER PATRICK: The same.
21 COUNCILMEMBER FLEMING: Okay.
22 MAYOR PITTMAN: Ms. Dean?
23 COUNCILMEMBER DEAN: I'm good with that
24 Is there a fee for continuing it, for
25 deferring?

1 very much.
2 MAYOR PITTMAN: Okay. Do you need a motion?
3 MS. FERGUSON: This is the first read.
4 MAYOR PITTMAN: Okay. Thank you.
5 MS. FERGUSON: Thank you.
6 MAYOR PITTMAN: Thank you.
7 If you have additional questions, please
8 submit them to Dr. Gillen.
9 All right. Next on the agenda is
10 Application for Rezoning of Parcel 18 311 02 014
11 located at 5407 Buford Highway from C-2 Commercial to
12 M-1 Light Manufacturing; Mr. Cooley.
13 MR. COOLEY: Good evening, Mayor and
14 Council.
15 Again, as you know, we have received a
16 request for a deferral. There was an email put in
17 y'all's boxes today. You were previously forwarded
18 the email requesting the deferral. This was from the
19 agent's doctor requesting the deferral, saying
20 basically he would not be able to be here.
21 So it's up to how the Council -- do you want
22 to -- Two options: One --
23 Well, three options, actually: You can move
24 forward; you could actually defer to another time, at
25 which point it would have to be readvertised which is

1 MR. COOLEY: Not for continuing it because
2 we don't have to readvertise or anything.
3 COUNCILMEMBER DEAN: Okay.
4 MR. COOLEY: Well, at that point, then, I
5 would like to go ahead and y'all can go ahead and oper
6 the public hearing and I'll give a brief statement of
7 it. Unless you desire to have the staff report
8 tonight, I would pass that on and go at the November
9 4th meeting so it would be consistent and be fresh in
10 everybody's mind; but I will read it for the record so
11 we can do this so you can open the public hearing.
12 MAYOR PITTMAN: So we are going to do the
13 public hearing?
14 MR. COOLEY: You are going to open the
15 public hearing and then defer I believe the
16 recommendation was to November 4th.
17 MAYOR PITTMAN: Okay.
18 MR. COOLEY: Okay. For the record, then,
19 this is an application for rezoning of Parcel No.
20 18-311-02-014 located at 5407 Buford Highway from
21 existing C-2 Commercial Zoning to M-1 Light
22 Manufacturing.
23 We do have a request for deferral from the
24 applicant, and I will leave it at that point. If
25 y'all wish to open the public hearing and then just

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1 defer it to a date certain, then it would just go at
2 that point.
3 MAYOR PITTMAN: Okay. So at this time, we
4 will open the public-hearing portion.
5 COUNCILMEMBER PACHUTA: And I will make a
6 motion to defer the public hearing and application for
7 rezoning for that parcel at the request of the
8 applicant, to the date certain of November 4th which
9 will be held at the Civic Center.
10 MAYOR PITTMAN: Okay. Second?
11 COUNCILMEMBER ALEXANDER: Second.
12 MAYOR PITTMAN: Discussion?
13 (No response)
14 MAYOR PITTMAN: Call the roll, please.
15 DEPUTY CLERK ROCKELEIN: Alexander?
16 COUNCILMEMBER ALEXANDER: Yes.
17 DEPUTY CLERK ROCKELEIN: Council Bates?
18 COUNCILMEMBER BATES: Yes.
19 DEPUTY CLERK ROCKELEIN: Council Dean?
20 COUNCILMEMBER DEAN: Yes.
21 DEPUTY CLERK ROCKELEIN: Council Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 DEPUTY CLERK ROCKELEIN: Council Pachuta?
24 COUNCILMEMBER PACHUTA: Yes.
25 DEPUTY CLERK ROCKELEIN: Council Patrick?

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1 COUNCILMEMBER PATRICK: Yes.
2 MAYOR PITTMAN: Okay. Thank you.
3 MR. COOLEY: I'll contact the applicant.
4 Thank you.
5 MAYOR PITTMAN: Thank you.
6 And Connie, if you could be sure that (c)
7 gets on the November --
8 DEPUTY CLERK ROCKELEIN: 4th?
9 MAYOR PITTMAN: Please.
10 Okay. At this time, does Council have any
11 comments?
12 COUNCILMEMBER BATES: Thank all the
13 residents who came out to do the vine cleanup at
14 Autumn Park on Saturday.
15 MAYOR PITTMAN: Okay. Motion to adjourn?
16 COUNCILMEMBER ALEXANDER: So moved.
17 MAYOR PITTMAN: Second?
18 COUNCILMEMBER PACHUTA: Second.
19 MAYOR PITTMAN: Discussion?
20 (No response)
21 MAYOR PITTMAN: Call the roll, please.
22 DEPUTY CLERK ROCKELEIN: Council Alexander?
23 COUNCILMEMBER ALEXANDER: Yes.
24 DEPUTY CLERK ROCKELEIN: Council Bates?
25 COUNCILMEMBER BATES: Yes.

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1 DEPUTY CLERK ROCKELEIN: Council Dean?
2 COUNCILMEMBER DEAN: Yes.
3 DEPUTY CLERK ROCKELEIN: Council Fleming?
4 COUNCILMEMBER FLEMING: Yes.
5 DEPUTY CLERK ROCKELEIN: Council Pachuta?
6 COUNCILMEMBER PACHUTA: Yes.
7 DEPUTY CLERK ROCKELEIN: Council Patrick?
8 COUNCILMEMBER PATRICK: Yes.
9 MAYOR PITTMAN: Okay. I have had another
10 request for another break. Five minutes, please.
11 (Meeting adjourned at 7:10 p.m.)
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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 25th day of October 2013.
16
17
18 Theresa Bretch, CCR
19 Permit No. B-755
20
21
22 [SEAL]
23
24
25

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City Council

Meeting: 01/06/14 06:30 PM Category:

Minutes

STATUS: SCHEDULED

Prepared By: Sandra Bryant

Initiator: Sandra Bryant

AGENDA ITEM (ID # 1030)

November 04, 2013 minutes

- NOV 04 minutes (PDF)

In The Matter Of:*City of Doraville**State of Georgia*

*City Council Meeting**November 04, 2013*

*American Court Reporting Company, Inc.**52 Executive Park South**Suite 5201**Atlanta, Georgia 30329-2217**(404) 892-1331 - (800) 445-2842*

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Attachment: NOV 04 minutes (1030 : November 04, 2013 minutes)

CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

Transcript of the City Council meeting

held in the Doraville Civic Center, 3774

Central Avenue, Doraville, Georgia, Mayor

Donna Pittman presiding, before Theresa

Bretch, Certified Court Reporter, commencing

at 6:30 p.m. on November 4, 2013.

* * *

1 PROCEEDINGS

2 MAYOR PITTMAN: Meeting come to order.
3 Welcome to everyone. We're glad you came
4 out tonight.

5 And if you could 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: Thank you.

19 And if we could all rise for the Pledge,
20 please.

21 (Pledge of Allegiance)

22 MAYOR PITTMAN: Thank you.

23 I do not believe that we have any approval
24 of minutes tonight; is that correct?

25 Okay. And I need an approval of the meeting

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 Sandra Bryant, City Clerk

11 Shawn Gillen, City Manager

12 Cecil McLendon, City Attorney

13 Leonard Felgin, Assistant City Attorney

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1 agenda. The only change that I am aware of is under
2 10 Unfinished Business (b). I believe that we're
3 going to remove that and put it on a --

4 Ms. Dean, did you want it on another --

5 COUNCILMEMBER DEAN: Yes.

6 MAYOR PITTMAN: -- meeting?

7 COUNCILMEMBER DEAN: Yes. Yes, I do.

8 The next meeting. Or actually, can I just
9 postpone this until further notice and I'll bring it
10 back later? I mean is that okay?

11 COUNCILMEMBER PACHUTA: It's not on the
12 amended agenda.

13 COUNCILMEMBER DEAN: Okay.

14 MAYOR PITTMAN: Well, that's good. But you
15 just want to postpone it, though, anyway.

16 COUNCILMEMBER DEAN: Okay. All right

17 MAYOR PITTMAN: Thank you.

18 So I need a motion to approve the meeting
19 agenda tonight, please, if there's no questions or
20 comments.

21 COUNCILMEMBER DEAN: Okay. I have a
22 comment.

23 MAYOR PITTMAN: Sure.

24 COUNCILMEMBER DEAN: I would like to remove
25 the second read on the Proposed Amendments to the 2011

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1 Budget from the consent agenda because I would like a
2 discussion on that.

3 MAYOR PITTMAN: Okay. Then we will move
4 that into Unfinished Business. We will make that --
5 we can make that (c).

6 COUNCILMEMBER DEAN: Uh-huh.

7 MAYOR PITTMAN: All right. Now I need a
8 motion.

9 COUNCILMEMBER ALEXANDER: Make a motion to
10 approve the agenda with the two revisions requested.

11 MAYOR PITTMAN: All right. Second?

12 COUNCILMEMBER DEAN: Second.

13 MAYOR PITTMAN: Discussion?

14 (No response)

15 MAYOR PITTMAN: Call the roll, please.

16 CLERK BRYANT: Councilmember Alexander?

17 COUNCILMEMBER ALEXANDER: Yes.

18 CLERK BRYANT: Councilmember Bates?

19 COUNCILMEMBER BATES: Yes.

20 CLERK BRYANT: Councilmember Dean?

21 COUNCILMEMBER DEAN: Yes.

22 CLERK BRYANT: Councilmember Fleming?

23 COUNCILMEMBER FLEMING: Yes.

24 CLERK BRYANT: Councilmember Pachuta?

25 COUNCILMEMBER PACHUTA: Yes.

1 really shocked that in the middle of an election a
2 City employee takes it upon himself to issue a news
3 release stating that the incumbent Council is great as
4 it is; furthermore, announcing that we are going to
5 have an uptake in revenue based on four months' worth
6 of data.

7 I don't know where the information is coming
8 from because it's certainly not shared with the
9 public, certainly not shared with Council, so I'd be
10 interested to see a full accounting of this grand new
11 plan where we're going to make all of this money. I
12 just -- I'm really astounded about how -- how broken
13 this is.

14 You know, I see in our campaign literature
15 where some of the incumbents are claiming
16 responsibility for hiring the City Manager to take
17 over, you know, the day-to-day operations. The fact
18 is that the citizens of Doraville elected to have this
19 form of government, and it's really sleeves off your
20 vest to make a good hire. So I don't really see that
21 as -- as an accomplishment. That's just doing, you
22 know, what's you're supposed to do, and that's your
23 job.

24 One of the things that really concerns me
25 about the City Council and has over the past several

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1 CLERK BRYANT: Councilmember Patrick?

2 COUNCILMEMBER PATRICK: Yes.

3 MAYOR PITTMAN: Okay. Thank you. Motion
4 carries.

5 Okay. Next is going to be Public Comments.
6 If you could please step to the podium if you wish to
7 speak, state your name for the court clerk, and you
8 have three minutes. Anyone wishing to speak.

9 MR. STEVE DEAN: Hi. I'm Steve Dean. I'm
10 from the Northwoods area.

11 I'd like to make a few comments. I hope
12 they won't run over my allotted time.

13 But I'm sure everyone saw the news release.
14 It seems to me we have a problem that a lot of older
15 men experience that are lonely: we've got an out-of-
16 control mail-order bride that's making decisions,
17 spending money like it's going out of style, and
18 there's really no accountability.

19 It seems that this new city manager is
20 making decisions without really getting clearance
21 from, you know, the people who hired him, and I really
22 think that the left side of the dais is ultimately
23 responsible for this because they've given this
24 individual unfettered power. And there's no
25 performance review, there's no accountability, and I'm

1 years is many of you Council members make the
2 decisions based on your own opinions. I've heard one
3 of you say, "I know best what's for Doraville, not
4 necessarily my constituents," and I hope that tomorrow
5 that all of the constituents take this into
6 consideration when they cast their vote.

7 Thank you.

8 MAYOR PITTMAN: Anyone else wishing to
9 speak?

10 And I do want to want to remind the
11 audience, you may have opinions or thoughts. I would
12 appreciate your comments -- if you have something to
13 say, take it outside. Please be quiet in here. I
14 appreciate it.

15 MS. EMILY PAPER: My name is Emily Papera
16 I am a Russian-speaking case manager for the Russian
17 elderly population here in Atlanta. I represent about
18 300 Russian-speaking elder adults in the Atlanta area
19 The majority of them are in the city of Atlanta and a
20 good number are in the city of Doraville. There is a
21 lot of immigrant families here. And I try to act as a
22 conduit to explain to them what kind of services and
23 other organizations that are available to help people,
24 and I'm representing Larissa Liapidous today who is
25 one of my clients who has been a citizen of this

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1 country since 2008.

2 Out of my 300 clients, she is by far the
3 hardest-working one I've met. A lot of them would
4 like to sit back on using the government for the
5 benefits, and she has fought very hard. We're trying
6 to make sure she gets all of the benefits that she can
7 as an older adult.

8 And with that said, she has -- even though
9 she's been a citizen only for about five years, she is
10 no stranger to the offices in Georgia because she's
11 been trying to advocate for some of the fees that are
12 assessed to her. She has very limited low income
13 because in 2012 she had to quit work because she got -
14 - she was a breast cancer survivor and had to quit
15 working voluntarily because that's how they had it set
16 up with her organization that she worked for.

17 So what we're advocating is that she's got a
18 very -- she pays her mortgage dutifully, and she's got
19 a very high mortgage and a very low pension, And what
20 we are here today is to request that she have her
21 sanitation fees waived, because when she was living a
22 couple years ago back in unincorporated Dekalb County,
23 she could apply for a senior waiver at age 65. Now
24 that she has been annexed into the city of Doraville,
25 there is a city ordinance that states that she has to

1 Last meeting I saw a letter, didn't get to
2 read the whole thing, but it was discussing a very
3 frivolous lawsuit if the person who is applying for
4 10(a) does not win, the 10(a) line item from M-1 to
5 C-2 (sic).

6 Believe me, anybody applying for zoning M-2
7 in the C-2 area that's downtown has undertaken a
8 frivolous action; and then to threaten suit is indeed
9 a frivolous lawsuit, and I would hope the City has
10 some recourse in that regard if they are sued.

11 Thank you.

12 MS. CAROL GILMAN: Carol Gilman, Northwoods
13 Mayor, on the agenda, would you explain 10
14 (b), the Ordinance to Remove Employee Policies From
15 Code, why that is being moved or delayed?

16 I ask because I support removing the
17 employee policies from the Code.

18 MAYOR PITTMAN: It's still on the agenda.

19 MS. GILMAN: It's moved to another section
20 of the agenda?

21 ATTORNEY McLENDON: Huh-uh.

22 DR. GILLEN: I think there's confusion of
23 the revised agenda. I mean prior to the revised
24 agenda, 10(b) was to remove CT zoning, but that has
25 been revised since, and we're going to put it off to a

1 pay the sanitation fees, and I would like the Council
2 to consider her request to have this fee waived so
3 that, because of her limited income, she can actually
4 pay her other bills on time and keep making the
5 mortgage payments.

6 Believe me, she's exercised every option she
7 has available. She is definitely -- she does not have
8 any car, and she uses public transportation to try
9 her best to make sure her voice gets heard.

10 So what I would like to advocate today is
11 that she have this sanitation fee waived and -- or if
12 we have to go through the process, we would like to
13 look into ordinance being changed for the city of
14 Doraville. Thank you.

15 MAYOR PITTMAN: Ma'am?

16 MS. PAPER: Yes.

17 MAYOR PITTMAN: She actually had called, and
18 the number that was left was an incorrect number.

19 Would you mind before you leave today
20 leaving the correct number with the Clerk, please?

21 MS. PAPERS: Sure. I'd be happy to.

22 MAYOR PITTMAN: Thank you.

23 Okay. Anyone else wishing to speak?

24 MS. BONITA HOFFMEISTER: Bonita Hoffmeister,
25 English Oak.

1 future meeting.

2 MS. GILMAN: So, then I have the most
3 current agenda.

4 DR. GILLEN: That's correct.

5 MS. GILMAN: Very good. Thank you for the
6 clarification.

7 DR. GILLEN: On the original agenda, 10(b)
8 was the removal of CT zoning. The current, the
9 revised agenda, 10(b) is the removal of the personnel
10 policies from the ordinance.

11 MAYOR PITTMAN: All right. Anyone else
12 wishing to speak?

13 (No response)

14 MAYOR PITTMAN: Okay. We're going to close
15 the Public Comment portion.

16 Next is going to be Reports and
17 Presentations; City Manager, Dr. Gillen.

18 DR. GILLEN: Thank you, Mayor and Council
19 I'll be brief tonight because we got a report coming
20 from our Economic Development Director and our Library
21 Director, talk a little about what's going on with
22 their two departments. So in the interest of time,
23 I'll give them plenty of time to talk.

24 Just a couple of items that are going to be
25 happening in the next couple of weeks. The sound

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1 system for the Council chambers is on schedule to be
2 installed prior to the next Council meeting, so it
3 will be a better Council sound system with better
4 speakers and microphones and a mounted camera for when
5 we get to the IQM2 system. The live streaming will
6 occur for the Council meetings via that.
7 The Internet upgrade is almost complete.
8 Comcast ran into some snags with Georgia Power in
9 crossing their lines and things like that, so they've
10 had to work around some things and it's taking them a
11 little bit longer, but it is underway and almost done.
12 And the GIS system implementation is
13 underway. That's going to take a couple of months
14 while the servers are built and the computers are
15 ordered, and then the licensing will be purchased as
16 well.
17 Lisa Ferguson, the Finance Director, and I
18 are looking into audits of the phone bills. There are
19 vendors who will provide a service to audit the phone
20 bills to make sure that we're not paying any
21 unnecessary fees and that we don't have any lines that
22 are just there that we're paying for that nobody's
23 using. I've been in this for a long time, and I've
24 found government buildings, sometimes there's a phone
25 line into a room that no one knew about, but it's on

1 So I'll stop there. If there's any questions, I can
2 answer them, but I'll turn it over to our next two
3 presentations.
4 MAYOR PITTMAN: Council? Ms. Alexander, did
5 you have questions for Dr. Gillen?
6 COUNCILMEMBER ALEXANDER: No, ma'am.
7 MAYOR PITTMAN: Mr. Bates?
8 COUNCILMEMBER BATES: No.
9 MAYOR PITTMAN: Mr. Patrick?
10 COUNCILMEMBER PATRICK: In your mind, what
11 the appropriate time frame for a business license to
12 be renewed?
13 DR. GILLEN: How long it should take?
14 COUNCILMEMBER PATRICK: Uh-huh.
15 DR. GILLEN: I don't know what -- Two to
16 three weeks is --
17 CLERK BRYANT: Days.
18 DR. GILLEN: -- typical? Is it --
19 CLERK BRYANT: Days.
20 DR. GILLEN: -- two to three business days?
21 This is my first go-round with it. I don't
22 know how you've been doing it in the past. It
23 shouldn't take but a couple of days is what I would
24 hope for.
25 COUNCILMEMBER PATRICK: Thank you.

1 the bill, and nobody bothered to check. So we're
2 going to run through that.
3 We're also looking into the same sort of
4 concept of audit of our business licenses, alcohol
5 licenses and excise tax to make sure that everybody
6 that has a business in Doraville has an occupational
7 tax certificate, things of that nature. And that's
8 going to take some time, but we're going to be
9 working on that over the next couple of months.
10 The business and occupational tax renewal
11 letters are going out next week, and we have RFPs for
12 finance software and the document management system
13 that went out on Friday. So those will be coming to
14 you probably in January. As the RFPs come back in,
15 we'll bring the recommendations to the Council in
16 January.
17 The finance software is a critical piece.
18 We need to make sure that we're able to give timely
19 reporting. The current system isn't doing what we
20 need it to do and doesn't have the capabilities that
21 we need it to have for timely information flow. And
22 that means better monthly reporting to the City
23 Council and to the public.
24 Other than that, those are the kind of major
25 things that are happening over next couple of weeks.

1 MAYOR PITTMAN: Ms. Fleming?
2 COUNCILMEMBER FLEMING: Yes. I'd like to
3 inquire as to who the source will be for the audit of
4 the phone bills, the alcohol licenses as well as the
5 business licenses.
6 DR. GILLEN: We had a vendor we selected for
7 the phone bills -- Lisa, dig into that because their
8 name escapes me right now -- and she can talk to us
9 about that.
10 We're going to get some quotes on the other
11 ones, so I don't know who the companies are yet.
12 There's two or three out there that do the business
13 licensing that I've done it with other cities, so
14 we'll take a look at that.
15 COUNCILMEMBER FLEMING: And in regards to a
16 audit on our E911 fees that we're not getting?
17 DR. GILLEN: Uh-huh. We're taking a look at
18 that as well. I didn't mention that, but yes. Thank
19 you for reminding me. That is part of the -- when we
20 do the E-RFQ for the service, we're going to want that
21 to be a part of it.
22 COUNCILMEMBER FLEMING: As soon as you find
23 out from Ms. Ferguson in regards to who the vendor is
24 I'd like to know what the cost is to the city for
25 these audits.

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1 DR. GILLEN: Uh-huh.
2 MAYOR PITTMAN: Ms. Dean?
3 COUNCILMEMBER DEAN: No. I'm good.
4 MAYOR PITTMAN: Okay. Thank you.
5 DR. GILLEN: All right.
6 MAYOR PITTMAN: Thank you, Dr. Gillen.
7 DR. GILLEN: Thank you.
8 MAYOR PITTMAN: Next is Economic
9 Development, Mr. Howe.
10 MR. LUKE HOWE: Thank you, Mayor.
11 Well, this is probably the worst-kept secret
12 in Atlanta, but I'd like to formally announce that the
13 GM plant is under contract. It has been since July.
14 We're looking at a 12- to 15-month closing
15 period which will -- which will end in -- in the fall
16 of next year.
17 So right now they're doing some environ-
18 mental testing. They've done some preliminary
19 testing, and we don't know much about that; but we
20 know that they're undeterred, so that is a good thing.
21 But we've been really busy with that project
22 lately, as you would expect. There's a lot of
23 intergovernmental coordination that has to be done, a
24 lot of lobbying the Federal government and trying to
25 get some assurance for the 70 million in

1 for the -- for the New Peachtree Road Project.
2 Unfortunately, it requires a 20 percent local matching
3 requirement, and that would be about \$582,000. I
4 applied for a State Road & Toll Authority grant for
5 that match, so, you know, hopefully that'll be
6 successful.
7 We were -- we've been recommended -- It's
8 been recommended by the ARC and the Georgia Department
9 of Transportation that we undertake a second LCI
10 study. Now, I know everybody may be a little
11 planning-fatigued, but GDOT said that this would --
12 recommended that this would be the next best step in
13 making sure that we get funding considerations for our
14 major project.
15 This LCI Supplemental Study would be
16 exclusive to the connectivity projects: the Buford
17 Highway corridor -- the Buford Highway Connector
18 project, the MARTA pedestrian bridge, and upgrades to
19 Peachtree Industrial and Motors Industrial. This
20 would be more of a preliminary engineering plan, so it
21 would be a little bit more nuts-and-bolts than what
22 we've done in the past.
23 And again, you know, since the -- you know,
24 in the wake of the T-Splott vote, you know, there is a
25 -- the State has to reassess all the transportation

1 infrastructure that we're going to need. So this is a
2 significant step for the city, but there's a lot of
3 work to be done.
4 I did want to compliment the Mayor and
5 Council. They have shown really remarkable leadership
6 over the last year. You know, you had to inspire a
7 lot of confidence in somebody to want to make a
8 \$60,000,000 investment. And from our governing
9 authority on down to our Planning Commission and our
10 DDA to even, you know, our well-educated and
11 thoughtful citizens, you-all collectively have
12 presented a very positive image, and I want to
13 congratulate you on that.
14 I've asked you to make some -- you know,
15 some decisions over the last year. Some were popular,
16 some weren't very popular. But you made them, and
17 they were necessary, and we wouldn't be here today if
18 you didn't do that. So again, thank you all.
19 We're working on a number of grants right
20 now, and that continues to be something that falls
21 within my -- my scope of work. Other than leadership,
22 another key ingredient to have a flourishing economic
23 development program is appropriate investments in
24 infrastructure.
25 We did receive a 2.8 million dollar grant

1 projects that were -- that were slated to get money.
2 And they said, you know, "This is what you really need
3 to do to position it for funding in the future," so we
4 applied for a supplemental LCI.
5 We're also working on EPA brownfield
6 assessment and clean-up grants. Typically the EPA
7 will make a call for applications beginning in October
8 until -- till late November. Now, the government
9 shutdown has delayed that, so, but we're working on
10 them in anticipation that it's going to -- it's going
11 to come open, so I'll keep you posted on that.
12 We're also working with Parks & Recreation
13 on a Land & Water Conservation Fund grant that would
14 continue to do some work on Halpern Park.
15 Other than that, business development is
16 doing very well. We are actually doing better
17 economically than we were, you know, when I first go
18 here five years ago -- that was pre-recession -- and
19 we're doing it with stricter policies in place.
20 And so I think it's a credit to everyone who
21 has advocated for those policies, that we can be
22 successful in recruiting business and we can do it
23 under stricter guidelines. So I've always said
24 whatever you put in place, we will work with that and
25 we're going to be successful with it.

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1 We have just over 1,500 businesses. 1,200
2 are actually located here in Doraville. So that's --
3 that's a 25 percent increase over the last two years.
4 We've welcomed the -- we just welcomed two new
5 distributors into the annexed area recently, and I'm
6 working on one more in the Clearview area.

7 And M-1 is going to continue to be our
8 priority because right now that has the most potential
9 for employment. You know, in keeping with your --
10 with the goals that you formulated a few months ago,
11 we plan on bringing a third Urban Redevelopment Plan
12 before the Council at the next -- at the next work
13 session, and in our future Opportunity Zones, we'll
14 focus on the M-1 and the employment centers that we
15 haven't already applied for.

16 Other than that, we have our new video game
17 company that is moving into the old post office. I
18 really love this industry. It has got a lot of
19 potential. They're going to be moving in at the first
20 of the year.

21 The company's called Gangs at Work. They
22 employ about 15, and they've been in business for 20
23 years. They make video games particularly for the
24 Department of Defense. They're mostly training and
25 simulation oriented.

1 development strategy, and we'll discuss ways in which
2 the DDA can augment the City's efforts.

3 This Friday you will be getting a proposal
4 from a developer for a 30,000 square foot medical
5 facility that would be located right where the old Par
6 Asian and Extension Service sites are. You know, it's
7 -- so far, it looks like a great opportunity. The
8 facility would employ about 30 people in the high-
9 paying healthcare field. It would probably mean about
10 60 more jobs in construction. So I look forward to
11 discussing that with you at our next work session.

12 Other than that, we're really doing well
13 economically. We had a -- it was a rough three or
14 four years there with the plant closure and the
15 recession, but we're just -- we're slowly but surely
16 crawling our way out of it.

17 And I want to emphasize how important good
18 leadership has been. You know, it's fine to disagree
19 but we're not doing it in front of a regional
20 television audience, and I can't tell you how
21 important that is. So you're doing a fantastic job
22 with leadership. It doesn't matter who you hire. If
23 the collective leadership is not presenting a positive
24 image, then anything we do is really a lost cause. So
25 I want to congratulate you all for that.

1 We're also working with them to bring in
2 smaller companies to that space because 8,000 square
3 feet is a little bit too big. So what we plan on
4 doing is starting a digital media incubator, and I'm
5 supposed to meet with the Georgia Video Game
6 Developers Association next week.

7 So I think we've got a lot of potential with
8 this industry, and it all started with the animation
9 studio. You know, unfortunately, they didn't work
10 out, but, you know, the way we treat our businesses is
11 our best form of marketing, and when you go above and
12 beyond like we did to try to get them here, you know,
13 the word spread and so, you know, we can't -- we got
14 1,500 businesses. We can't focus on all of them, so
15 we have to concentrate on those who are bringing value
16 and who are bringing employees into the city.

17 Other than that, the DDA will meet, hold its
18 third meeting in December. We're going to talk to
19 them about training. They have to go through at least
20 eight hours. We've been talking to Carl Vinson about
21 combining that training with a goals and strategy
22 formulation session. So what we'll do is we'll take
23 the goals and the objectives that the City Council
24 produce, we'll go over that and we'll -- what will
25 come out of it is a workable city-wide economic

1 And that's about it unless you have any
2 questions.

3 MAYOR PITTMAN: Ms. Alexander?

4 COUNCILMEMBER ALEXANDER: No, ma'am

5 MAYOR PITTMAN: Mr. Bates?

6 COUNCILMEMBER BATES: No.

7 MAYOR PITTMAN: Ms. Pachuta?

8 COUNCILMEMBER PACHUTA: Huh-uh.

9 MAYOR PITTMAN: Mr. Patrick?

10 COUNCILMEMBER PATRICK: Huh-uh.

11 MAYOR PITTMAN: Ms. Fleming?

12 COUNCILMEMBER FLEMING: No, thank you

13 MAYOR PITTMAN: Ms. Dean?

14 COUNCILMEMBER DEAN: I just have --

15 How many LCI studies have we had?

16 MR. HOWE: This will be our third. But
17 again, you know, when they brought it up, I kind of
18 bristled too, because we've been through it, and y'all
19 had a conversation about Cindy -- with Cindy a month
20 ago.

21 I'm not, you know, interested in any vision,
22 broad-based -- anything that we've already hashed out,
23 but what this would do is really focus on the nuts-
24 and-bolts of our transportation project. It would do
25 some preliminary engineering, some right-of-way

1 acquisition analysis; the environmental implications
2 of what we plan on doing, the people displacement of
3 what we plan on doing; so it would really -- and it
4 would really start to assign some hard figures to
5 that.

6 Our LCI, our 2010 LCI does a great job of
7 just providing an overview, but it only gives you
8 about that much of a paragraph (indicating) on our
9 biggest project, and that's the new arterial connector
10 from Buford to Peachtree Boulevard with the bridge,
11 so. And lobbying the Federal government and the State
12 for funding, we need to have -- we need to have a
13 little something more to bale it up with.

14 COUNCILMEMBER DEAN: And how much did we pay
15 for the 2010 LCI?

16 MR. HOWE: The total cost was \$125,000. LCI
17 -- just like the LCI grant, LCI money originates from
18 the Federal DOT, and their rule is 20-percent match,
19 so we actually paid \$25,000.

20 Now, with this match, we asked again for
21 \$125,000, but the development group has offered to
22 contribute to that match, so.

23 COUNCILMEMBER DEAN: So how much would that
24 cost us if we went forward with this?

25 MR. HOWE: We hadn't worked out a formal

1 COUNCILMEMBER DEAN: Okay. Was 2010 the
2 next one?

3 MR. HOWE: 2010 was the next one.

4 COUNCILMEMBER DEAN: And that was -- Okay
5 And then the third one was?

6 MR. HOWE: This would be the third one --

7 COUNCILMEMBER DEAN: Okay.

8 MR. HOWE: -- if we get approved.

9 COUNCILMEMBER DEAN: All right. Okay
10 Okay. And one more question. The training
11 for the DDA board, who would -- who will be paying for
12 their training?

13 MR. HOWE: The City would be covering their
14 training, and we will be looking for a budget
15 amendment just to give them some training money and
16 supply money. But, you know, until we start -- you
17 know, the Development Authority, their fees will come
18 through a bond issuance. That's where.

19 But right now, you know, we don't have any,
20 and they got to --

21 COUNCILMEMBER DEAN: Right.

22 MR. HOWE: -- get trained and --

23 COUNCILMEMBER DEAN: Right. Well, and I
24 asked about this before it was implemented, and I was
25 told that all this work would be done pro bono.

1 agreement with them about what they would cover, but
2 the local matching responsibility would be 20 percent
3 or \$25,000.

4 COUNCILMEMBER DEAN: Okay. And with the
5 other studies, we have three. Why have we had three?

6 And I ask --

7 MR. HOWE: Well --

8 COUNCILMEMBER DEAN: -- you this because
9 people make reference to the LCI studies, and I'm
10 always -- I'm always thinking, Well, which one?
11 because I know that we've had -- I knew that we've had
12 a few at least.

13 But why have we had three? I mean why --
14 Yeah. Why have we had three?

15 MR. HOWE: Well, the 2006 LCI only really
16 covered the town center area from, you know, really
17 the New Peachtree and Shallowford and Buford Highway
18 corridors. It anticipated that the GM plant would be
19 closing but it did not cover the GM site
20 redevelopment.

21 COUNCILMEMBER DEAN: And do you know how
22 much that cost, that one cost?

23 MR. HOWE: You know, I don't know. It was
24 probably -- probably the same. Probably it was a
25 \$125,000 deal.

1 MR. HOWE: Well, you know, we -- I would
2 prefer that we bring in a professional facilitator
3 just because I'm not -- that's not my -- that's not my
4 strength, and I'd rather a professional come in and
5 help them formulate some hard goals.

6 COUNCILMEMBER DEAN: So when I was told --
7 and Mr. Gillen, you might help us here -- when I was
8 told, because I specifically asked that question -- I
9 was told it would be done on a pro bono basis.

10 Were you going to be the one providing these
11 services?

12 MR. HOWE: We ha --

13 COUNCILMEMBER DEAN: The first time -- the
14 first time the DDA board came before us, it was
15 going -- we were going to ask DeKalb County for
16 \$20,000. And when I asked now who is covering this, I
17 was told it's going to cost nothing, that all of this
18 work is going to be provided on a pro bono basis.

19 MR. HOWE: We --

20 DR. GILLEN: I believe Mr. McCrae was going
21 to --

22 MR. HOWE: Yeah.

23 DR. GILLEN: -- be providing the training
24 portion, and I think what Luke was referring to is the
25 facilitator was for the goal-setting session.

1 Right?
2 MR. HOWE: Yes, ma'am. And he has. I mean
3 the Development Authority's attorney has offered to
4 come in and train them.
5 COUNCILMEMBER DEAN: So we --
6 MR. HOWE: But this is --
7 COUNCILMEMBER DEAN: But he's going to come
8 in and train them, so what -- what is this training
9 that you're referring to?
10 MR. HOWE: Well, this is more for a
11 facilitator to come in. And the City Council has been
12 through -- I think we did it a couple years ago, but a
13 trained facilitator comes in and helps them put
14 together a plan of action.
15 Now, you know, if we have to, you know,
16 Dr. Gillen and I can do that, but if we can, I think
17 it would be advantageous.
18 COUNCILMEMBER DEAN: Well, I mean I'm just
19 asking just to kind of get an idea, but this -- we
20 don't have to flush this out now because --
21 MR. HOWE: No, ma'am, we don't.
22 COUNCILMEMBER DEAN: All right.
23 MAYOR PITTMAN: Go ahead.
24 COUNCILMEMBER FLEMING: You've made a
25 comment in regards to the -- the third LCI study that

1 there was a possibility that the development group
2 would be paying for it. Who is the development group?
3 MR. HOWE: The Integral Group.
4 COUNCILMEMBER FLEMING: Okay. So that's the
5 group that has purchased or is under contract for the
6 GM property; is that correct?
7 MR. HOWE: Correct.
8 COUNCILMEMBER FLEMING: Okay.
9 MAYOR PITTMAN: Mr. Howe, thank you very
10 much.
11 Okay. Next is going to be the library, Ms.
12 Henry.
13 MS. TAMMY HENRY: Good evening. Good
14 evening, Mayor, Council, Dr. Gillen, citizens. I'm
15 bringing good tidings from the library.
16 I want to say we have an awesome group of
17 citizens that are called Friends of the Doraville
18 Library. We just ended a book sale on Saturday that
19 was just awesome. And it lets me know that one man's
20 treasure -- one man's trash is another man's treasure.
21 So far, the Friends of Doraville Library has raised
22 \$8,000 in book sales.
23 Can you please stand for me so we can give
24 you a round of applause; Friends of the Doraville
25 Library.

1 (Applause)
2 MS. HENRY: Thank you. And their moneys
3 usually help us with programmings and providing pizza
4 for Saturday teen programs, popcorn and just treats.
5 So they have really worked hard for the Doraville
6 Library, and I really appreciate them.
7 Oftentimes, we don't know the people that
8 serve you at the library, and I want to introduce my
9 staff. And they are the dream team. They have worked
10 hard, they have put up with a fierce leader, which is
11 myself. They have just worked awesomely hard.
12 First I want to introduce Joanne Lancaster.
13 She's been at the Doraville Library for 16 years.
14 Joanne, stand up for me please.
15 (Applause)
16 MS. HENRY: I want to introduce Kathy
17 McKenzie. She's been with the Doraville Library for
18 14 years.
19 (Applause)
20 MS. HENRY: I want to introduce Antoine
21 Danner. He's been with the library for one year.
22 (Applause)
23 MS. HENRY: I want to introduce Audrey
24 Atkins. She's been with the library for five months
25 now.

1 (Applause)
2 MS. HENRY: They are the dream team,
3 Doraville's dream team, and I'm glad to say that.
4 When I started in January, one thing I
5 mentioned to you-all is I want to -- we qualify for
6 The Best Little Library in America. So I had to start
7 tracking what we started doing on my first day,
8 January 3rd, 2011, and it has to be a three-year
9 track. Well, let me just give you an overview of what
10 we have done. And I believe in good, better and best,
11 and the best will be when we receive the award, The
12 Best Little Library in America.
13 But let me start with January of 2011
14 staffing. When I arrived at the Doraville Library, we
15 had five full-time people and two part-time. We were
16 circulating 1,000 items per month. That means 1,000
17 items were checked out. It was about 1,500 people
18 that visited the library in 2011, and in fees and
19 fines, we was collecting about \$600 a month.
20 Well, here's the -- we have gotten better.
21 We have become efficient, we have become effective.
22 We're staffed now with just three full-time people,
23 two part-time people. We circulate 5,000 items a
24 month. We have about 5,000 people that come in the
25 library every month, that we serve. We collect about

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1 \$1,400 in fines a month.

2 And here's what I want you to think about:

3 As I measure the success of the library, I want to get
4 the best. So in measuring the best, these are the
5 things I want you, the citizens, the Mayor and the
6 Council and Dr. Gillen to focus on as we look at the
7 Doraville Library: We need to focus on the facility.
8 The Doraville Library has not been renovated since
9 1979. 1979.

10 COUNCILMEMBER PATRICK: I was seven back
11 then.

12 MS. HENRY: It was built in 1954. We
13 haven't had any renovations since '79. We have made
14 it cosmetically look nice, but we haven't updated the
15 library. Right now with the maximum load, we can only
16 circulate five -- we probably -- with the staff that
17 we have, we're at maximum level. We can't circulate
18 not one more item or that staff will be laying on the
19 floor.

20 So I want you to really focus on the
21 facility because we need to become ADA compliant.
22 That's what I want you to focus on. The bathrooms --
23 I want each and every one of you to come to Doraville
24 Library and check out our bathrooms, and you tell me
25 if we need to be renovated.

1 Also, we provide -- Joann Lancaster does an
2 excellent job with going into the community and
3 bringing programs to the library. We have Saturday
4 Teens, we have Saturday Senior programs, we have
5 Children's Story Time.

6 We even have English as a Second Language
7 every Tuesday night free, if she wants to come. It's
8 absolutely free.

9 So we have a lot of programs that are
10 quality programs. I want us to continue to offer the
11 quality programs, but we need the space. We don't
12 have the space.

13 Also, I've told my staff, if any of you have
14 ever shopped at Nordstrom's before, we're offering
15 white glove service. We're offering when you come
16 into the library, if you do not get the quality
17 service, you come personally and talk to me, because
18 I'm asking my staff to make sure, even if they get
19 people from the train station that walks to the
20 library and they come in sweaty, stinking, ugly and
21 mean, it's okay. They will get the white glove
22 treatment at the Doraville Library.

23 If you don't get that, please let me know,
24 because we're measuring our success to become the Best
25 Little Library in America. Okay?

1 Also I will say this: It costs \$5.00 to
2 become a friend. Susan, Janet Huggleston, please
3 stand.

4 She is the president -- she is a retired
5 educator from Cross Keys. She's the president of our
6 Friends group.

7 It costs \$5.00 to become a friend. If
8 you're interested in becoming a friend, please see
9 Janet. Okay?

10 Susan. I want Susan to stand for a second.
11 Susan did a outstanding PR job for the book sale.

12 Susan, thank you very much for coordinating
13 and getting the book sale.

14 (Applause)

15 MS. HENRY: I had no idea that \$8,000 has
16 been raised in book sales, so what an outstanding job.

17 Next thing I want to say: This is the only
18 free card (indicating) that you can carry in your
19 wallet. If you do not have this free card -- I have
20 several cards, but none of them are free. They come
21 with a 7.7 interest rate and this, that and the other.
22 But this is the only free card that you can carry in
23 your wallet. Please sign up. Get a library card.

24 I now hear people say, "Oh, I have a Nook,"
25 or "I have a Kindle," "I have an iPad." Well, you can

1 come to the library and download those items for free
2 onto your Kindle or your Nook or your iPad. But get a
3 library card, please. Continue to support us. We are
4 very grateful that you support us, but we do need to
5 consider down the road to take a look at our facility.
6 Tell us when we're not providing the customer service
7 that you'd like to see.

8 And thirdly, tell us about quality programs
9 you would like to see at your local library. I mean
10 we don't have all the answers. We are there for
11 suggestions. But just let us know some things that
12 you would like to see at the library.

13 Merle offered a program of making jewelry
14 for our teens. She offered. The teens loved it.
15 They made a bracelet and necklace, and she left some
16 more beads for them to make.

17 Merle, thank you. They really loved seeing
18 it, and I appreciate you coming and doing it for free.
19 Thank you.

20 So you-all continue to support the library.
21 We need you, we support you, but just think about us
22 as this city moves forward in planning and processing.
23 Council, Mayor, don't leave the library out when you
24 are making these big plans for the city. Consider the
25 library. We need, you know, some improvement in the

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1 facility; we really do.

2 And that's it. Thank you very much.

3 MAYOR PITTMAN: Ms. Henry, I just want to
4 say, I want to echo the Friends of the Library have
5 done an outstanding job. We know that you work
6 really, really hard, and we really, really appreciate
7 all of you.

8 We also appreciate the employees. You guys
9 do an outstanding job. We really appreciate it.

10 And Ms. Henry, I think you deserve a round
11 of applause because you do an outstanding job as well.

12 MS. HENRY: Thank you. Thank you.

13 (Applause)

14 MS. HENRY: But I just -- I just want to
15 say, you know, thank you. If not for you-all -- and
16 you-all, because you're citizens too -- it would not
17 be us there working at the library. And just remember
18 that we're there for your pleasure to assist you any
19 way that we can. Just don't catch me on a Tuesday at
20 8 o'clock because I may be grumpy because I'm tired by
21 then.

22 But it's really a joy and it's coming along.
23 When I tell people that I'm the Library Director at
24 Doraville, and they say, "Doraville?"

25 "Yes. We're four to five miles away from

1 deferred to a date certain, which was today, so this
2 is a continuation of the public hearing. We had not
3 really gotten into it at this point when we moved on
4 at the last meeting.

5 I know you-all have received the emails.
6 There has been an additional request for a deferment
7 by the applicant. Again he's citing physical and
8 health problem, so that has been sent to y'all and
9 that is for your consideration prior to moving
10 forward.

11 MAYOR PITTMAN: Okay. Mr. McLendon, could
12 get your input on that? How should we move -- I mean
13 I know it's going to be up to the Council, but do we
14 need to do a public hearing? Do they have the option
15 to vote one way or the other?

16 ATTORNEY McLENDON: We need to complete the
17 public hearing. The withdrawal, if they asked for a
18 deferral, that is in the discretion of the Council.
19 If you choose to grant that, you can. But we have
20 granted one continuance on this, so it is in your
21 discretion what you chose to do with that.

22 MAYOR PITTMAN: But we are to move forward
23 with the public hearing first. Is that correct?

24 ATTORNEY McLENDON: Well, we have the public
25 hearing. And yes, I would say we need to have the

1 Atlanta. We're at 9,000 population."

2 Everyone is saying, "Really. 5,000 a month
3 in that little place?"

4 "Yes, yes, 5,000 a month. Yes, yes." And
5 it's just wonderful. So I just want you to know it's
6 no small thing. It's wonderful to circulate 5,000 a
7 month and 5,000 come in that door and it's only 9,000
8 people in Doraville.

9 MAYOR PITTMAN: Thank you.

10 COUNCILMEMBER FLEMING: Thank you.

11 MAYOR PITTMAN: Council, do any of you have
12 comments or questions for Ms. Henry?

13 COUNCILMEMBER FLEMING: No.

14 Thank you, thank you, thank you.

15 MS. HENRY: Thank you.

16 MAYOR PITTMAN: All right. Next on the
17 agenda is under Unfinished Business. It's going to be
18 a Public Hearing for Application for Rezoning of
19 Parcel No. 18 311 02 014 located at 5407 Buford
20 Highway from C-2 Commercial to M-1 Light
21 Manufacturing. Mr. Cooley.

22 MR. JOE COOLEY: Good evening, Mayor and
23 Council.

24 As you may recall, this was open for public
25 hearing at the last meeting, on October 21st. It was

1 public hearing on it, and, you know, if anyone is here
2 to speak on behalf of the application, they will have
3 their time to speak on behalf of it as well.

4 MAYOR PITTMAN: Okay. All right. Is
5 there --

6 COUNCILMEMBER FLEMING: Ask if there's
7 anyone here.

8 MAYOR PITTMAN: Yeah, that's what I was
9 going to do.

10 Okay. Is anyone here on behalf of Mr. --
11 Is it Bae? Mr. Bae?

12 MR. COOLEY: That's correct. Mr. Garst
13 could not -- the agent could not attend.

14 MAYOR PITTMAN: Okay. It does not appear
15 anyone is here.

16 Ms. Gilman, did you have any comments that
17 you wanted to make prior to opening the public
18 hearing?

19 Cecil, let me make -- excuse me, Mr.
20 McLendon.

21 ATTORNEY McLENDON: Yes.

22 MAYOR PITTMAN: Since you are our attorney
23 I wanted to find out if -- I want to make sure I'm
24 clear. Are we going to have the public hearing or do
25 we need to move forward with the deferral first?

1 ATTORNEY McLENDON: If y'all want to, if you
2 want to give the deferral and actually postpone the
3 comment until the next meeting, you can choose to do
4 that at a future meeting.

5 MAYOR PITTMAN: But we have the option to
6 take a vote first?

7 ATTORNEY McLENDON: If you wanted to decide
8 the deferral, you could go ahead and have that vote
9 first.

10 MAYOR PITTMAN: Okay. Then, I'm going to
11 open that up to the Council in that case.

12 Ms. Gilman, if you don't mind holding for
13 just a moment, please.

14 COUNCILMEMBER PACHUTA: I know it's an
15 unpopular decision. I know everyone in the community
16 wants everyone to vote on it. I know everyone up here
17 wants to vote on it.

18 Personally, I think because we have given
19 people deferrals in the past even upwards to a year,
20 and because this is for medical reasons, I would defer
21 it to treat everyone fairly. I don't know if the
22 people up here agree with me on that, but we have done
23 it in the past. I think it's fairer to the applicant
24 because we have done it in the past.

25 The applicant's agent, again today -- I mean

1 what Ms. Pachuta said, but -- but here is -- here's my
2 -- because we found out today that he was not going to
3 be in attendance, there is no doctor's excuse today.

4 And I would think that something as major at this,
5 particularly being the second time, that he could have
6 found another agent representing Mr. Bae for today.

7 Mr. Bae speaks English. I've had
8 conversations with him. I mean he used to bring
9 cookies and drinks to us at our meetings awhile ago.
10 I'm not sure in what capacity Mr. Garst is
11 representing Mr. Bae. He is not an attorney. He is a
12 political consultant and he does some polling.

13 And just because I am very thorough at my
14 research, I saw on Mr. Garst's Facebook page that on
15 October 28th, he was getting ripped, which I take to
16 mean he was either getting drunk or getting exercise;
17 in either case, not such a good thing to do if you are
18 susceptible to a heart attack or whatever his
19 situation is.

20 So I am not inclined to grant the deferral
21 just -- just based on -- on what -- I mean I think
22 that had he sent something to us Friday or over the
23 weekend and said, "Here's my doctor's excuse. Again
24 I'm asking to postpone this," then my opinion would be
25 different. But I got the email -- maybe the City got

1 he did bring medical reasons for not being here. And
2 he has declared in his email that there would be no
3 more deferrals, that he would find another agent if
4 his health still would not allow him to be here, and I
5 presume that we would hold him to that.

6 So I'm of the opinion because we have done
7 it in the past, to be fair to the applicant, even
8 though I know it is an unpopular zoning decision, but
9 deferring it. The business, it's not operating, so
10 it's not like we're allowing a illegal business or a
11 business that's not allowed in that zone to continue.
12 It's not operating, so it's not like we're losing
13 anything that way.

14 MAYOR PITTMAN: Okay. I was actually going
15 to start down here.

16 Ms. Alexander, did you have any comments?

17 COUNCILMEMBER ALEXANDER: No, ma'am.

18 MAYOR PITTMAN: Mr. Bates?

19 COUNCILMEMBER BATES: No.

20 MAYOR PITTMAN: Mr. Patrick?

21 COUNCILMEMBER PATRICK: No.

22 MAYOR PITTMAN: Ms. Fleming?

23 COUNCILMEMBER FLEMING: No.

24 MAYOR PITTMAN: Ms. Dean?

25 COUNCILMEMBER DEAN: Yeah. I hear what --

1 it earlier, but I got it this afternoon, mid-after-
2 noon, and that's -- I mean I've done some work on this
3 and -- and I -- You know, how long do we wait?

4 Or in the alternative, we can say, "If you
5 can't make it now, we could start the process over."
6 We can say, "No. If you want to do this again, then
7 you can do it again." But I think leaving this
8 hanging, an item that is of such interest to the
9 people in the community, I think that that would be
10 unfair to them.

11 MAYOR PITTMAN: Okay. Thank you.

12 Does anyone wish to make a motion?

13 COUNCILMEMBER PACHUTA: I make a motion tha
14 we defer the matter until the next regular scheduled
15 meeting.

16 And I don't have a calendar. Is that
17 November 18th?

18 CLERK BRYANT: Yes, November 18.

19 COUNCILMEMBER PACHUTA: -- November 18th
20 with the stipulation that there will be no more
21 deferrals for the applicant at that time.

22 MAYOR PITTMAN: Okay. Do I get a second?
(No response)

24 MAYOR PITTMAN: Okay.

25 COUNCILMEMBER PACHUTA: And I'll just stat

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1 that I think we're being very unfair to an applicant
2 even if it is an unpopular rezoning application, and I
3 like to treat all of our applicants equally, and we're
4 not doing so in this case.
5 MAYOR PITTMAN: Okay. Do I get a second?
6 COUNCILMEMBER DEAN: Well, I would like to
7 say that we did grant the deferral. We gave him a
8 deferral. And with something as major as this, I
9 would think that he would know before the day of the
10 meeting that he would need more time.
11 And the fact that it was delayed to the date
12 that we're having this, number one. And number two,
13 if he can find another agent to represent him, then
14 why didn't he do so or at least prepare to do so for
15 this meeting?
16 MAYOR PITTMAN: Okay. All right. It
17 appears the motion dies for lack of a second.
18 Do we need another motion or does that speak
19 for itself?
20 COUNCILMEMBER FLEMING: Open the hearing.
21 ATTORNEY McLENDON: That was just a motion
22 to allow the deferral on it. So you've chosen not to
23 do that, and --
24 MAYOR PITTMAN: Okay. All right. I guess,
25 then, we move on. Move on? Okay.

1 Thank you, Ms. Gilman. We're going to move
2 on.
3 ATTORNEY McLENDON: We're moving into the
4 public hearing.
5 MAYOR PITTMAN: Okay. That's what I wanted
6 to get clear.
7 COUNCILMEMBER PACHUTA: And we haven't had
8 any of the presentations yet, so we haven't had
9 Mr. Cooley's presentation yet.
10 MAYOR PITTMAN: No. We will get to that,
11 though, in just a moment. Thank you.
12 Ms. Gilman.
13 MS. CAROL GILMAN: Carol Gilman on behalf of
14 the Planning Commission.
15 We received this application. We reviewed
16 it, studied it in detail, and to recap, the Planning
17 Commission determined that the M-1 zoning is not
18 consistent with the City's vision for the corridor as
19 defined in the City's Comprehensive Plan and the LCI
20 Study. The proposed zoning and use is not compatible
21 with recommended uses within the LCI Study and
22 framework plan.
23 As a result, the Planning Commission
24 unanimously recommended denial of the application for
25 rezoning.

1 Mayor and Council, we provided you with an
2 accounting of our meeting minutes and a summary, and I
3 believe you have that and can refer to it. And that
4 is our recommendation, and thank you for your
5 attention.
6 MAYOR PITTMAN: Okay. Thank you.
7 Mr. Cooley?
8 MR. COOLEY: So this is the continuation of
9 the public hearing. For the record, this is regarding
10 Parcel No. 18 311 02 014 located at 5407 Buford
11 Highway. The request is for rezoning from C-2 General
12 Commercial to L-1 Light Manufacturing.
13 Y'all are familiar with the site. This is
14 the former United Auto Workers union hall. There's an
15 attachment in your packet with regards to the site
16 plan and also the aerial photograph.
17 The building is approximately 20,500 square
18 feet. The lot is approximately 2.65 acres. It is
19 currently 81.2 percent impervious coverage. Under
20 C-2, that is allowable because 85 percent is allowed
21 under C-2. If this was to be rezoned to M-1, however,
22 there's a maximum of 70 percent impervious, so there
23 would be a required reduction of at least 15 percent
24 of impervious surface to pervious surface.
25 It has approximately 274 feet of frontage on

1 Buford Highway, approximately 250 feet on Chestnut.
2 Main ingress and egress is off of Buford Highway.
3 There is a smaller gated entrance on Chestnut Drive
4 and the property has been vacant since the relocation
5 of United Auto Workers. The Applicant is the current
6 owner of the property.
7 I will go through each of these things; but
8 the adjacent surrounding properties, to the northeast
9 you have C-2 General Commercial; to the southwest, you
10 have C-2 General Commercial; to the southwest across
11 Buford Highway, you have C-2 General Commercial
12 southwest for approximately 104 feet you have C-2
13 General Commercial; southwest for approximately 200
14 feet directly across Chestnut Drive you have R-3
15 Multi-family Residential.
16 The City's future development map indicates the
17 property as being Highway Commercial Corridor. The
18 recommended uses for the Community Development under
19 the Future Development narrative on page 32 includes
20 commercial, limited office/professional, and public/
21 institutional uses. That was written in 2006.
22 The property is within the Livable
23 Communities Initiative, the LCI Study area which has
24 been adopted by the City. The Framework Plan, which
25 is the guiding plan of the LCI, indicates the section

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1 of Buford Highway in which the subject property is
2 located is General Mixed Use. Under that study, the
3 typical uses within the General Mixed Use area include
4 housing, offices, hotels and retail.

5 And again, this is from Section 4.2 - Land
6 Use Recommendations, General Mixed Use, page 82,
7 adopted in 2010.

8 As you know, the zoning review standards for
9 consideration by staff, by the Planning Commission and
10 by the Council, there are 14 items. In your packet --
11 and I'll reference it specifically because it is in
12 the record -- there are 14 different items. If the
13 Council wish, I can go through -- individually go
14 through those if y'all desire. It is in your packet.
15 You'll see staff comments in blue. Would you --

16 MAYOR PITTMAN: We do have it. It would be
17 up to the Council. Does anyone wish for him to go
18 through this line by line or are we good with just
19 looking at it ourselves?

20 COUNCILMEMBER PACHUTA: I would prefer that
21 it be read into the record.

22 MR. COOLEY: Very good.

23 No. 1: Existing uses and zoning nearby.

24 Again, I just stated. To the southwest,
25 C-2; northwest across Buford Highway, C-2;

1 compared to the hardship imposed upon the individual
2 property owner.

3 The proposed inconsistency with the City's
4 Comprehensive Plan and surrounding land uses and
5 associated negative impacts to the City's vision
6 for Buford Highway impose a harm to the public
7 and citizens of Doraville relatively greater
8 than the hardship imposed on the property owner
9 by denying the owner's request for a non-
10 compatible zoning district and use. The
11 property is currently in a viable C-2 zoning
12 district and uses consistent with the
13 Comprehensive Plan and LCI.

14 Item 5: Suitability of the subject property
15 for zoning proposed.

16 The proposed zoning and use of the subject
17 property is inconsistent with the surrounding
18 land uses and zoning districts of C-2 and R-3,
19 contrary to recommended use within the City's
20 Comprehensive Plan for Highway Commercial
21 Corridor as well as the Future Development Map
22 and Character Area Map, and contrary to the LCI
23 Framework and typical uses identified in the
24 General Mixed Use area in which is the subject
25 property is located.

1 southwest for approximately 104 feet, C-2; and
2 for approximately 200 [sic] feet to the
3 southwest across Chestnut Drive, R-3
4 Multifamily.

5 Item 2: The extent to which property values
6 are diminished by their particular zoning restriction.

7 The C-2 zoning district allows an extensive
8 number of uses either as merited -- excuse me --
9 as permitted or allowed by conditional use
10 permit. Redevelopment along Buford Highway in
11 Doraville is increasing. There has been recent
12 interest in an adaptive reuse of the existing
13 building by an interested buyer.

14 No. 3: The extent to which the destruction
15 of property values of the subject property promotes
16 the health, safety, morals and general welfare of the
17 public.

18 The applicant is seeking to change the types
19 of uses allowed in the subject area to uses not
20 consistent with the current development pattern,
21 surrounding zoning, or Comprehensive Plan vision
22 for the area. As such, it is Staff's opinion
23 that the proposed change does not promote the
24 health, safety and welfare of the public.

25 Item 4: The relative harm to the public as

1 Item 6: The length of time the property has
2 been vacant as zoned, considered in the context of
3 land development of adjacent and nearby property.

4 The subject property has been vacant since
5 the UAW moved out, but there has been recent
6 credible interest in the purchase and adaptive
7 reuse of the property.

8 No. 7: Whether the zoning proposal will
9 permit a use that is suitable in view of the use and
10 development of adjacent and nearby property.

11 The proposed zoning and use of the subject
12 property is inconsistent with the surrounding
13 land uses of commercial and residential uses.

14 No. 8: Whether the zoning proposal will
15 adversely affect the existing use or usability of
16 adjacent or nearby property.

17 Rezoning a C-2 General Commercial to M-1
18 Light Manufacturing is inconsistent with the
19 City's comprehensive plan and the LCI.

20 Adjoining properties are either C-2 General
21 Commercial or R-3 Multifamily Residential.
22 Heavy truck traffic and activities associated
23 with many permitted uses in the M-1 district are
24 not compatible with the current adjacent uses.

25 9: Whether the property to be affected by

1 the zoning proposal had a reasonable economic use as
2 currently zoned.

3 The property is currently zoned C-2 General
4 Commercial as is the majority of Buford Highway
5 within the City of Doraville. While the
6 recession and closing of the General Motors
7 assembly plant have had a significant negative
8 impact on commercial properties in the city and
9 elsewhere, there has been a noticeable increase
10 in new businesses along Buford Highway corridor
11 within the city. The subject property is
12 approximately 2.65 acres and has sufficient
13 parking for uses allowed in the C-2 zoning
14 district. There has been recent interest in the
15 property and offers to purchase for adaptive
16 reuse of the building and the site for a use
17 allowed within the C-2 zoning district.

18 No. 10: Whether the zoning proposal will
19 result in a use which will or could cause an excessive
20 or burdensome use of streets, transportation
21 facilities, utilities or schools.

22 Increase of heavy traffic -- truck traffic
23 associated with the uses allowed in the M-2
24 zoning district will likely have a greater
25 impact than that of uses allowed in the C-2

1 Item 13: The possible effects of the change
2 in the regulations or map on the character of a zoning
3 district, a particular piece of property, neighbor-
4 hood, or a particular area or the community.

5 The proposed zoning and use is not
6 compatible with recommended uses in the LCI Study and
7 the Framework Plan.

8 Last, Item 14: The impact of the proposed
9 zoning change upon pedestrian and vehicular
10 circulation and traffic and thoroughfare capacities
11 and capabilities.

12 And to that, I just reference see -- please
13 see item 10 above.

14 As you know, the Planning Commission's
15 recommendation was unanimous to recommend denial of
16 the application for the zoning. Staff recommendation:
17 Based upon the analysis, staff recommends denial of
18 the application for rezoning.

19 I'll be happy to answer any questions you
20 might have.

21 MAYOR PITTMAN: Okay. Council, does anyone
22 have any question for Mr. Cooley?

23 (No response)

24 MAYOR PITTMAN: So we open the public
25 hearing portion? Okay.

1 zoning district. Tractor/trailer trucks
2 entering off of Buford Highway is problematic
3 given that the current ingress/egress configu-
4 ration of the site and lack of deceleration
5 lanes for trucks that exit off of Buford
6 Highway. Ingress and egress of the trucks from
7 Chestnut Drive and impacts on the adjacent R-3
8 property and R-1 properties in the vicinity are
9 of concern.

10 No. 11: Whether the zoning proposal is in
11 conformity with the policy and intent of the land use
12 plan.

13 M-1 zoning is not consistent with the City's
14 vision for the corridor as defined by the City's
15 Comprehensive Plan or the LCI Study.

16 No. 12: Whether there are other existing or
17 changing conditions affecting the use and development
18 of the property which gives supporting grounds for
19 either approval or disapproval of the zoning proposal.

20 The Buford Highway corridor is seeing an
21 increase in commercial and professional uses
22 with improvement in the national and regional
23 economy. The subject property is within the LCI
24 area which encourages general mixed use of
25 properties in this area.

1 All right. At this time, we're going to
2 open the Public Hearing portion. I'm going to open it
3 first for those wishing to speak for. Please limit
4 your time. There's 10 minutes. That's 10 minutes
5 total. So if you speak for 10 minutes, that means no
6 one else will get to speak. So it's a total of 10
7 minutes to speak on behalf of.

8 Anyone wishing to speak for, please come
9 forward and state your name for the Clerk. Anyone
10 wishing to speak for.

11 (No response)

12 MAYOR PITTMAN: All right. Thank you.
13 Those wishing to speak against. Anyone wishing to
14 speak against, please come forward, state your name
15 for the Clerk. Again, it's a total of 10 minutes.

16 That's not 10 minutes per person but total 10 minutes
17 MR. SEAN O'SHEA: Hi. I'm Sean O'Shea, a
18 citizen of Northwoods, also a business owner on
19 Chestnut Drive.

20 I'd like to say that I oppose the rezoning
21 of 5407 Buford Highway from C-2 to M-1. Mr. Bae and
22 his consultant have put forth a proposal that is not
23 in the best interests of the city or its citizens.

24 I can appreciate the desire of Mr. Bae to
25 have a piece of property that he owns to operate his

1 business out of instead of renting a space, which he
2 currently has that is grandfathered as a wholesale
3 business in Doraville in Pinetree Plaza.

4 The building he purchased in April of 2012
5 was zoned C-2 before he purchased it, and the
6 applicable uses that are permitted are readily
7 available. I can find them on the Web site.

8 It was and is his responsibility to perform
9 the due diligence of the suitability of a piece of
10 property before acquiring it.

11 Mr. Bae and his consultant have made the
12 case that their intent is to be a good civic neighbor.
13 But intent is not a commitment, and the best
14 intentions are subject to realities. The reality of
15 the existing zoning and the possibility that his
16 business could change and require him to dispose of
17 the property to someone who does not have the same
18 intention as he does is a concern.

19 Real estate is valued at the highest and
20 best use of the property subject to its location,
21 zoning, potential, things like that. As M-1, this
22 property could be turned into a bus terminal or a
23 truck terminal or a freight loading -- a freight
24 handling service without having any other -- anything
25 else done to it from the zoning perspective if M-1 was

1 The addition of "the Zoning Ordinance
2 presently in effect is unconstitutional in that it
3 renders this property unusable and destroys its
4 marketability," I find that highly amusing given the
5 property has had other interest and that the -- it's,
6 quite frankly, just a ludicrous assumption -- and that
7 "The failure to rezone [this] property as requested,
8 would constitute the taking of property without due
9 process and without payment of adequate compensation
10 in violation of" cited acts of the Constitution of
11 Georgia.

12 I think that it's buyer beware. The due
13 diligence not having been done and then trying to rail
14 through something that is a risk to the livable
15 community that we're trying to establish in this city
16 is a great risk, and I strongly urge you to vote
17 against this zoning. Thank you.

18 MAYOR PITTMAN: Thank you.

19 MS. BONITA HOFFMEISTER: Bonita Hoffmeister
20 English Oak.

21 Number one, capricious activity is what I've
22 seen from this Council. You either deny or you do a
23 full cycle deferral, because then your constituents
24 know what's going to happen, you know what's going to
25 happen, and the person who is applying for the

1 granted.

2 Such a prospective use of this location
3 would severely damage the prospects of the city
4 realizing its goal of a livable city as well as the
5 quality of life for the citizens of Doraville.

6 I question the intentions and the logic with
7 the revisions also to the letter of intent that was
8 signed by John Garst on behalf of Mr. Bae in the
9 letter that he delivered, the original letter of
10 intent and then the revised one. The revised one
11 added a series of items citing constitutional law and
12 the like.

13 And the points that he made that I'd like to
14 refute: They said that "There is no rational basis to
15 prohibit the whole sale [sic] uses in the . . . C-2
16 zoning district," which I think the rational basis is
17 it was the decision of the Council and the citizens
18 not to permit that use.

19 "The Zoning Ordinance presently in effect is
20 contrary to the best interest of the health and
21 welfare of the citizens of Doraville . . . and
22 constitutes an arbitrary and capricious act." I think
23 that the Zoning Ordinance currently does benefit the
24 health and welfare of the citizens. I do not consider
25 it capricious.

1 applications know what is happening.

2 Instead, I see year after year we come up
3 here, we defer, we defer, we defer to an unknown time
4 You need to start acting in a less capricious manner.

5 Having said that, now that you've opened the
6 hearing, I would strongly recommend that you vote for
7 denial.

8 MS. CINDY BRADFORD: Cindy Bradford,
9 Northwoods.

10 I just want to reiterate the fact that the
11 property is very marketable. In fact, a 1.4 million
12 dollar offer, which is full price, was -- was turned
13 down. The applicant could have walked away with a
14 very tidy profit.

15 The citizens of Doraville, there's no
16 telling the rewards we could have reaped from having a
17 high tech, high-paying company with a hundred
18 employees versus an M-1 wholesale panty house with
19 three to four employees.

20 And I just want reiterate that on the
21 record: The property is marketable. Thank you.

22 MS. SUSAN CRAWFORD: Susan Crawford,
23 Oakcliff.

24 And I'm going to be really redundant here,
25 but I agree with everything that was said and I think

1 always zoning from C-2 to M-1 is a very tricky thing,
2 and there would have to be a very, very good reason
3 for doing so, and in this case, it isn't a good
4 reason.

5 I hope all of you saw the Planning
6 Commission DVD in which we had an opportunity to ask
7 lots of questions and get lots of answers that all
8 pointed to your denying this. Thank you.

9 MR. TOM HART: Tom Hart, Gordon Heights.

10 I live in the neighborhood adjacent to this
11 building, and it's -- I live on Chestnut, Chestnut and
12 an adjacent street. The truck traffic on Chestnut is
13 a problem. The police constantly have to address
14 issues coming from trying to take a shortcut through
15 that area.

16 To put an M-1 business adjacent to
17 residential on Chestnut, which is the largest single
18 neighborhood in the city that's so vital for the
19 city's future -- and we have new businesses starting
20 on the top of Chestnut that are compatible with the
21 city and with the Comp Plan -- this would totally
22 destroy the character of the neighborhood.

23 This is an also an historic district with
24 Northwoods down the street, which is on Chestnut.

25 There's every reason why not to do this, and

1 MAYOR PITTMAN: Okay. Ms. Alexander?
2 COUNCILMEMBER ALEXANDER: No, ma'am
3 MAYOR PITTMAN: Mr. Bates?

4 COUNCILMEMBER BATES: No, ma'am.

5 MAYOR PITTMAN: Ms. Pachuta?

6 COUNCILMEMBER PACHUTA: No.

7 MAYOR PITTMAN: Mr. Patrick?

8 COUNCILMEMBER PATRICK: No.

9 MAYOR PITTMAN: Ms. Fleming?

10 COUNCILMEMBER FLEMING: I just have one
11 question, and maybe I should have called and asked
12 this question.

13 Was Mr. Bae notified that there may be a
14 deferral this evening by us?

15 MR. COOLEY: No, ma'am.

16 COUNCILMEMBER FLEMING: Was he notified by
17 the City that there may be a deferral this evening?

18 MR. COOLEY: Unless his agent did it when
19 he --

20 COUNCILMEMBER FLEMING: But the City did not
21 notify him.

22 MR. COOLEY: No, ma'am. We work directly -
23 on any zoning case, when they designate a specific
24 agent, we work directly with the agent only. We do
25 not cross paths between agent and the client because

1 I see very little reason for, so I recommend that you
2 turn this down. Thank you.

3 MAYOR PITTMAN: Anyone else wishing to speak
4 against?

5 MS. LINDA RAWLINS: Linda Rawlins, Oakcliff
6 Estates.

7 I think that you have a Planning Commission
8 because you have faith in their decisions and what
9 they think and what they research. And with a total
10 unanimous "no," I think you all should put your vote
11 toward their decision; as well as the citizens wanting
12 a business that all citizens can have access to, and
13 the citizens will come here and spend their money in
14 the city of Doraville, and a good quality business
15 open to everyone will bring good quality residents to
16 our city.

17 Thank you, and please strongly vote no.

18 MAYOR PITTMAN: Anyone else?

19 (No response)

20 MAYOR PITTMAN: Okay. At this time, we are
21 going to close the public hearing portion, bring it
22 back up to Mr. Cooley.

23 Did you have anything you wanted to add?

24 MR. COOLEY: No, ma'am, unless there are
25 questions

1 the agent has been authorized to process that.

2 COUNCILMEMBER FLEMING: Okay. Then, let me
3 rephrase the question: Did the City contact Mr. Garst
4 to say there would be a possibility of deferral this
5 evening?

6 MR. COOLEY: No, ma'am. You received the
7 request --

8 COUNCILMEMBER FLEMING: Okay.

9 MR. COOLEY: -- and I recommended highly
10 that they have someone here.

11 COUNCILMEMBER FLEMING: Okay. That's the
12 answer to my question. I don't believe there's anyone
13 here from this --

14 MAYOR PITTMAN: No, there's not.

15 COUNCILMEMBER FLEMING: -- particular appli
16 cation.

17 MR. COOLEY: No, ma'am.

18 COUNCILMEMBER FLEMING: Thank you very much

19 MR. COOLEY: Sure.

20 MAYOR PITTMAN: Ms. Dean?

21 COUNCILMEMBER DEAN: No questions.

22 MAYOR PITTMAN: Okay. Bring it to the
23 Council.

24 COUNCILMEMBER BATES: I'll make a motion to
25 deny the rezoning of Parcel No. 18 311 02 014 at 5407

1 Buford Highway from C-2 to M-1.
2 COUNCILMEMBER PACHUTA: Would you take a
3 friendly amendment to just within the motion specify
4 for the reasons specified in the staff notes, that the
5 stated denial would be based on the reasons specified
6 in the staff review --
7 COUNCILMEMBER BATES: Absolutely.
8 COUNCILMEMBER PACHUTA: -- that were read
9 into the record?
10 COUNCILMEMBER BATES: Absolutely. Thank
11 you.
12 COUNCILMEMBER PACHUTA: And I'll second the
13 motion.
14 MAYOR PITTMAN: Okay. Discussion?
15 COUNCILMEMBER DEAN: I would just like to
16 reiterate that he did have an opportunity to get out
17 of that deal, to remove himself from that property
18 with a profit. We have properties in M-1 where he
19 could -- he could have bought.
20 And just as a side note, I think that we
21 change zoning much too frequently, and I would like to
22 stay -- I would like to see things stay a little more
23 consistent to our plan.
24 MAYOR PITTMAN: Call the roll, please.
25 CLERK BRYANT: Councilmember Alexander?

1 I've worked.
2 So that's what this ordinance does: It will
3 remove it from your code and it will become a policy
4 of the City.
5 MAYOR PITTMAN: Okay. Ms. Alexander, did
6 you have any questions?
7 COUNCILMEMBER ALEXANDER: No, ma'am.
8 MAYOR PITTMAN: Mr. Bates?
9 COUNCILMEMBER BATES: No, I don't. Thank
10 you.
11 MAYOR PITTMAN: Ms. Pachuta?
12 COUNCILMEMBER PACHUTA: I just want to
13 confirm: It's the second reading?
14 ATTORNEY McLENDON: I believe this is the
15 second read and it's a voting agenda item, uh-huh.
16 MAYOR PITTMAN: Mr. Patrick?
17 COUNCILMEMBER PATRICK: No.
18 MAYOR PITTMAN: Ms. Fleming?
19 COUNCILMEMBER FLEMING: Yes. I want to read
20 the paragraph that's for the reason for this Ordinance
21 to Remove Employee Policies from the Code. That's not
22 an issue with me; however, what's been written in this
23 ordinance that we are about to vote on says, "The City
24 of Doraville Personnel Policy shall be as created and
25 adopted by the City Manager and kept on file with the

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 And we're going to take a five-minute break.
14 (Brief recess)
15 MAYOR PITTMAN: Meeting come back to order.
16 All righty. Next on the agenda is the
17 Ordinance to Remove Employee Policies from Code, Mr.
18 McLendon.
19 ATTORNEY McLENDON: All right. And Mayor
20 and Council, we've looked at this ordinance a couple
21 of times. This is basically going to be the ordinance
22 that removes all the personnel policies from our code.
23 It would become a policy of the City, which is really
24 where it typically resides, frankly. I'd never seen
25 it codified as an ordinance in the past or anywhere

1 City Manager's Office and shall govern all employment
2 and personnel matters of the City as authorized by the
3 City Charter."
4 As a Council member, I've seen a policy that
5 I thought that we would be voting on and discussing.
6 And I brought up several items in one of our previous
7 meetings when this came to us, that our department
8 directors -- though our City Manager has been given
9 the authority to hire and terminate our directors, in
10 that policy that we were given, it gave them no -- the
11 directors no recourse for appeal.
12 All other employees that work for the City
13 would have three ways to appeal: to their direct
14 supervisor, their department director, and then to the
15 City Manager.
16 Our department directors have been on hand
17 for quite some time. They're very loyal in the City,
18 and for future directors, I think it would be detri-
19 mental if they don't have a right to appeal somewhere
20 if they had a grievance with whatever city manager
21 that we have on hand. Their only recourse is to find
22 another job, and I do take issue with that.
23 So reading that into the minutes, it's being
24 "created and adopted by the City Manager." So the
25 next city manager that comes on board's going to

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1 create another policy? I have issue with that. I
2 think there should be some oversight by the Mayor and
3 Council.
4 MAYOR PITTMAN: Okay. Ms. Dean?
5 COUNCILMEMBER DEAN: To Ms. Fleming's point,
6 when we had -- when we created the Council policy and
7 procedures, we did it during a work-session kind of
8 environment; and we talked about it, we flushed it
9 out. And I voted against that because -- because
10 we're on Council and it was the -- a hierarchy thing I
11 wasn't quite getting. I understood why it was voted
12 then, but I didn't think that it was done
13 appropriately. I mean there were some issues that I
14 had.
15 So on that same vein, could we look at the
16 policy, have a work session and kind of talk about it
17 and flush it out, or is that just not --?
18 ATTORNEY McLENDON: Typically with the city
19 manager form of government where the city manager --
20 COUNCILMEMBER DEAN: Right.
21 ATTORNEY McLENDON: -- is responsible for
22 the day-to-day operations --
23 COUNCILMEMBER DEAN: Right.
24 ATTORNEY McLENDON: -- of the employees --
25 COUNCILMEMBER DEAN: Right.

1 to-day operation of the employees of the City --
2 COUNCILMEMBER DEAN: Sure.
3 ATTORNEY McLENDON: -- and that, under the
4 Charter, is not subject to --
5 COUNCILMEMBER DEAN: Right.
6 ATTORNEY McLENDON: -- oversight other than
7 the fact that --
8 COUNCILMEMBER DEAN: Okay.
9 ATTORNEY McLENDON: -- he is ultimately
10 responsible to you for the day-to-day operation of the
11 City.
12 COUNCILMEMBER DEAN: Okay. My question is
13 Are the Council's policies and procedures in an
14 ordinance or in the Charter? The policy, Council's
15 policies and procedures --
16 ATTORNEY McLENDON: Oh.
17 COUNCILMEMBER DEAN: -- that we worked on?
18 ATTORNEY McLENDON: Oh, oh. Generally --
19 And I'm not sure of the exact document
20 you're referring to. I mean most policies are not
21 going to be codified. As a general rule, they --
22 MAYOR PITTMAN: Is it in a resolution?
23 ATTORNEY McLENDON: You would adopt it by a
24 resolution if it was something the Council put
25 forward.

1 ATTORNEY McLENDON: -- the policies --
2 COUNCILMEMBER DEAN: To his discretion?
3 ATTORNEY McLENDON: -- would be from the
4 city manager, and his policies would be the policies
5 he put in place, and he's responsible to you --
6 COUNCILMEMBER DEAN: Right.
7 ATTORNEY McLENDON: -- for the general
8 management and operation of the City.
9 COUNCILMEMBER DEAN: So are the Council's
10 policies and procedures put in an ordinance? Is
11 that --
12 ATTORNEY McLENDON: When you say "the
13 Council's policies and procedures," are you referring
14 to --
15 Because this is employee -- this is your
16 employee --
17 COUNCILMEMBER DEAN: Right.
18 ATTORNEY McLENDON: -- handbook.
19 COUNCILMEMBER DEAN: Right, right, right,
20 right.
21 ATTORNEY McLENDON: This is a policy.
22 COUNCILMEMBER DEAN: Right.
23 ATTORNEY McLENDON: This is a policy that
24 the City Manager would adopt. And that comes with the
25 inherent authority that he is responsible for the day-

1 But I'd need to see the exact document you
2 were talking about. When you say "the Council's
3 policies and procedures" --
4 COUNCILMEMBER DEAN: I think it was --
5 ATTORNEY McLENDON: -- I don't know the
6 subject.
7 COUNCILMEMBER DEAN: -- called Council's
8 Policies and Procedures.
9 DR. GILLEN: It was adopted as a resolution.
10 ATTORNEY McLENDON: Uh-huh.
11 COUNCILMEMBER DEAN: Okay. Okay.
12 ATTORNEY McLENDON: A resolution is
13 different. That's just the Council saying, "Yes, we
14 adopt --
15 COUNCILMEMBER DEAN: Agree to this?
16 ATTORNEY McLENDON: -- "this document."
17 I apologize. I don't remember that specific
18 document.
19 COUNCILMEMBER DEAN: Okay. That's fine
20 MAYOR PITTMAN: All right. Any further
21 comments from up here?
22 COUNCILMEMBER PACHUTA: No. Just I'm happy
23 that we're finally turning over reins of operational
24 decisions to the City Manager. I think it works much
25 more efficiently that way, and we can focus on

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1 legislative and general policy decisions.
2 So I will make a motion to pass the
3 ordinance moving the personnel policies from the code
4 of ordinances and giving that authority to the City
5 Manager.
6 MAYOR PITTMAN: Do I get a second?
7 COUNCILMEMBER PATRICK: Second.
8 MAYOR PITTMAN: Discussion?
9 COUNCILMEMBER DEAN: I have a question
10 because -- and this is nothing, absolutely nothing
11 personal against Dr. Gillen at all; but do we have a
12 performance review scheduled for any city manager? I
13 mean anyone who serves as our city manager? I mean
14 that is --
15 Do you know?
16 ATTORNEY McLENDON: Now, that is something
17 that does fall to the Mayor and Council's level. And
18 I have often seen an annual performance review, and
19 usually in conjunction sort of with the anniversary
20 date and looking at performance --
21 DR. GILLEN: It's part of the contract.
22 ATTORNEY McLENDON: -- and compensation and
23 all sorts of things.
24 COUNCILMEMBER BATES: Yeah, it is a part of
25 the contract, so we need to make sure that Mr.

1 McLendon or somebody is --
2 ATTORNEY McLENDON: So yes, there is an
3 annual.
4 COUNCILMEMBER DEAN: And I thought it was 90
5 days; right?
6 COUNCILMEMBER BATES: I don't remember.
7 DR. GILLEN: I think it said annual review.
8 COUNCILMEMBER DEAN: Okay.
9 ATTORNEY FELGIN: Before the end of this
10 year, I would --
11 COUNCILMEMBER DEAN: Okay. All right.
12 ATTORNEY FELGIN: By the end of --
13 ATTORNEY McLENDON: I'll review the contract
14 and verify --
15 COUNCILMEMBER DEAN: All right. Okay.
16 ATTORNEY McLENDON: -- what it states.
17 COUNCILMEMBER DEAN: All right. Thanks.
18 ATTORNEY McLENDON: But yes, that is
19 something the Mayor and Council would do on a regular
20 basis.
21 MAYOR PITTMAN: Okay. I have a motion and a
22 second. Oh. Did you have something to say?
23 COUNCILMEMBER FLEMING: Yes. I just want to
24 reiterate, I think it's vital for us as a city to keep
25 our long-term department directors on hand. They've

1 been doing an outstanding job. I hate for them to
2 even consider the fact that they have no recourse in
3 their position, and I am highly opposed to this
4 particular ordinance.
5 MAYOR PITTMAN: Okay. Call the roll,
6 please.
7 CLERK BRYANT: Councilmember Alexander?
8 COUNCILMEMBER ALEXANDER: Yes.
9 CLERK BRYANT: Councilmember Bates?
10 COUNCILMEMBER BATES: Yes.
11 CLERK BRYANT: Councilmember Dean?
12 COUNCILMEMBER DEAN: Yes.
13 CLERK BRYANT: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: No.
15 CLERK BRYANT: Councilmember Pachuta?
16 COUNCILMEMBER PACHUTA: Yes.
17 CLERK BRYANT: Councilmember Patrick?
18 COUNCILMEMBER PATRICK: Yes.
19 MAYOR PITTMAN: Thank you. Motion carries
20 Thank you, Mr. McLendon.
21 All right. Next on the agenda is (c), and
22 it's going to be the budget discussion; Dr. Gillen,
23 Ms. Ferguson.
24 MS. FERGUSON: Okay. This is going to be
25 the second read on an Ordinance to Amend the 2013

1 Fiscal Year Budget. We prepared this particular
2 budget amendment in order to kind of circumvent the
3 repeat audit findings that we have gotten for the past
4 several years.
5 There's also a state code that requires us
6 to budget all of our business and occupational tax,
7 our hotel/motel tax, and our rental motor vehicle tax.
8 So we're putting in increases in the hotel/motel tax
9 and the business and occupational tax and we are
10 adopting a budget for the rental motor vehicle tax
11 fund. And in addition to that, we're also amending
12 two or three of the departmental budgets in order to
13 bring them into line so that our auditors won't give
14 us a third review finding on our budget.
15 Last year we did this in June. And this
16 year we decided to wait until we had some better
17 numbers before we did the final amendment, and we need
18 to get this done so that we can get the new budget to
19 the auditors so that they can put it into our audit
20 report that has to be done by December 31st.
21 MAYOR PITTMAN: Okay. Dr. Gillen, did you
22 have anything you wanted to add?
23 DR. GILLEN: (Shakes head)
24 MAYOR PITTMAN: Ms. Alexander?
25 COUNCILMEMBER ALEXANDER: Just want to

1 clarify: We're not circumventing; we're preventing
2 repeat findings.
3 MS. FERGUSON: We are attempting to prevent
4 repeat findings.
5 COUNCILMEMBER ALEXANDER: Thank you.
6 MS. FERGUSON: I'm sorry. I misspoke
7 earlier.
8 MAYOR PITTMAN: Mr. Bates?
9 COUNCILMEMBER BATES: And this is for the
10 fiscal year ended June 30th?
11 MS. FERGUSON: That is correct.
12 MAYOR PITTMAN: Okay. Ms. Pachuta?
13 COUNCILMEMBER PACHUTA: No.
14 MAYOR PITTMAN: Mr. Patrick?
15 COUNCILMEMBER PATRICK: No.
16 MAYOR PITTMAN: Ms. Fleming?
17 COUNCILMEMBER FLEMING: The auditor that
18 we're using -- and forgive me; I don't know his
19 name --
20 MS. FERGUSON: We're using Mauldin &
21 Jenkins.
22 COUNCILMEMBER FLEMING: -- will Mayor and
23 Council be given an audit booklet as we have received
24 in the past from Jimmy Whittaker?
25 MS. FERGUSON: Yes.

1 COUNCILMEMBER FLEMING: And you expect that
2 the first of the year, then?
3 MS. FERGUSON: The deadline for having it
4 done is December 31st, so yeah, sometime probably
5 about --
6 COUNCILMEMBER FLEMING: But his audit, we
7 have to have all the materials to him by the 31st?
8 MS. FERGUSON: No. The audit report itself
9 has to be complete, published, the whole nine yards,
10 sent to the State by December 31st.
11 COUNCILMEMBER FLEMING: Okay. Then, I'm
12 curious about why we've reported to the press, to the
13 public, that we're looking great if we haven't even
14 gotten our audit yet.
15 MS. FERGUSON: The audit is about 90 percent
16 complete, and we've gotten the final projected
17 numbers. There may be a few adjustments before the
18 end, but they won't be significant.
19 COUNCILMEMBER FLEMING: Thank you.
20 MAYOR PITTMAN: Ms. Dean?
21 COUNCILMEMBER DEAN: Okay. To add on to
22 what Ms. Fleming said, if we're 90 percent complete
23 and not 100 percent complete, why didn't we wait until
24 we were 100 percent complete to make this statement to
25 the press?

1 MS. FERGUSON: I did not make the statemen
2 to the press.
3 DR. GILLEN: If I could field that, we had
4 finalized numbers for the fund balances, and we had a
5 discussion about the CIP, and we thought it was very
6 timely to discuss what options you have for funding
7 the CIP when we began the discussion in October. So
8 that's why we brought forth the numbers that we have.
9 COUNCILMEMBER DEAN: But why now? I mean
10 why not wait until even a month from now or even two
11 weeks from now after this has been passed and we could
12 start the final audit?
13 DR. GILLEN: Because we had the information
14 that told us what the numbers are going to be.
15 COUNCILMEMBER DEAN: 90 percent.
16 DR. GILLEN: We had the numbers that told us
17 what the fund balance was going to be.
18 COUNCILMEMBER DEAN: Okay. Ms. Ferguson -
19 DR. GILLEN: She's saying the audit --
20 COUNCILMEMBER DEAN: -- just said --
21 DR. GILLEN: -- is 90 percent complete.
22 That doesn't mean --
23 COUNCILMEMBER DEAN: Okay.
24 DR. GILLEN: -- we don't know what those
25 numbers are. That means they've got to go back and

1 correct some numbers if there's any small transactions
2 that didn't get done or anything like that and then to
3 fix this part of the budget with the amendment.
4 COUNCILMEMBER DEAN: Here's my -- At the
5 last meeting, we were told the purpose of this
6 amendment was to do a little clean-up on last year's
7 budget because we've overspent on some areas.
8 MS. FERGUSON: The main purpose of this
9 budget amendment is to increase the revenue budgets.
10 COUNCILMEMBER DEAN: Okay. But we --
11 MS. FERGUSON: If we were not going to
12 increase the revenue budgets, we'd probably not amend
13 the rest of the budgets because there's just not
14 enough there to worry about.
15 COUNCILMEMBER DEAN: Okay. And I'm sorry
16 I'm asking so many questions, but I want a better
17 understanding, which is why I sent questions that were
18 left unanswered.
19 For example, you said that \$250,000 were
20 increased revenues from the tank farm due to an
21 increase in gas prices, so I asked to see something
22 verifying that, and I asked for the revenue reports
23 for the last five years. My response was, "A five-
24 year breakdown of the occupation tax receipts for the
25 tank farm will take quite lot of time to produce."

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1 So how do we know that we are getting this
2 increase from the tank farms if we don't have a
3 breakdown of it? I mean how do you guys have this
4 information and you can't provide it to me? That's my
5 question.

6 MS. FERGUSON: The information that came
7 from the tank farms came from the gross receipts
8 verifications last year. They did them in September
9 of last year. That money was shown as a deferred
10 revenue --

11 COUNCILMEMBER DEAN: Uh-huh.

12 MS. FERGUSON: -- in last year's audit, and
13 we're picking it up this year. And the difference in
14 the gross receipts this year versus last year, last
15 year the difference was \$320,000. This year, the
16 difference was \$14,000.

17 I don't have five years' worth of data for
18 you.

19 COUNCILMEMBER DEAN: Do you have two years
20 or three years?

21 MS. FERGUSON: The information that I can
22 get out of the business license software --

23 COUNCILMEMBER DEAN: Uh-huh.

24 MS. FERGUSON: -- will not give me that
25 information. I can tell you who paid but I can't tell

1 other -- my other concern is -- and again, I asked for
2 a breakdown -- you know, what falls under
3 Miscellaneous? I mean what is --? Because we're
4 talking about \$123,000.

5 MS. FERGUSON: We had an extraordinary even
6 last year. We went to our workers' comp insurance
7 carrier and said, "Look. We really don't think you
8 have our employees categorized correctly."

9 COUNCILMEMBER DEAN: Uh-huh.

10 MS. FERGUSON: And so they had all of our
11 Public Works people --

12 COUNCILMEMBER DEAN: Uh-huh.

13 MS. FERGUSON: -- at the highest rate they
14 charge, which is for street paving.

15 COUNCILMEMBER DEAN: Uh-huh.

16 MS. FERGUSON: And so we went to them and we
17 said, "These people are not classified correctly," and
18 so they changed our rates and they gave us a refund
19 this year for the changes in rates that they did last
20 year.

21 And it's in Miscellaneous Revenue because
22 the expense was last year, and the revenue -- the
23 money came back in this year.

24 COUNCILMEMBER DEAN: Uh-huh.

25 MS. FERGUSON: So it doesn't work the same

1 you what year it's for.

2 COUNCILMEMBER DEAN: Okay.

3 MS. FERGUSON: I can't tell you what they're
4 paying for, because our software won't give us that
5 information.

6 To get that information for five years, we
7 have to dig through boxes --

8 COUNCILMEMBER DEAN: Okay. What about --

9 MS. FERGUSON: -- at --

10 COUNCILMEMBER DEAN: -- one year?

11 MS. FERGUSON: -- at Public Works.

12 COUNCILMEMBER DEAN: One year or two years.

13 Can you provide a report for --

14 MS. FERGUSON: No report.

15 COUNCILMEMBER DEAN: -- any period of time?

16 MS. FERGUSON: No report. It requires
17 digging up the information, compiling it on a spread
18 sheet, and giving you the response.

19 COUNCILMEMBER DEAN: Okay. And so when you
20 guys do this, do you have like a group of workers
21 going through boxes and collecting receipts and all of
22 this?

23 MS. FERGUSON: Yes, we do, and it takes a
24 lot of time.

25 COUNCILMEMBER DEAN: All right. And my

1 in government as it does in the private sector.

2 You don't get to offset your workers' comp cost. It
3 has to be shown as a revenue.

4 COUNCILMEMBER DEAN: Uh-huh.

5 MS. FERGUSON: And we didn't budget that
6 because we didn't know we were going to get it until
7 June.

8 COUNCILMEMBER DEAN: Uh-huh. And I had sent
9 an email asking for this on Friday, and I'm now
10 getting an answer to this. Is there a reason for
11 that?

12 MS. FERGUSON: You sent the email at 6
13 o'clock on Friday and you sent one at 6:00 p.m. on
14 Sunday. It takes time to do these things.

15 COUNCILMEMBER DEAN: Well, the one at 6:00
16 p.m. Sunday was not -- I'm not talking about that.
17 That's irrelevant.

18 I'm talking about the one that was sent on
19 Friday. And actually, it was sent at 2:27 p.m. Okay?
20 So if it was sent to you at 6:00 p.m.

21 Actually, no. I sent it to you at 2:27 p.m.
22 I have it right here.

23 MS. FERGUSON: That was also included in
24 your agenda packet that you got for the meeting, the
25 last meeting that we had --

1 COUNCILMEMBER DEAN: And I --
2 MS. FERGUSON: -- the review.
3 COUNCILMEMBER DEAN: -- have that
4 information but I don't have a breakdown for these
5 Miscellaneous. I don't have a breakdown of these
6 figures. And this -- we're moving something. We're
7 moving these figures around to prevent an audit
8 finding, and that's --
9 See, to me, it doesn't seem that that's the
10 right way to do this, because if we want to avoid
11 these findings, well, now here we are at the end of
12 the process; we need to move some figures around so
13 this doesn't happen again. But we're just moving
14 numbers around at the end of the process to make
15 things right, when in fact the books -- if we kept
16 what's on the books now, it would be the same thing.
17 Right?
18 MS. FERGUSON: Except that we would have
19 audit findings.
20 COUNCILMEMBER DEAN: Right, okay.
21 MS. FERGUSON: And if you don't want your
22 departments to go over budget --
23 COUNCILMEMBER DEAN: Uh-huh.
24 MS. FERGUSON: -- then our budgets are going
25 to increase astronomically because everybody is going

1 to overshoot their expenditures so much that we're not
2 ever going to be able to pass a budget.
3 COUNCILMEMBER DEAN: Right. And what was
4 the 911 Call Center? 400 thousand?
5 COUNCILMEMBER FLEMING: Five something. It
6 went over --
7 COUNCILMEMBER DEAN: I think it was --
8 COUNCILMEMBER FLEMING: It went over --
9 COUNCILMEMBER DEAN: -- an increase --
10 COUNCILMEMBER FLEMING: -- a hundred and
11 fifty.
12 COUNCILMEMBER DEAN: -- of \$422,000.
13 MS. FERGUSON: There was no change to that
14 line item.
15 COUNCILMEMBER DEAN: All right. I'm good.
16 MS. FERGUSON: Okay.
17 MAYOR PITTMAN: Okay. All right. Does
18 anyone else have any comments?
19 (No response)
20 MAYOR PITTMAN: Okay. And you need a motion
21 to approve this?
22 MS. FERGUSON: Uh-huh.
23 MAYOR PITTMAN: Okay. Do I get a motion?
24 COUNCILMEMBER ALEXANDER: Motion to approve
25 the requested proposed amendment to Fiscal Year 2013

1 Budget.
2 MAYOR PITTMAN: Second?
3 COUNCILMEMBER PACHUTA: Second.
4 MAYOR PITTMAN: Discussion?
5 (No response)
6 MAYOR PITTMAN: Call the roll, please.
7 CLERK BRYANT: Councilmember Alexander?
8 COUNCILMEMBER ALEXANDER: Yes.
9 CLERK BRYANT: Councilmember Bates?
10 COUNCILMEMBER BATES: Yes.
11 CLERK BRYANT: Councilmember Dean?
12 COUNCILMEMBER DEAN: No.
13 CLERK BRYANT: Councilmember Fleming?
14 COUNCILMEMBER FLEMING: No.
15 COUNCILMEMBER BATES: Councilmember Pachuta?
16 COUNCILMEMBER PACHUTA: Yes.
17 CLERK BRYANT: Councilmember Patrick?
18 COUNCILMEMBER PATRICK: Yes.
19 MAYOR PITTMAN: Motion carries. Thank you
20 We're going to move into New Business.
21 Mr. Cooley, I believe this is a public
22 hearing, Variance Request for Fence Height in Front
23 Yard at 2582 Addison Drive, Parcel No. 18 297 13 016.
24 MR. COOLEY: As you said, this is a variance
25 request. This is for height of fence in the front

1 yard. You've already given the parcel number, so I
2 won't repeat that.
3 The background history of this, basically,
4 Section 23-7703(3) states that no fence can be over
5 four feet in the front yard. The Applicant installed
6 a six-foot fence that actually extends beyond the
7 front facade of the house and encroaches in the front
8 yard and also has structural members facing outward
9 A City of Doraville Compliance Officer
10 issued a notice of violation, and the Applicant had
11 until 9/13/13 to come into compliance. They applied
12 for this variance, so that basically stayed all action
13 until a decision by this Council.
14 The Applicant stated that the fence needs
15 to be six feet due to location of the door and steps
16 on the side. You will see in her plan and her
17 application that the side door comes out and the steps
18 come towards the front. And so she could not put a
19 fence right along there, so it was moved out in order
20 to allow people to come down and the dogs to come
21 down.
22 The Applicant I believe is here -- yes -- so
23 she will make a presentation on that.
24 The Planning Commission unanimously
25 recommended denial of the variance, citing that the

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1 review criteria of a self-imposed hazard.

2 As y'all know, the Planning Commission,
3 Staff, and the City Council has seven conditions
4 regarding variance which to consider. Again, these
5 are in your packet, and I will be happy to go over
6 those or answer any questions regarding those. I know
7 the Applicant will be making a presentation and
8 addresses those also in her application.

9 Staff recommendation based upon that review
10 is for denial because it does not meet the items under
11 Section 23-1402 for a variance.

12 MAYOR PITTMAN: Okay. And I'm going to get
13 questions from the Council in just a minute.

14 Ms. Gilman?

15 MS. GILMAN: I have no additional data.

16 MAYOR PITTMAN: Okay. Thank you.

17 Before I bring the Applicant up, do any
18 Council members have questions for Mr. Cooley?

19 COUNCILMEMBER PACHUTA: I just wanted to
20 confirm, you know, the email that I had with you
21 earlier today, that the height of a six-foot fence
22 facing the street is fine as long as it's set back
23 further than the front side of the house; correct?

24 MR. COOLEY: That is correct; you just
25 cannot extend into the front yard.

1 But to mention the seven -- seven guidelines
2 that need to be met for the variance, the first one
3 is: The proper conditions or the conditions of the
4 property, size, shape or topography.

5 As you can see, I attached Article C,
6 pictures of the stairs, and that is how the fence --
7 or the stairs, excuse me, were originally built. I
8 mean they do go right up to the front side of the
9 house if not even a little bit past. There's a little
10 lip there. And then in Article B, there's a scale
11 drawing of the house also showing the stairs going to
12 the front.

13 So that's the main -- I mean the house was
14 built this way, and I did -- Ms. Gilman asked me
15 earlier if I had driven around and looked to see if
16 any other properties, you know, had the same, you
17 know, layout, basically.

18 And what I have seen in talking to my
19 neighbors, that a lot of houses do have, you know, the
20 side stairs that go out, but many of the stairs go
21 towards the back yard, not towards the front, and so
22 it is -- it is different.

23 Then, No. 2: The fence would deprive, I
24 guess, me of common rights. Basically, I just
25 wouldn't be able to use the property as the intention

1 MAYOR PITTMAN: Okay. Ma'am?

2 MS. MARTHA KNOESPEL: Martha Knoespel.
3 I got into this predicament because the
4 fence company I guess didn't realize that they needed
5 to get a building permit.

6 But beyond that, I did ask them to build it
7 specifically this way, and I don't know of any other
8 way that I can actually do this with use of my house
9 as the intent or the intentions of how it was built.

10 So I did need to build this fence. I have
11 three dogs. But the front of the stairs go to the
12 very front of the house, so I couldn't put the fence
13 there. I have those side stairs, and then I do have
14 stairs in the back that are steeper because my house
15 is on a slope. One of the dogs has hip dysplasia so
16 she can't use those stairs.

17 So part of the reason that I bought the
18 house -- and I bought the house, closing in the end of
19 July, moved in before September. Part of the reason
20 and appeal was kind of those stairs.

21 And then the reason that it's a six-foot
22 fence and placed out is because I also have a younger
23 mastiff who is very, very active and probably could
24 get over a four-foot fence, so that's why it's six
25 feet.

1 was.

2 No. 3: that it would grant me special
3 privileges. I don't see it as special privileges. I
4 just see it as, you know, being able to enjoy my fence
5 just like anybody else would be able to enjoy a
6 fence -- you know, protect their dogs; protect people
7 you know, hitting their dogs if they were to get out;
8 you know, things of that nature. You know, it's just
9 a common -- you know, anybody could get a fence.

10 That it's injurious to the neighborhood. I
11 do understand that Northwoods is a historical -- I
12 mean I guess I know that this is my opinion: I don't
13 think that it looks bad.

14 But I do think -- I mean if we're talking
15 about the nature of the neighborhood and its history,
16 I think that there are many other things that could be
17 paid attention to, such as I don't think that the
18 chain link fences going around look good; I don't
19 think that the multiple rental houses that aren't
20 maintained, I don't think that those --

21 You know, I think that those are things that
22 we could pay attention to first that would actually
23 bring people in to, you know, maybe buy property
24 there. I mean I know that that's kind of a side note,
25 but I think that that's more important than a

1 newly-built fence that actually I think looks good.
2 No. 5: Special circumstances that are not
3 of my -- at my fault. You know, I haven't -- I didn't
4 change anything to the house. I don't believe that
5 bringing the dogs into that house was, you know, my
6 fault.

7 I didn't realize that, you know, this was
8 going to be an issue. But, you know, I would really
9 appreciate it being kept, because I honestly don't
10 know how I would . . . how I would correct it.

11 No. 6: that this would be the minimum
12 variance granted. I'm really not sure what the
13 minimum would be, but I don't think that it is a big
14 deal keeping it the way it is.

15 And then 7: not using property in an
16 unintended way. I mean, as I said before, it's a
17 fence, and I'm using it as a house is a house, so.

18 I mean that's basically my reasoning for 1
19 through 7, and I would really appreciate it if I could
20 keep it this way.

21 I have talked to the fence company, and, you
22 know, they're willing to do what they need to do, but
23 that doesn't really solve the problems of how it would
24 be done or how I would actually turn these --

25 I mean they're concrete steps, so I don't

1 the back yard, which I don't really want to lose that
2 if possible, but.

3 COUNCILMEMBER BATES: Thank you.

4 MAYOR PITTMAN: Ms. Pachuta?

5 COUNCILMEMBER PACHUTA: No questions

6 MAYOR PITTMAN: Mr. Patrick?

7 COUNCILMEMBER PATRICK: On your design here

8 I think it was from Attachment B, you have the
9 staircase off the back of your house.

10 MS. KNOESPEL: Uh-huh.

11 COUNCILMEMBER PATRICK: Have you thought c
12 perhaps having a new staircase installed there?

13 MS. KNOESPEL: What I would like to do --]
14 mean this is in a couple years, but I'd like to have

15 like some kind of deck put on where I --

16 COUNCILMEMBER PATRICK: Sure.

17 MS. KNOESPEL: -- could actually have a
18 ramp, but that doesn't kind of fix my immediate needs
19 if I need to move the fence.

20 COUNCILMEMBER PATRICK: I guess ultimately
21 though, that is a way that the animals could have or
22 the dogs could have for getting out into the yard as
23 currently configured?

24 MS. KNOESPEL: Yes.

25 COUNCILMEMBER PATRICK: Okay. Thank you

1 know if I could cover them. That's, you know, of
2 course going to be my issue with it if I have to, but.

3 MAYOR PITTMAN: All right. Thank you.

4 Ms. Alexander, do you have any questions or
5 comments?

6 COUNCILMEMBER ALEXANDER: No, ma'am.

7 MAYOR PITTMAN: Mr. Bates?

8 COUNCILMEMBER BATES: Have you thought about
9 asking the fence company if they would be willing to
10 build stairs off the side or back?

11 MS. KNOESPEL: I did ask them, and they
12 don't have, I guess, the licenses for that.

13 COUNCILMEMBER BATES: How about them
14 contracting with someone who does?

15 MS. KNOESPEL: I could talk to them about
16 that.

17 I guess that issue is still -- like if I put
18 the stairs going towards the back yard, it is a pretty
19 good slope going back there, so the stairs would still
20 be pretty long, which I'm still worried about the dog.
21 So I mean I have thought about a ramp also, but there
22 are, you know, still kind of tricky issues trying to
23 set that up.

24 And then otherwise, the stairs could go like
25 straight out, but then it is kind of a driveway into

1 MAYOR PITTMAN: Ms. Fleming?

2 COUNCILMEMBER FLEMING: I'll reserve my
3 comments for later.

4 MAYOR PITTMAN: Ms. Dean?

5 COUNCILMEMBER DEAN: Okay. So you have the
6 back door; right?

7 MS. KNOESPEL: Uh-huh.

8 COUNCILMEMBER DEAN: Have you thought abou
9 or maybe you could talk to the fence company about

10 having the four-foot fence in front and then having
11 like a double layer of six foot like in the back of
12 the house so that the dogs could come out, you can put
13 them in the back part of the property to at least keep
14 them enclosed for awhile? I mean kind of a little
15 fenced-in area within the fenced-in area? You know
16 what I mean?

17 MS. KNOESPEL: Yes.

18 COUNCILMEMBER DEAN: And that might -- tha
19 might help, you know, just until you -- I mean I'm
20 very excited that you've moved into the area. We wan
21 to see young people come in and do things with their
22 homes, so I'm very excited about that, and I would
23 like to see something happen that would make everyone
24 here happy.

25 My concern is that we've had this issue

1 before. We've asked people to change it before. And
2 so it's difficult to say, "Yes, you're okay, you can
3 do it," because then we could have those people come
4 back to us and say, "Wait a minute. You know, you
5 made us change it, so why is this?" you know, "Why are
6 you allowing this to happen?"
7 And shame on the fence company for not
8 knowing what they were supposed to do in terms of
9 getting the permit and making sure that things were
10 built to compliance.
11 And I drove by there. Is it facing outward?
12 Is the outside of the face, is it turned around?
13 MS. KNOESPEL: On the -- on the side. Is
14 that what you're --
15 COUNCILMEMBER DEAN: Yeah. The finished
16 side is actually on the --
17 MS. KNOESPEL: Yeah, and --
18 COUNCILMEMBER DEAN: -- inside?
19 MS. KNOESPEL: -- that was just kind of
20 another miscommunication with the fence company and
21 not -- I mean me being a first-time home buyer and
22 not --
23 COUNCILMEMBER DEAN: Right.
24 MS. KNOESPEL: -- I mean, so I don't have a
25 problem fixing that at all.

1 It was, you know, starting to fall apart before I
2 bought it. So I've put a lot of -- a lot of work into
3 it, and I guess that's where I'm like, I don't know,
4 taking it a little personally, I guess. But -- but
5 that's -- Yeah. All of them don't mind it.
6 COUNCILMEMBER BATES: Thank you.
7 MAYOR PITTMAN: Okay. Anyone else?
8 (No response)
9 MAYOR PITTMAN: Okay. Thank you.
10 Mr. Cooley, did you have anything to add?
11 MR. COOLEY: No, ma'am, unless y'all have
12 any type of questions that I can answer.
13 MAYOR PITTMAN: Does anyone have anything
14 for Mr. Cooley?
15 (No response)
16 MAYOR PITTMAN: Okay. Thank you.
17 All right. At this time, we're going to
18 open the public hearing portion.
19 We're going to start with those wishing to
20 speak for, please come forward. Again, you have 10
21 minutes, 10 minutes total. Please state your make for
22 the court clerk. Anyone wishing to speak for, please
23 come forward.
24 MS. RAWLINS: Linda Rawlins, Oakcliff.
25 I would speak for giving her the variance

1 COUNCILMEMBER DEAN: Right, right.
2 MS. KNOESPEL: What I would like to keep is
3 the six-foot fence in the front yard just because that
4 is how I wanted -- I mean that makes the most sense,
5 you know, to me. Well, I mean I guess to me and the
6 dogs.
7 COUNCILMEMBER DEAN: Right.
8 MS. KNOESPEL: But yeah, the side, I don't
9 have any problem asking them to update it.
10 MAYOR PITTMAN: All right. Thank you.
11 COUNCILMEMBER BATES: I --
12 MAYOR PITTMAN: Oh, I'm sorry.
13 COUNCILMEMBER BATES: I do have one
14 additional question.
15 Have any of your neighbors expressed support
16 for this?
17 MS. KNOESPEL: Yeah, actually. And one of
18 them said that they could be here, but then, I mean,
19 they had a commitment at 7:00 so they couldn't come to
20 show support.
21 But everybody that I have talked to, you
22 know, really doesn't -- Even the neighbors that are on
23 the side with the unfinished part, they think that it
24 improves the look of the house and the area.
25 I mean the house was rented for 20 years.

1 since she's done that much to the property. And as
2 she said, the close neighbors around don't object.
3 I'd rather have a fence across the front than a pink
4 or purple house in your neighborhood.
5 And of course all of you pretty much know
6 I'm an animal advocate. And whatever she needs to
7 help out her animals, I am for that, too. But I can't
8 see that this should be such a terrible deterrent or
9 eyesore or anything to that effect. And she is true:
10 there are a lot of other things that we need to
11 address that gives more house value than a newly put-
12 up fence. Thank you.
13 MAYOR PITTMAN: Anyone else wishing to speak
14 for?
15 MR. O'SHEA: Hey. Sean O'Shea.
16 I just noted that understanding the rock-
17 and-a-hard-place in terms of topography and how your
18 house sits, looking at the pictures and the designs
19 relative to the staircase -- and this is an old house;
20 there's not a lot you can do with the exterior of it -
21 - and that these stairs are concrete, you know, mashed
22 in there without a massive amount of rework, that
23 what's been engineered appears to be like the best
24 solution to be able to address the issue. Even if you
25 were to put, you know, a four-foot fence up, I think

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1 you would still have the issue in terms of the setback
2 with it. But the problem with a hard set of stairs
3 and, you know, a dog trying to leap, I think relative
4 to the safety and the pleasure and enjoyment of the
5 neighbors of not having a dog running loose, that that
6 is -- you know, it seems like a reasonable request in
7 terms of it's not, I think, been taken as trying to
8 take advantage, and it doesn't strike me as anything
9 that's going to necessarily devalue the properties.

10 I do understand the conflict with other
11 people having asked for variances, but individual
12 circumstances do vary, and this one does seem to make
13 a great deal of sense, so I would encourage you to
14 vote for it.

15 MAYOR PITTMAN: Thank you.
16 Anyone else wishing to speak for?
17 (No response)

18 MAYOR PITTMAN: Okay. Anyone wishing to
19 speak against, please come forward. The same applies:
20 10 minutes, 10 minutes total. Please state your name
21 for the clerk, anyone wishing to speak against.

22 MR. HART: I'm also a dog lover and I have a
23 problem with a dog.

24 If the person putting the fence up had went
25 to the Planning Commission to even discuss this

1 pieces of information that the fence company, if
2 they're professionals, would have known in Dekalb
3 County or they would have found out in Doraville and
4 surrounding cities that you have to have a permit to
5 put a fence up; or you're going to put -- you're going
6 to build a house, you need a permit for that. Okay.

7 So I haven't looked at the house. I've
8 drove by and looked at it, and it had the frame side
9 facing the neighbor.

10 Okay. And permits in the city or the zoning
11 ordinances do not operate by getting a signature of
12 your neighbor as to what you're going to build on your
13 property, because it affects the whole neighborhood
14 and the city. Okay. It's not getting a neighbor who
15 may move in three months to sign off on whatever
16 nonsense you may be building that day. That's not
17 how that works. So that's the third reason. Okay.

18 The dogs -- and Ms. Dean brought up an
19 important fact: that you could have a double fence.
20 You could have a four-foot fence that complies with
21 the City and another little fence behind it that
22 actually contains this mastiff, whatever it is, that's
23 going to jump over the fence.

24 I had a German shepherd I had to take care
25 of recently that could climb over a 10-foot fence

1 before, it's not the City of Doraville that made a
2 mistake here and it's not the property owner per se,
3 because the people that didn't do the job correctly
4 was the fence company, and the fence company would
5 have found out some important things.

6 Because I had to deal with this issue today
7 where one of my neighbors had built the fence three
8 feet on the other person's property. And the reason
9 why that happened is part of the fence code is to get
10 a survey so you have some rough idea of where the
11 property lines of your houses are, which, when I was
12 on the City Council, was the number one error, I mean,
13 that showed up every day was somebody with a fence
14 across somebody's front door. Okay.

15 So if the fence company had gotten a permit,
16 they would have surveyed it. They also would have
17 found out the fence -- the shiny side faces the
18 neighborhood. Not everybody wants to look at the
19 frame of a fence facing the neighborhood. The shiny
20 side goes on the outside. That's the second thing
21 they would have found out.

22 And they also would have found out that --
23 and the front property line of the house, that behind
24 that, you can be six feet tall and then your front
25 yard is four feet. Okay. These are all important

1 because it was trained to do that as a police dog.
2 Okay. And I had a sheltie before that that could
3 flat-foot a four-foot fence. It didn't matter. He
4 used to jump back and forth across the fence because
5 he thought that was a lot of fun. Okay.

6 So all these are personal problems that ran
7 into a City ordinance that the professionals involved
8 here should have known what they were doing. And so
9 Northwoods is an historic district. Having a new
10 fence, that's nice. The fact they'd fixed up the
11 house is nice.

12 But those are all side issues. The fence
13 should be four foot in the front yard, six foot on the
14 side, and the shiny side out, and hopefully the fence
15 is on her property, which we still haven't determined
16 yet. Thank you.

17 MAYOR PITTMAN: Anyone else wishing to speak
18 against?

19 MR. TERRY GREENBERG: I'm Terry Greenberg
20 I'm a 30-year resident of Addison Drive, and I have
21 some issues with the fence.

22 I can't see where it adds any aesthetic
23 value to the house when that end of Addison is already
24 a nightmare. When you come in off of Shallowford, we
25 have awful houses there anyway. It hides part of the

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1 front of the house.

2 I believe our ordinance states that the
3 decorative side should face out, but it has the
4 opposite side out. The house at the corner of McClave
5 and Chestnut did the same thing, and they were made to
6 change the fence to comply with ordinance.

7 We have allowed too many variances as it is:
8 driveways doubled so more cars can be parked in them.
9 I, along with many of the residents on Addison, have
10 landscaped, painted, remodeled and decorated in the
11 hopes of making Northwoods a desirable neighborhood.
12 We need more families moving in. If we allow this
13 variance, then what would be the next or the next or
14 the next?

15 MAYOR PITTMAN: Anyone else wishing to speak
16 against?

17 (No response)

18 MAYOR PITTMAN: Okay. At this time, we're
19 going to close the public hearing portion, bring it up
20 the table.

21 Mr. Cooley, did you have anything else?

22 MR. COOLEY: No, ma'am.

23 MAYOR PITTMAN: Okay. Ma'am, did you have
24 anything you wanted to add?

25 MS. KNOESPEL: Just that I did get a survey,

1 COUNCILMEMBER PACHUTA: No.

2 MAYOR PITTMAN: Mr. Patrick?

3 COUNCILMEMBER PATRICK: No.

4 MAYOR PITTMAN: Ms. Fleming?

5 COUNCILMEMBER FLEMING: Yes.

6 In review of the property that I personally
7 did, there are six houses on Addison that have six-
8 foot privacy fences at their -- I'll call it a pin or
9 their side -- their front side, which goes across all
10 the way to the neighbor's house, and then the
11 neighbor's house starts right there, and they've got
12 their six-foot privacy fence all the way to their
13 carport. So there are six on Addison that do do that,
14 and they are six-foot privacy fences in the front
15 yard.

16 The Applicant's front-yard fence is indeed
17 six feet; it has the finished side out. However, it's
18 five feet from the pins of the house, so she's five
19 feet into her front yard because of the steps.

20 However, as far as part of our code, the
21 unfinished side is on -- the unfinished side is on the
22 side of the house, not in the front of the house, and
23 I would think that that needs to be corrected for
24 sure.

25 In this particular instance because of the

1 and it is on my property, and that's it.

2 MAYOR PITTMAN: Okay. Thank you.

3 Ms. Alexander, did you have anything?

4 COUNCILMEMBER ALEXANDER: No, ma'am.

5 MAYOR PITTMAN: Mr. Bates?

6 COUNCILMEMBER BATES: Mr. Cooley, did y'all
7 talk with the Applicant about options in discussions
8 of the variance application?

9 MR. COOLEY: Yes, sir, we did. We tried to
10 explore as many different approaches with her as we
11 could. Both the Code Compliance officer and myself
12 spoke with the Applicant and tried to suggest
13 alternative ways, some of which I've heard here:

14 possibly bringing down/out and do a landing and coming
15 down instead of just coming off the back side. You
16 know, you'd have to figure out what to do with the
17 steps that lead down, but, you know, we really
18 encouraged her to talk to the fence company, see what
19 they'd be willing to do, considering they did mess up,
20 and we haven't discussed it since then.

21 But yes, we did discuss as best we could,
22 alternatives we could come up with given the
23 situation.

24 COUNCILMEMBER BATES: Thank you.

25 MAYOR PITTMAN: Ms. Pachuta?

1 way that the steps are, I really do feel that we need
2 to look at the other properties on Addison, because
3 they are almost in the same vicinity as her home, and
4 take a look at that.

5 MAYOR PITTMAN: Okay. Ms. Dean?

6 COUNCILMEMBER DEAN: No. I'm good.

7 MAYOR PITTMAN: All right. Council?

8 Anyone wishing to make a motion?

9 COUNCILMEMBER FLEMING: I'd like to make
10 motion to approve the variance request for fence
11 height in the front yard at 2582 Addison Drive, Parcel
12 No. 18 297 13 016 with a condition of correcting/
13 replacing the front -- the side yard so that it is the
14 finished side facing out.

15 MAYOR PITTMAN: Okay. Do I get a second?

16 (No response)

17 MAYOR PITTMAN: All right. Appears the
18 motion dies in lieu of a second.

19 COUNCILMEMBER DEAN: Well, I would like to
20 state that I think that there were several comments
21 that we heard.

22 Ignorance is not an excuse, and I know
23 you're a new-time home owner, but this is part of the
24 responsibility of owning a home: finding out how
25 you're supposed to do things and what you're supposed

1 to do. And the thing is is that if we let one person
2 in, then we could open the flood gates and people
3 would come in complaining that we made them change to
4 follow our ordinances in the past, and if they came in
5 after you, then they would say, "Well, you let her do
6 it. Why not us?"
7 I think that the fence company is
8 responsible, and I would definitely go back to them
9 and find out, you know, "Look. Fix this because this
10 is wrong."
11 And the other thing is that the people in
12 that neighborhood worked really, really hard to get
13 this national registry going. And I went by and I
14 saw, and it is; it's something of an eyesore.
15 But this national registry, they've been
16 working on this for years, and I think that's a huge
17 part of the community; and I think that while other
18 houses might look bad, we're really trying to turn it
19 around and improve the aesthetics of the community.
20 And I'm sorry that this happened, but that's
21 my position.
22 COUNCILMEMBER PATRICK: A quick question for
23 Joe.
24 So has she paid any permit fees?
25 MR. COOLEY: No, not at this point.

1 MR. COOLEY: Okay. We'll find out.
2 MS. KNOESPEL: That's what I was told.
3 MR. COOLEY: Sure.
4 MAYOR PITTMAN: All right. Thank you.
5 COUNCILMEMBER PATRICK: Okay. Well, I'll
6 make a motion for the denial of the application.
7 MAYOR PITTMAN: Okay. Do I get a second?
8 COUNCILMEMBER BATES: Second.
9 MAYOR PITTMAN: Discussion?
10 COUNCILMEMBER PACHUTA: Yeah. I just wante
11 to say I think it's a rough decision. I mean I bought
12 my first home to fit my dog at the time. And I've had
13 a dog who was paralyzed, and I have a 13-year-old dog
14 who can't make it down the stairs to the back yard,
15 and I have to walk him out the front and lead him
16 around the back.
17 But the way our ordinance is set up with the
18 variance and the objective criteria, and the recommen-
19 dations of staff, with that criteria, I think, on an
20 objective basis, that your request doesn't meet those
21 conditions.
22 MAYOR PITTMAN: Okay. Anyone else?
23 (No response)
24 MAYOR PITTMAN: Call the roll, please.
25 CLERK BRYANT: Councilmember Alexander.

1 COUNCILMEMBER PATRICK: And what would the
2 permit fees be?
3 MR. COOLEY: I believe fences for
4 residential, if I'm not mistaken, is \$50.00, and doing
5 work without it doubles --
6 COUNCILMEMBER PATRICK: Doubles it.
7 MR. COOLEY: -- the fee.
8 COUNCILMEMBER PATRICK: So a hundred bucks.
9 And what's the cost of a variance?
10 MR. COOLEY: Be quite honest with you, I
11 don't recall.
12 COUNCILMEMBER PATRICK: Okay.
13 MAYOR PITTMAN: Ma'am, did you want to --
14 MS. KNOESPEL: Yeah. The fence company did
15 go and they did pay for the permit.
16 COUNCILMEMBER PATRICK: Okay.
17 MS. KNOESPEL: So that's taken care of, and
18 the variance was \$150.00.
19 COUNCILMEMBER PATRICK: Okay.
20 MR. COOLEY: So the permit request -- I have
21 not seen that. So the permit request was for in the
22 front yard?
23 MS. KNOESPEL: Well, I guess -- I don't
24 know. Well, I was just told that they went and they
25 paid the permit fee.

1 COUNCILMEMBER ALEXANDER: Yes.
2 CLERK BRYANT: Councilmember Dean?
3 I'm sorry. Councilmember Bates?
4 COUNCILMEMBER BATES: Yes.
5 CLERK BRYANT: Councilmember Dean?
6 COUNCILMEMBER DEAN: Yes.
7 CLERK BRYANT: Councilmember Fleming?
8 COUNCILMEMBER FLEMING: No.
9 CLERK BRYANT: Councilmember Pachuta?
10 COUNCILMEMBER PACHUTA: Yes.
11 CLERK BRYANT: Councilmember Patrick?
12 COUNCILMEMBER PATRICK: Yes.
13 MAYOR PITTMAN: And ma'am, I'm sorry. Thanl
14 you.
15 All right. Next and last on the agenda is
16 the Text Amendment to Add Language to Address New Auto
17 Dealerships in C-2 Zoning District, Dr. Gillen.
18 DR. GILLEN: Yeah. Thank you, Mayor.
19 The City was approached by a company that
20 wants to open a new auto dealership in Doraville. You
21 have a Zoning Ordinance that restricts auto
22 dealerships in the C-2 zone, and the intent was to
23 stop the overgrowth of small used-car lots up and down
24 Buford Highway, and it's done a good job of halting
25 any new ones.

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1 However, what this is is a manufacturer-
2 authorized car franchise facility -- basically, a new
3 car dealership -- in a C-2 zone out where the other
4 car dealerships are. There's a Porsche and a --
5 COUNCILMEMBER PATRICK: Lexus.
6 DR. GILLEN: -- Lexus out in the same area.
7 And so the parcel located at Motors Industrial Way and
8 Peachtree Industrial Boulevard, they're identified as
9 Highway Commercial land use.
10 And so what we're asking tonight is that if
11 the Council would like to pursue the possibility of
12 allowing manufacturer-authorized car franchise
13 facilities with customary sales and service of both
14 new and pre-owned automobiles as a permanent use
15 within the C-2 zoning district and have Staff and
16 Legal draft a preliminary ordinance for the Planning
17 Commission to review.
18 It's basically asking you for permission to
19 draft a draft ordinance to take to the Planning
20 Commission tonight for that.
21 And Joe is here to answer the specifics.
22 MAYOR PITTMAN: Ms. Alexander, do you have
23 questions?
24 COUNCILMEMBER ALEXANDER: Would a CarMax
25 meet this criteria?

1 MR. COOLEY: I'm sorry?
2 COUNCILMEMBER ALEXANDER: A CarMax.
3 MR. COOLEY: No, ma'am. That would not be
4 an authorized -- factory-authorized dealership.
5 COUNCILMEMBER ALEXANDER: They're an
6 authorized Dodge-Chrysler dealership.
7 MR. COOLEY: If they're selling new cars,
8 yes, they would be, then. I didn't realize they did
9 that.
10 MAYOR PITTMAN: Okay. If I could just stop
11 for just a minute, it is 10 till 9:00 and we are
12 almost at the end of the agenda so I need a motion to
13 extend the time to finish this agenda.
14 COUNCILMEMBER ALEXANDER: So moved.
15 MAYOR PITTMAN: Second?
16 COUNCILMEMBER PATRICK: Second.
17 MAYOR PITTMAN: Discussion?
18 (No response)
19 MAYOR PITTMAN: Call the roll, please.
20 CLERK BRYANT: Councilmember Alexander?
21 COUNCILMEMBER ALEXANDER: Yes.
22 CLERK BRYANT: Councilmember Bates?
23 COUNCILMEMBER BATES: Yes.
24 CLERK BRYANT: Councilmember Dean?
25 COUNCILMEMBER DEAN: Yes.

1 CLERK BRYANT: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BRYANT: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 COUNCILMEMBER PATRICK: Councilmember
6 Patrick?
7 COUNCILMEMBER PATRICK: Yes.
8 MAYOR PITTMAN: Thank you.
9 MR. COOLEY: If I may on that, I'll give you
10 a little bit more background on this project.
11 This was something that the adjacent
12 dealership, Hennessy Lexus, is interested. It's the
13 outparc- -- in particular, this is instigated by the
14 outparcel that actually belongs to BrandsMart. They
15 are interested in putting a new car dealership there.
16 One of the things that you might want, I
17 would suggest you consider -- and that we'll certainly
18 make a recommendation the Planning Commission also -
19 is if you decide to send this to them, would be a
20 minimum size requirement of two acres. We've
21 discussed this with Hennessy and as far as that's
22 pretty much the minimum that you can go.
23 Now, that's not going to work for lots like
24 CarMax and things of that sort. But what it does do
25 is work with some of the more specialty high-end, and

1 two that come to mind and were just kicked around a
2 little bit were Jaguar and possibly Land Rover. It's
3 that type where they don't have the on-property
4 inventory that you normally see in some of the larger
5 volume-dealership type things. So they would be
6 restricted by that.
7 The other thing is that I know that there
8 has been a concern, as Dr. Gillen said, about the
9 proliferation of used-car lots along Buford Highway.
10 My other recommendation would be if y'all are
11 interested in this: What you've got along Peachtree
12 Industrial is a new-car economic cluster. You know,
13 when you get a synergy like that, all these different
14 companies come together, it develops a cluster which
15 has a lot of economic impacts to it, so my
16 recommendation would be to limit it to properties in
17 that area.
18 Now, we would have to define that, because
19 some of the properties actually have street addresses
20 of Peachtree Industrial and some have Motors, and, you
21 know, I think that the Porsche dealership may not ever
22 be Peachtree Industrial. So we would want to define
23 that as an area basis, and my recommendation would be
24 limiting it to that cluster area that we have along
25 Peachtree Industrial as opposed to encouraging new-car

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1 lots or something like that along Buford Highway. I
2 don't think that's the intent that the City's looking
3 for for redevelopment along Buford Highway, and it
4 would be certainly enough within the ordinance to be
5 able to restrict it to an area that y'all think would
6 be more appropriate.

7 MAYOR PITTMAN: Okay. Mr. Bates?

8 COUNCILMEMBER BATES: Would it be possible
9 and easier for them to purchase and merge the parcels?

10 MR. COOLEY: We asked that, and basically
11 what they're looking at is a separate dealership. So
12 no, that would really not be functional for them.

13 COUNCILMEMBER BATES: Under the
14 recommendation, you mentioned a two-acre lot. We've
15 got a minimum of six acres in the ordinance now, so
16 you're requesting a reduction?

17 MR. COOLEY: This would be specific to the
18 C-2 zoning district. Right now we only allow car
19 dealerships in M-1.

20 COUNCILMEMBER BATES: Right.

21 MR. COOLEY: It requires 600 foot, I
22 believe, of frontage and also six acres. So basically
23 it's not allowed anywhere, you know, along the major
24 corridors; and which I don't know if it was oversight
25 or what, but one of the things, the results, when that

1 all uses, and, you know, I don't think it would be
2 good process to establish a zoning district for one
3 use. I think that's going to complicate things. So
4 you're opening up to all types of other things. The
5 process is going to take longer; you're going to have
6 to develop new standards.

7 It could be done. I mean that's one
8 approach that we could do if y'all decided to go that
9 direction. My recommendation, though, and I think the
10 cleanest and simplest and most effective approach
11 would really be to just do to the amendment to make
12 that an allowed use but be specific enough, control it
13 to whatever y'all think it would be appropriate.

14 COUNCILMEMBER BATES: Thank you.

15 MAYOR PITTMAN: Ms. Pachuta?

16 COUNCILMEMBER PACHUTA: Would it be possible
17 to specify percentages of new versus used so that -- I
18 mean I know -- I think it mentions in here having, you
19 know, the requirement that they have to have new and
20 used.

21 MR. COOLEY: Right. I think that's --

22 COUNCILMEMBER PACHUTA: -- to kind of
23 prevent --

24 MR. COOLEY: -- more of a function of the
25 pre-owned.

1 ordinance was changed I think back in 2010 is it made
2 the Lexus and the Porsche dealerships legal
3 nonconforming uses. So by changing this as a
4 permitted use, it would bring those back into
5 conformity, which from a planning perspective, it is
6 always better to have businesses that are conforming,
7 especially when they're well-established businesses
8 like that. So I think there's the additional
9 advantage of doing that.

10 COUNCILMEMBER BATES: Would the district be
11 considered an overlay or would it just be written in
12 as limited to a certain area?

13 MR. COOLEY: No. I think the best approach
14 would probably limit it to specific corridors, and we
15 can do that within, you know, the Zoning Ordinance.
16 Basically, you add it at C-2 in this area, you know,
17 and specific --

18 COUNCILMEMBER BATES: So how would --

19 MR. COOLEY: -- to that point.

20 COUNCILMEMBER BATES: How would it be
21 different than creating a new zoning classification
22 like a C-3?

23 MR. COOLEY: New zoning classification is
24 basically, excuse the expression, but almost opening a
25 can of worms because you're going to be establishing

1 COUNCILMEMBER PACHUTA: -- the used car
2 Okay.

3 MR. COOLEY: We could certainly look into
4 that. That's something I want to run past Legal and
5 discuss, but I certainly would look into that.

6 MAYOR PITTMAN: Mr. Patrick?

7 COUNCILMEMBER PATRICK: Could we require
8 some kind of build standards -- it has to match the
9 surrounding facilities, either match with the Hennessy
10 or match with the Porsche or somehow fit in with the
11 rest of that corridor?

12 MR. COOLEY: You're talking about architectural
13 turally?

14 COUNCILMEMBER PATRICK: Either architectural
15 turally or just outright say if you are a C-2 zoned
16 property on this corridor, you are going to build to
17 some standard.

18 I know Hennessy has like a parking deck or a
19 two-story parking deck, it looks like.

20 MR. COOLEY: Yeah. I think that would be
21 difficult because you don't really know what the
22 function of the business would be.

23 If we had a standard architectural design
24 standard or if there was some similarity between the
25 architectural designs, I mean, you know, you look at

1 Porsche; it is completely different than the Lexus
2 which is completely different from any of the other
3 ones down the way. They all have their individuality.
4 As far as the decks go, I think that's --
5 that's an expensive proposition on two acres. I would
6 be surprised to see that happen. I may be absolutely
7 wrong and it may be worth the money to them, but they
8 would have to meet the standards -- I mean our zoning
9 standards. I think it would be difficult without
10 having anything in place to say "Follow this," to get
11 them to follow something, but we could explore it.
12 COUNCILMEMBER PATRICK: Okay.
13 MAYOR PITTMAN: Ms. Fleming?
14 COUNCILMEMBER FLEMING: How many acres is
15 this particular parcel?
16 MR. COOLEY: I believe it is 2.2, 2.3,
17 somewhere in that range.
18 COUNCILMEMBER FLEMING: Well, then, two
19 acres is not going to be enough.
20 MR. COOLEY: Yes, ma'am. It's --
21 COUNCILMEMBER FLEMING: And you're going to
22 have to --
23 MR. COOLEY: No. The minimum -- I mean the
24 minimum would be two acres, so being 2.3, that'd
25 be .03 acres --

1 MR. COOLEY: But functionally, there's a
2 storm drain that goes down further out the curb, so it
3 doesn't go -- From what I could tell -- the weeds are
4 pretty high right now -- it did not appear to me --
5 Again, it made me think that it was someplace where
6 they took soil out to use it somewhere else on the
7 site.
8 But again, that's part of the due diligence.
9 That's the onus of the owner and the developer to make
10 sure that they are aware of any restrictions or
11 anything of that sort.
12 COUNCILMEMBER FLEMING: I'm just not sure
13 how -- you know, it seems like we're going to try to
14 spot zone this, spot zone a use, and I've got fuzzy
15 feelings about that because I don't know how we can do
16 it legally -- Mr. McLendon, with your little phone.
17 ATTORNEY McLENDON: I have reviewed this
18 issue, and if given the direction, will move forward
19 on it. I believe we could probably put together an
20 ordinance that would --
21 COUNCILMEMBER FLEMING: Spot zoning?
22 ATTORNEY McLENDON: -- be legal.
23 No. An ordinance that would be legal and
24 pass muster on it.
25 MAYOR PITTMAN: Okay. Ms. Dean?

1 COUNCILMEMBER FLEMING: Okay. Minimum.
2 MR. COOLEY: -- larger than the minimum.
3 COUNCILMEMBER FLEMING: Right?
4 MR. COOLEY: Yes, ma'am.
5 COUNCILMEMBER FLEMING: There are so many
6 other issues, other automotive issues in C-2 that we
7 haven't even addressed, that I wish we would get back
8 to correcting all of those, please.
9 Having a brand new dealership on that corner
10 is fine with me; however, it looks like a pond
11 retention. It almost looks like a spring bubbling up,
12 so I don't know they're going to do that environ-
13 mentally.
14 Okay. That's the only questions I have.
15 MR. COOLEY: I did look at that as far as
16 the detention goes and the topography and the storm
17 drains and things, and it appears that just from the
18 slope and the topography, it made me wonder if it was
19 a borrow pit.
20 COUNCILMEMBER FLEMING: A what?
21 MR. COOLEY: A borrow pit where they took
22 soil out to build something else, possibly for the
23 BrandsMart, because it almost looks like it's been dug
24 out.
25 COUNCILMEMBER FLEMING: It does.

1 COUNCILMEMBER DEAN: A lot of my questions
2 have been asked.
3 I'm not clear on how we can manage one area
4 of C-2 that allows these car dealerships. I mean how
5 could we say, "Okay, it's allowed in C-2 but not in
6 this part, not Buford Highway?"
7 MR. COOLEY: We would have to actually come
8 up with the determination of description, a good solid
9 description of the area. And really what we're
10 talking about -- and I believe it was in that packet,
11 where if you look at it, when the LCI was done, that
12 corner was basically left as C-2. Even in the
13 proposed form-based, it is as C-2. And my under-
14 standing was the idea was to keep that as a commercial
15 corridor.
16 I think it wouldn't be too difficult to
17 identify that. But I think that's one of the things,
18 the extent of it we would -- the Planning Commission
19 would certainly want to get involved with and make
20 recommendation, and I think that's something y'all
21 would want to look at very strongly.
22 I think it can be done without too much
23 difficulty just because of the configuration if we
24 were going to say that, because we only go a very
25 short distance before we're in Chamblee, but if we

1 were going to try to do that say along Buford Highway
2 in one portion, it could be done but it's more
3 difficult.

4 COUNCILMEMBER DEAN: In looking at this,
5 because I hadn't seen this before, why is it now six
6 acres and with 600 feet of frontage? What is that?
7 Why is that?

8 MR. COOLEY: That was before my time here,
9 but my understanding was the intent was to reduce the
10 number of especially the used cars, little used-car
11 dealerships that were proliferating down Buford
12 Highway. We still --

13 COUNCILMEMBER DEAN: Six acres is huge.

14 MR. COOLEY: Yeah, it's big. I'm not sure
15 where that came from, to be quite honest with you.

16 COUNCILMEMBER FLEMING: We were trying to --
17 we were trying to do our best.

18 COUNCILMEMBER ALEXANDER: The Hennessy
19 dealership is six acres.

20 COUNCILMEMBER DEAN: But what about the
21 others? Weren't the other ones there at the time?

22 COUNCILMEMBER ALEXANDER: We based the
23 smallest amount that we were going to allow based on
24 the current footprint of the Hennessy Lexus
25 dealership.

1 this point about talking about sort of the districts
2 you might put it in and those things -- I think there
3 are a lot of ways we could attack it. And if there
4 was a general consensus that the idea was good, I'd
5 prefer to let Joe and us put our heads together and
6 sort of come up with the best approach to make sure
7 I'm going to pass legal muster but also to try to
8 achieve the objective I'm hearing here.

9 COUNCILMEMBER DEAN: Okay.

10 ATTORNEY McLENDON: But I'd hate to sort o
11 commit to that --

12 COUNCILMEMBER DEAN: Right.

13 ATTORNEY McLENDON: -- in this particular
14 conversation because this is just, I think, more of a
15 policy, Do you like it? And if there's the policy
16 will, I'd like to be able to work through that to make
17 sure we get it to achieve the goals but also, like
18 we've said, to be legally defensible.

19 COUNCILMEMBER DEAN: Okay. You know, I driv
20 down the Industrial Parkway and there are cars parked
21 on the GM property all the time. Is that the dealer-
22 ship? Is that GM? I mean what is that?

23 MR. COOLEY: Actually, what's going on right
24 now, I believe, with it is in the interim while this
25 is going through the contract stage like that, they've

1 COUNCILMEMBER DEAN: Okay. And the other
2 two dealerships weren't there then.

3 COUNCILMEMBER ALEXANDER: They were, but we
4 were -- we just concentrated on that, because I think
5 the Porsche dealership -- I'm not sure of the size of
6 that.

7 And I want everybody to understand we're not
8 anti car dealerships but we were getting to be a buy-
9 here/pay-here/give-me-your-paycheck/I'll-give-you-a-
10 car. And we felt like, number one, aesthetically it
11 wasn't pleasing, plus it also gives you the impression
12 that they are feeding on impoverished and disad-
13 vantaged citizens, and we wanted to stop that from
14 spreading.

15 COUNCILMEMBER DEAN: Okay. Could we
16 stipulate the number of dealerships that we would
17 allow like we did with the massage parlors?

18 MR. COOLEY: Again, I would want to talk to
19 Legal about that, but I think by restricting the
20 area --

21 COUNCILMEMBER DEAN: Uh-huh.

22 MR. COOLEY: -- functionally you're going to
23 do that.

24 ATTORNEY McLENDON: And I will tell you --
25 and this is sort of the conversation in general at

1 been allowing storage of General Motor automobiles on
2 the site -- nothing else but General Motor automobiles
3 -- as just an agreement for storage, temporary
4 storage.

5 COUNCILMEMBER DEAN: Okay. Do we ge
6 revenues from that, anyway?

7 MR. COOLEY: Gosh, I don't know.

8 DR. GILLEN: I don't believe so. And that
9 question has come up, and I don't know where we wen
10 with it.

11 ATTORNEY McLENDON: You would -- and I don'
12 know the specifics of that, but typically the revenues
13 would come from the dealership that owned the
14 vehicles. The rental of the property is something you
15 pay for through ad valorem. So just by renting
16 property out, there is no rental occupation tax.
17 That's paid via ad valorem.

18 COUNCILMEMBER DEAN: Okay. And my fina
19 question is how, I mean, with the GM property unde
20 develop -- under development now, how could that -- I
21 mean how could allowing this affect that development?
22 Could it? Would it?

23 MR. COOLEY: No, I don't think so.

24 I think -- you know, I think potentially
25 what could happen on some other portions up in that

1 area, there's opportunities. If someone had a grand
2 scheme and General Motors was up and running and the
3 property values go up, they may look at it and want to
4 come in and maybe go to a T-5 or T-6 zoning district
5 eventually. But you know, certainly not the parcel
6 that we're discussing. It's just kind of this strange
7 two-acre or two-plus-acre parcel there.

8 COUNCILMEMBER DEAN: And where is that
9 exactly?

10 MR. COOLEY: If I may, I'll just -- I can
11 point it out on your sheet there if you have it. And
12 for everybody, I'll hold this up too. But it's this
13 portion right in there (indicating).

14 COUNCILMEMBER FLEMING: It's the overgrown
15 parcel when you take a left at the light at
16 BrandsMart, the overgrown parcel on the right-hand
17 side.

18 MR. COOLEY: BrandsMart is back here, that
19 parcel's there; here's the shopping center, and this
20 is Hennessy Lexus (indicating). So it's just adjacent
21 to Hennessy Lexus.

22 COUNCILMEMBER DEAN: I'm good.

23 MAYOR PITTMAN: Okay. Perfect. All right.
24 Does anyone wish to entertain a motion?

25 COUNCILMEMBER ALEXANDER: I make a motion to

1 Planning Commission, yes.

2 COUNCILMEMBER ALEXANDER: The motion was

3 Legal also.

4 COUNCILMEMBER FLEMING: I'm sorry?

5 COUNCILMEMBER DEAN: And to legal.

6 COUNCILMEMBER FLEMING: Okay. Sure

7 CLERK BRYANT: Councilmember Pachuta?

8 COUNCILMEMBER PACHUTA: Yes.

9 CLERK BRYANT: Councilmember Patrick?

10 COUNCILMEMBER PATRICK: Yes.

11 MAYOR PITTMAN: Thank you. Motion carried
12 Okay. I don't think we have additional

13 business. We're going to move into Council Comments
14 Ms. Dean?

15 COUNCILMEMBER DEAN: All right. First, thi
16 has absolutely nothing to do with the candidates, both
17 of whom I respect a great deal, but I think the
18 Council in general and -- and how we -- We need to
19 have greater oversight, because I too often feel I
20 don't know what is going on.

21 I can send questions, and it's literally
22 days before I get a response. Sometimes I send
23 repeated questions. Last week I sent a question
24 prefacing it with, "Is something wrong with my email?
25 I am not getting a response." Even if that response

1 send a text amendment to Legal and then to the P.C.
2 for review, addressing new car dealerships in the C-2
3 zoning district.

4 MAYOR PITTMAN: Okay. Do I get a second?

5 COUNCILMEMBER PACHUTA: Second.

6 MAYOR PITTMAN: Discussion?

7 COUNCILMEMBER BATES: Yeah. I just want to
8 be very clear that any draft that comes to the P.C.
9 and comes back to us needs to be very specific as to
10 where these go in that particular corridor and not to
11 even remotely allow for the expansion on Buford
12 Highway, and that's --

13 MR. COOLEY: I understand.

14 COUNCILMEMBER BATES: That's just incredibly
15 important.

16 MR. COOLEY: We'll take care of that.

17 MAYOR PITTMAN: Call the roll, please.

18 CLERK BRYANT: Councilmember Alexander?

19 COUNCILMEMBER ALEXANDER: Yes.

20 CLERK BRYANT: Councilmember Bates?

21 COUNCILMEMBER BATES: Yes.

22 CLERK BRYANT: Councilmember Dean?

23 COUNCILMEMBER DEAN: No. No.

24 CLERK BRYANT: Councilmember Fleming?

25 COUNCILMEMBER FLEMING: To send it to the

1 is, "I don't have time now. I'll get back to you
2 later," I think that that's something that I need in
3 order to do my job on Council effectively.

4 With regards to the -- the press release
5 that was made, I strongly believe that we should have
6 waited until our formal audit was -- was -- was done
7 for 2013. It was perceived to be a political move to
8 release this information a mere four days before the
9 election, particularly when we have not -- we had no
10 even agreed to pass the amendment. And I strongly
11 feel that Council needs to provide more oversight over
12 -- over the City Manager who is running the City,
13 because we were voted in office to act responsibly and
14 to do what the people elected us to do.

15 That being said, moving forward, I hope that
16 we could address some of these issues, and also I wish
17 all of the candidates the best of luck tomorrow.

18 MAYOR PITTMAN: Okay. Ms. Fleming?

19 COUNCILMEMBER FLEMING: Thank you, Trudy
20 for your comments.

21 I am just extremely proud, if you guys
22 aren't, that we have a Krispy Kreme in Doraville. And
23 so are my church members, I'm telling you. The church
24 members from Dunwoody love our Krispy Kreme.

25 But I do want to let everybody know some

1 things that we found out when we went to the grand
2 opening and even the Saturday before. We are the only
3 Krispy Kreme in Dekalb County.
4 UNIDENTIFIED SPEAKER: Oh, wow.
5 COUNCILMEMBER PATRICK: Yeah.
6 COUNCILMEMBER FLEMING: Chalk that one up.
7 We're the only one in Dekalb County, and they have
8 employed 16 -- 60, excuse me, not 16 -- 60 people.
9 That's 20 people per shift. So that is not just an
10 economy boost for the city but employing 60 people at
11 Krispy Kreme, so I think that's an added plus for our
12 city, so there you go.
13 MAYOR PITTMAN: Thank you.
14 Mr. Patrick?
15 COUNCILMEMBER PATRICK: As everyone knows,
16 tomorrow is election day. I'll just remind you that
17 it's not just District 2 and 3 that are up for
18 election. Please come out and vote. That's it.
19 MAYOR PITTMAN: Ms. Pachuta?
20 COUNCILMEMBER PACHUTA: Just go vote.
21 MAYOR PITTMAN: Mr. Bates?
22 COUNCILMEMBER BATES: No comments.
23 MAYOR PITTMAN: Ms. Alexander?
24 COUNCILMEMBER ALEXANDER: Councilmember
25 Patrick, myself and Councilmember Bates were at Chic

1 calendars; that'll be something really nice.
2 And I need a motion to adjourn.
3 COUNCILMEMBER ALEXANDER: So moved
4 MAYOR PITTMAN: Second?
5 COUNCILMEMBER PATRICK: Second.
6 MAYOR PITTMAN: Discussion?
7 (No response)
8 MAYOR PITTMAN: Call the roll, please.
9 CLERK BRYANT: Councilmember Alexander?
10 COUNCILMEMBER ALEXANDER: Yes.
11 CLERK BRYANT: Councilmember Bates?
12 COUNCILMEMBER BATES: Yes.
13 CLERK BRYANT: Councilmember Dean?
14 COUNCILMEMBER DEAN: Yes.
15 CLERK BRYANT: Councilmember Fleming?
16 COUNCILMEMBER FLEMING: Yes.
17 CLERK BRYANT: Councilmember Pachuta?
18 COUNCILMEMBER PACHUTA: Yes.
19 CLERK BRYANT: Councilmember Patrick?
20 COUNCILMEMBER PATRICK: Yes.
21 MAYOR PITTMAN: Thank you. Have a good
22 night.
23 (Meeting adjourned at 9:10 p.m.)
24 -ooo-
25

1 Fil-A at 12:01 --
2 COUNCILMEMBER BATES: At Krispy Kreme.
3 MAYOR PITTMAN: -- at Krispy Kreme at 12:01
4 midnight, and there were 182 people lined up to try to
5 get the free doughnuts for a year. A couple of
6 residents on Moss Oak were like number 28 in line and
7 were very excited to get the free doughnuts for a
8 year. went there again on Sunday, and it's great.
9 And a lot of citizens evidently don't know,
10 according to people knocking on doors, that we have a
11 Krispy Kreme. So please make sure your neighbors
12 know, because they're going to be a great addition to
13 the community, I believe.
14 MAYOR PITTMAN: Okay. Great.
15 MS. GILMAN: Better tell Chief King he
16 doesn't have to wonder where Dekalb Police are now.
17 MAYOR PITTMAN: This is true.
18 COUNCILMEMBER FLEMING: When the lights are
19 on, when you see the red light on on the glass as well
20 as the side, they are cooking them right then and
21 there, and you can see them come down the conveyor
22 belt. It is so cool.
23 MAYOR PITTMAN: And I also want you to mark
24 your calendars. The weekend of Thanksgiving is our
25 Christmas tree lighting and road race. So mark your

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 12th day of November 2013.
16
17
18 Theresa Bretch, CCR
19 Permit No. B-755
20
21
22 [SEAL]
23
24
25

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City Council

Meeting: 01/06/14 06:30 PM Category:

Minutes

STATUS: SCHEDULED

Prepared By: Sandra Bryant

Initiator: Sandra Bryant

AGENDA ITEM (ID # 1031)

November 12, 2013 Minutes

- NOV 12 minutes (PDF)

In The Matter Of:*City of Doraville**State of Georgia*

*City Council Meeting - Work Session**November 12, 2013*

*American Court Reporting Company, Inc.**52 Executive Park South**Suite 5201**Atlanta, Georgia 30329-2217**(404) 892-1331 - (800) 445-2842*

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

WORK SESSION

ARCHITECTURAL DESIGN STANDARDS

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 Tuesday,
November 12, 2013.

* * *

1 PROCEEDINGS
2 MAYOR PITTMAN: Meeting come to order
3 Welcome to everyone, glad you came out.
4 Call the roll, please.
5 CLERK BRYANT: Councilmember Alexander?
6 COUNCILMEMBER ALEXANDER: Here.
7 CLERK BRYANT: Councilmember Bates?
8 COUNCILMEMBER BATES: Here.
9 CLERK BRYANT: Councilmember Dean?
10 COUNCILMEMBER DEAN: Here.
11 CLERK BRYANT: Councilmember Fleming?
12 COUNCILMEMBER FLEMING: Here.
13 CLERK BRYANT: Councilmember Patrick?
14 COUNCILMEMBER PATRICK: Here.
15 MAYOR PITTMAN: No approval of minutes
16 tonight.
17 The agenda is pretty basic, it's going to
18 be the discussion of Architectural Design Standards,
19 and I need approval of the meeting agenda unless you
20 choose to make any amendments.
21 COUNCILMEMBER ALEXANDER: So moved.
22 MAYOR PITTMAN: Second?
23 COUNCILMEMBER DEAN: Second.
24 MAYOR PITTMAN: Discussion?
25 (No response)

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, City Clerk
12
13 Scott Robichaux, Associate City Attorney
14 Riley McLendon, LLC
15 315 Washington Avenue
16 Marietta, GA 30060
17 (770) 590-5900
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1 MAYOR PITTMAN: Call the roll, please.
2 CLERK BRYANT: Councilmember Alexander?
3 COUNCILMEMBER ALEXANDER: Yes.
4 CLERK BRYANT: Councilmember Bates?
5 COUNCILMEMBER BATES: Yes.
6 CLERK BRYANT: Councilmember Fleming?
7 COUNCILMEMBER FLEMING: Yes.
8 CLERK BRYANT: Councilmember Patrick?
9 COUNCILMEMBER PATRICK: Yes.
10 MAYOR PITTMAN: Thank you.
11 All right. We're going to open the floor
12 for public comments. Anyone wishing to speak, please
13 come to the microphone, state your name for the court
14 reporter; three minutes.
15 MS. CINDY BRADFORD: Cindy Bradford,
16 Northwoods.
17 I sent an email earlier today. I'm not
18 sure if anybody got it. I didn't get a response.
19 I think the same problem still exists with
20 the standards that we've been talking about along:
21 they're vague, they're minimal, and I don't see that
22 they're going to do anything to help us.
23 An example, "precast concrete resembling
24 brick or stone." Who's going to make that determina-
25 tion? I've heard maybe two or three people say that

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1 they think that the painted cinder block on the
2 sideways McDonald's resembles brick, and I don't
3 think so.
4 The qualifications for the people on the
5 review board, I think they're a little stiff. You
6 have to have qualifications in either engineering,
7 architectural planning or design.
8 Well, all of you are going to be voting on
9 these standards. Do any of you have these
10 qualifications?
11 And if you do, or even if you don't, then
12 maybe you could explain things like "The sloping roof
13 height shall not be less than a pitch of 4.12,
14 however, a pitch of 3.12 may be acceptable depending
15 on the mass and scale and elevations and renderings
16 showing the appropriateness and compatibility of the
17 design."
18 Does that ring a bell to any of you with
19 your engineering/architectural/planning qualifi-
20 cations?
21 In my opinion, the review board should be
22 to carry forth the vision of the residents -- the
23 aesthetic vision. I don't think anybody needs to
24 have an engineering or architectural background in
25 order to do that.

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1 We didn't like the sideways McDonald's. I
2 only know of three people -- one of them is in this
3 room -- that like the way that McDonald's looks. It
4 doesn't look good to most of us. It does not
5 perpetuate the vision we have in mind.
6 Also, the intent and purpose. Whose
7 intent are these standards?
8 Not my intent, I don't think, because I
9 don't agree with how vague and minimal these are.
10 And I certainly think that we should
11 change the qualifications for the review board. It
12 really sounds like with the review board you've kind
13 of built in a safeguard to make sure that we won't
14 have one so that you can say, "Well, we can't find
15 five people with these qualifications."
16 So I think that is one of the first things
17 that should be worked on, and I think that the -- the
18 definitions should be less vague, and I think that
19 the materials used should be spelled out, and I think
20 the words --
21 CLERK BRYANT: Mayor --
22 MS. BRADFORD: -- "strongly encouraged"
23 should be deleted from the standards.
24 MAYOR PITTMAN: Thank you.
25 MS. BRADFORD: Thank you.

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1 MR. TOM HART: I made a few notes. Tom
2 Hart, Gordon Heights.
3 When I read this, I -- like some other
4 people, you start off reading from the front of the
5 75 pages or so, or 85 -- I don't now how many pages --
6 and then you got, "Well, this is not working out
7 real well, so I'll start from the back so I can read
8 forward. Maybe it gets better toward the middle, you
9 know."
10 It kind of reminds me of the Steve Martin
11 movie where the punch line was -- You know, you
12 should always have a point to the conversation.
13 There's no point to these architectural standards.
14 What is the point? What are you trying to accomplish
15 by these 85 pages? Is it to improve something, or do
16 you have a design in mind that it's supposed to look
17 like a, you know, alpine pine village or something,
18 or is this an Avondale Estates thing or is it -- You
19 know, are we trying to look like, you know, the outer
20 buildings of Washington, D.C., like Arlington? What
21 are you trying to accomplish here?
22 So the first thing if you want to have a
23 goal is to have a point to your conversation. And
24 there is no point to this conversation. It's just a
25 bunch of stuff thrown together. Most of it, I think

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1 they are gleaned from Florida someplace, because
2 there's -- someone who wrote this is enamored with
3 concrete block that has been painted, which is a
4 typical Florida home, which is cinder block that's
5 been painted.
6 And in one section, it even goes on to say
7 that CMU or concrete block is encouraged. Most
8 cities of quality, concrete block is discouraged.
9 Okay? Somehow we've got this train on the wrong
10 track to begin with; okay.
11 If you want brick and stone and you want
12 this city to have -- when you're driving down Buford
13 Highway and you move from Chamblee or Norcross or any
14 of those towns and you approach the outskirts of
15 Doraville, you should say, "Oh, okay. Okay. This is
16 different. Okay. It doesn't look like the rest of
17 the crap that goes all the way down to Lenox Square.
18 This is different."
19 If it's just going to look like CMU and
20 stacked block like every strip mall, cheap strip mall
21 in Metro Atlanta, then you can save yourself a lot of
22 time and money and just go with what you got now.
23 On every page, I found probably 10 percent
24 of the pages to be adequate. The rest of them are
25 like . . .

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1 The most elaborate architectural standard
2 is for shopping cart enclosures, which a lot of
3 places call homeless shelters, these four-foot
4 buildings for shopping carts in the middle of a
5 packing lot. But then we encourage CMU. I think you
6 need to step back and --
7 CLERK BRYANT: Mayor.
8 MR. HART: -- have a point to the conver-
9 sation and get right to the point of the conver-
10 sation. Thank you.
11 MAYOR PITTMAN: Okay. Anyone else wishing
12 to speak?
13 (No response)
14 MAYOR PITTMAN: We're going to close the
15 public comments portion and move into the meeting.
16 I don't believe we have any reports or
17 presentations, so we're going to move to unfinished
18 business, Architectural Design Standards, Dr. Gillen.
19 MR. COOLEY: I'm going to pass these
20 around too. These are some photographs Dr. Gillen
21 took of the local area to try to convey some of the
22 concept of what we're talking about (presenting).
23 You see things very similar in the guidance book, and
24 so this just kind of reiterates it.
25 Kind of the status where we are at is, as

1 or however you all want to address this. I'll make a
2 presentation to you if you'd like on the PowerPoint
3 presentation. It's really kind of at y'all's
4 guidance and any direction where you want to go with
5 this.
6 COUNCILMEMBER DEAN: May I say something?
7 MAYOR PITTMAN: Go ahead.
8 COUNCILMEMBER DEAN: Well, also I think
9 it's important to note that the last time we met
10 regarding the standards, we weren't working from the
11 same copy, and that was -- that proved to be a huge
12 problem for us because we didn't know where we were
13 in terms of the pages. We had different copies of
14 drafts. I had an old draft.
15 MR. COOLEY: Right. And all that has been
16 updated and you'll notice now, just so there's no
17 confusion, the new logos on them, and we put a
18 revision date on the bottom.
19 Now, the guidance -- I mean guide book has
20 not changed, because that's really contingent.
21 That'll be addressed if and when y'all decide to move
22 forward on any type of standards like that. We can,
23 you know, narrow it down and get the sections and
24 change photos or whatever you think needs
25 additionally to be done to that. So that has not

1 you all know, this has been moved forward. It's been
2 moved forward to the Planning Commission and the
3 recommendation that the design guidance book be added
4 to it.
5 We had a workshop with Council.
6 Unfortunately, not everyone was able to attend.
7 There were two or three people missing. We went
8 through a presentation, which I do have here tonight,
9 a PowerPoint, if you wish to go through that again,
10 but it's also a copy of it in the packages that you
11 received.
12 So really I don't know what the best way
13 to do this, answer your questions or whatever.
14 The second workshop was canceled because,
15 first off, that was the recommendation of the Council
16 that was here that night but decided to go forward.
17 And at that point, it was really difficult at that
18 time of year, I suppose, to actually get something
19 scheduled with all the Council members, that we could
20 all be there to work well for everybody.
21 So that, and then I believe with the
22 anticipation of the city manager coming on, I think
23 basically the second workshop just got put off, and I
24 gather that's where we kind of are at this point.
25 So I'd be happy to go through page by page

1 changed even though the new logo is on it so you know
2 you've got the new copy.
3 COUNCILMEMBER DEAN: Well, no. I had an
4 outdated copy, and that was the copy that was put in
5 my box, and so that's what I worked on, you know.
6 That was why --
7 MR. COOLEY: There was a miscommunication.
8 It was posted the last copies, and the most recent
9 copy didn't get put in.
10 COUNCILMEMBER DEAN: Okay.
11 MAYOR PITTMAN: So I just want to ask does
12 the Council want to see the PowerPoint first or do
13 you want to see it at all?
14 COUNCILMEMBER DEAN: Is it the same
15 PowerPoint we saw?
16 MR. COOLEY: Yes, ma'am. It's the long --
17 it's long. All the PowerPoint pages are printed out
18 in your booklet.
19 It's long. We took the whole meeting the
20 last time. We went through it page by page.
21 MAYOR PITTMAN: Tell you what. We're
22 going to just start as normal and just go down and
23 let everybody at least have a little input and then
24 everybody can just kind of talk as a discussion as we
25 go, but just to make sure everybody has a chance to

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1 speak.

2 We'll start with Ms. Alexander and move
3 our way down, and everybody can just talk amongst
4 each other, and if they want to see it later, then I
5 guess we can open it up and see the PowerPoint.

6 MR. COOLEY: I mean if you can go for that
7 or if you prefer to go page by page, you know, with
8 issues and items and things that need to be tied down
9 more or whatever, I'll be happy to do that.

10 MAYOR PITTMAN: Well, we'll start down
11 here with Ms. Alexander.

12 COUNCILMEMBER ALEXANDER: Well, I don't
13 know, you know. Sometimes this Council, like on the
14 alcohol ordinance and other ordinances, we've gone
15 page by page and tried to get everybody's questions
16 answered per page.

17 I don't know how the rest of the Council
18 feels about that, how they want to handle the work
19 session.

20 COUNCILMEMBER PATRICK: I'm good with
21 that.

22 COUNCILMEMBER DEAN: Well, I have some
23 general comments, though, just overall, kind of an
24 overview.

25 MAYOR PITTMAN: Ms. Alexander, do you want

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1 to start?

2 COUNCILMEMBER ALEXANDER: That's fine.

3 I guess pursuant to Councilmember Dean's
4 comment, all of Council was working off of draft
5 standards, I believe it's dated October 2012. The
6 copy of the standards I was given was dated January
7 25th of 2013, so my notes on my review were made on
8 that revision.

9 Then we got an ordinance, which I don't
10 know which version of the document the ordinance was
11 penned off of. So I just reviewed the ordinance and
12 then made notes on the ordinance in conjunction with
13 the working draft of the Design Guidelines, because
14 these two documents do not -- there are conflicts in
15 these two documents.

16 MR. COOLEY: And that's one of those
17 situations I had not -- intentionally not gone back
18 and reformatted or modified the work, the booklet
19 there, because that's not part of the ordinance.

20 What I was hoping to do is go through it
21 and figure out exactly what those details were, and
22 we'll modify that. Because again, that -- again,
23 that's not referenced in the ordinances, part of the
24 ordinance. That really is a public information piece
25 that we will have. And I'd like to reformat and get

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1 it published to a point where when someone comes in
2 and asks about it, we can give them a copy of this,
3 "This is the ordinance. Here's the guidebook," and
4 tell them to go through that so there's -- it'll help
5 them go through.

6 The ordinance that you see -- And I know
7 there was confusion about the dates and things. Even
8 the differences between were basically corrections
9 that this Council, just about every Councilperson has
10 made comments over this period of time that we've
11 been working on this.

12 So we've modified those each time we go.
13 We've addressed the issues. You know, there would be
14 different aspects of it that we would go in and maybe
15 not make the exact change that you're looking at, but
16 address it and try to be clear until it could come
17 back to y'all.

18 So what you see -- what you got last time,
19 you know, hopefully that's all straightened out.
20 We've got the -- you know, the draft date. You
21 should have the 10/14/13 dated copies of the draft
22 ordinance, and that was really put on there just for
23 clarification to make sure that everybody had the
24 correct, latest copy. As you know, there's been a
25 number of copies go around, so there was . . .

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1 So what you've got and what you have in
2 this package is that. And that's what we'd really
3 like to go through and see if there's more things
4 that we missed or we didn't pick up or that you think
5 still need to be changed working off of this version
6 in this workshop.

7 COUNCILMEMBER ALEXANDER: Okay. So me
8 stating that this book conflicts with the ordinance.

9 MR. COOLEY: We will modify that.

10 COUNCILMEMBER ALEXANDER: Because it
11 references the ordinance.

12 MR. COOLEY: Yes, ma'am. And it's also
13 the ordinances are blacked out or blued out. And
14 there's all types of things in there, depending on --
15 Generally, it's there, but there are pieces of it
16 that will need to be corrected depending upon what
17 y'all decide that you want to do.

18 Like I said, that is a public information
19 piece for people that are coming in. If this
20 ordinance passes or something similar to it passes or
21 even if something different passes, you know, that's
22 something that we want to have to be able to make it
23 clear to people.

24 You know, it's tough to read an ordinance.
25 It's tough. You know, I personally prefer ordinances

1 that get some graphics into it. The problem is that
2 it's extremely difficult with MuniCode. If you go
3 through MuniCode, there are none with it. Typically
4 where you see them is they'll have a reserved section
5 and they'll just have them on the Web page. So that
6 makes it difficult.

7 Took the lead basically from the Planning
8 Commission. You know, that was their big concern
9 was, you know, "Okay. What does this look like?
10 What's a cornice?" You know, "What's this? What's
11 an arcade?" So we went through and put photos of it.

12 To be quite honest with you, you know,
13 this was the same issue that this was patterned after
14 Orange County ordinance that's been in place since
15 1998 -- it's been tweaked over the years about four
16 times when they modified it and updated it and looked
17 at that -- and we tailored it towards Doraville, you
18 know.

19 So that's where we're coming from, and
20 we're not -- There has been never any indication that
21 I've received from Council that you want this to look
22 like an alpine village or where it's all whatever,
23 one style.

24 Basically, what you're trying to do and
25 what this ordinance tries to do is to make an

1 good; it has been effective. And it also allowed
2 architectural creativity so everything doesn't look
3 alike, everything doesn't have once certain type of
4 roof, you know; a little bit of variance on the roof
5 slope, the 4 to 12 versus the 3 to 12.

6 And, you know, very simply, slope is rise
7 over run. It goes up 3 inches and it goes out 12
8 inches. That's your slope. So you don't want to get
9 too flat a slope if you've got a pitch on it, which
10 you also -- if it's a huge building, you don't want a
11 slope that's going to be like this and it's going to
12 be nothing but roof line.

13 So that's the basic concepts of it. Like
14 I say, if you want to go item by item, I think, you
15 know, that would probably be the best way to address
16 it and find out whether -- you know, what y'all think
17 about different aspects.

18 COUNCILMEMBER ALEXANDER: Okay.

19 MR. COOLEY: Did I answer your question?

20 COUNCILMEMBER ALEXANDER: No, but that
21 all right. Let me move on.

22 One of the conflicts I noticed of the
23 guidebook is it refers to architectural standards and
24 guidelines for commercial buildings and projects
25 within Chapter 23. Well, the code section in

1 aesthetic, not just in the architectural but in the
2 landscape portion of it also, that brings the scale
3 of the buildings down, brings them closer to the
4 road, creates pedestrian spaces, breaks up these huge
5 facades, things that are visible.

6 The primary facade is directly visible
7 from the street, has more stringent requirements,
8 versus a secondary side which, you know, basically
9 cannot be seen as much, or a tertiary side, which
10 basically can't be seen, and that's just -- The
11 tertiary side especially in commercial is not just
12 from the road but it's also adjacent to residential
13 district, so it addresses all that.

14 But what it also does by giving options of
15 different things, pieces of it, it allows an
16 architect to come up with -- do something creative
17 and good design.

18 You cannot, in my opinion, say "Everything
19 shall look like this," because what you're going to
20 get is a mess. Everything's going to look alike.
21 It's not going to have any character. You know, give
22 the flexibility from the design perspective.

23 And again, that's why I liked this
24 ordinance when I was looking through all different
25 ordinances to emulate and to use as a guide. It was

1 Chapter 23 is referred to as Design Standards. So in
2 the guidebook, we want to make sure that language
3 coincides with the language that's in the actual
4 ordinance.

5 MR. COOLEY: Yes, ma'am.

6 COUNCILMEMBER ALEXANDER: And then on page
7 two of the ordinance, there's no mention of -- I'm
8 going to call it smart code only because I can't
9 remember Caleb's name. There's no mention of
10 applicability in the smart code in this ordinance,
11 and then also there's no provision for a future
12 zoning code, which I assume we would create ...

13 MR. COOLEY: Well, the Livable Community
14 Code, I believe is what it's called, references the
15 existing or the design standards within the code.
16 That's the direction it would be as opposed to vice
17 versa, because you don't want to have two design
18 standard interlocked -- or you could, I suppose, have
19 it interlocked purely just to the form-based
20 ordinance or applied across the board in the city.

21 The intention of this was this applies
22 across the board to the city. And I believe Caleb
23 addressed that a little bit that -- you know, he said
24 that specifically the code references back to the
25 adopted design standards for the city.

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1 COUNCILMEMBER ALEXANDER: Understood, but
2 in Section 23-1702(a)(1) it lists the individual
3 zoning codes. So are we going to incorporate a
4 future zoning code designation? because the zoning
5 code for the GM is most likely not going to fall in
6 one of those categories.
7 MR. COOLEY: That's a good point. That
8 really should be changed to be based upon the form
9 based code.
10 COUNCILMEMBER ALEXANDER: All right. I'm
11 finished with page 2 questions.
12 Anybody else have any page 2 questions?
13 MAYOR PITTMAN: Jump in there if you have
14 any questions on that page.
15 COUNCILMEMBER DEAN: Well, I have an over-
16 view, I mean not just a page by page but in terms of,
17 again, the architectural identity.
18 I mean you made reference to architectural
19 design, but we still have -- are we going to be mid
20 century? I mean are we going for a look? Are we
21 going for something?
22 And that's something that I think is
23 lacking because you could have, you know, mid century
24 here and then you could have, you know, whatever it
25 is over here, but there needs to be some kind of

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1 consistency, I think. We don't have anything right
2 now. And so I think it's hard to match what -- what
3 we want.
4 I mean what we have, we don't want, so I
5 think that some kind of definition in terms of style
6 might be helpful.
7 MR. COOLEY: Yeah, that's exactly what
8 you're talking about is a style. And that's
9 something that's never been -- I've never gotten
10 feedback on from the Council is, you know, are y'all
11 looking for a particular style? You know, example of
12 this, when Milton went to -- you know, even in the
13 residential, that they applied architectural styles
14 in residential, but you have to build it, and they
15 have an architect that reviews every plan to make
16 sure it's consistent with that.
17 Typically, in commercial, in most cities
18 these days, unless they're trying to create a
19 specific flavor -- What's the place down --
20 COUNCILMEMBER DEAN: Seaside?
21 MR. COOLEY: No. I'm talking locally
22 that's got the kind of tudor style.
23 COUNCILMEMBER DEAN: Oh, I know. Helen.
24 MR. HART: Avondale.
25 MR. COOLEY: Avondale. Thank you

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1 COUNCILMEMBER DEAN: Okay.
2 MR. COOLEY: Avondale. You know, that's
3 one place that's got a specific style.
4 You know, places like Helen come to mind
5 as having a specific style. You know, that was
6 something that they were looking.
7 COUNCILMEMBER PACHUTA: I can't think of
8 one overarching style that would fit the entire city.
9 To me, the purpose of architectural design standards
10 is more to increase the quality of construction.
11 And if the city did decide to go for a
12 style, I don't think it could be applied to the
13 entire city. If anything, it might be applied to a
14 specific area such as the GM redevelopment or New
15 Peachtree corridor or something. But I mean good or
16 bad, Doraville's eclectic, and I don't see trying to
17 fit the entire city into one style.
18 COUNCILMEMBER DEAN: Oh, not necessarily
19 one style, but some style, I mean.
20 And to that point, even with the different
21 zoning areas that we have, I mean in C-2, do we want
22 C-2 to look like M-1, I mean; and if not, would those
23 styles and standards be different? I mean because
24 the uses are so very different. And that's just
25 something that we might consider, that we might talk

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1 about.
2 The lack of definitions. I mean I've
3 looked. I bought this book here and I've looked at
4 several design standards, and our definitions seem
5 incredibly weak. And I would imagine, for Legal,
6 that might cause a problem, because if we have
7 ambiguous or vague definitions, then it might be more
8 difficult to argue a case legally if we have nothing
9 to back up, no definitions, so it could be
10 interpreted this way or it's subject to
11 interpretation.
12 MR. COOLEY: Are you talking about
13 definitions of architectural forms or --?
14 And I guess that's one of the things we
15 try to do with the guidebook. If you get down -- And
16 what that's providing is just kind of an easy
17 reference for the public.
18 To get into the architectural designs
19 books that they've got, the definitions are there,
20 they're spelled out. But that's not something you
21 can expect, you know, an everyday person come in and
22 have to do that type of research. That's why we were
23 trying to provide -- and I thought it was a great
24 idea the Planning Commission had was to provide
25 something that gave them the idea.

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1 And as far as, you know, if they're
2 looking to something beyond the scale of that -- and
3 this was a suggestion from one of y'all -- was to
4 incorporate that architectural design review where
5 they have the final say on it, you know. So that
6 gets an opportunity for, you know, at that point, you
7 know, your decision is your decision, and that's
8 certainly within the flexibility and the real --
9 correct me if I'm wrong -- the power of any
10 committee like that. No grounds that I know of that
11 you could challenge that on a legal basis.
12 COUNCILMEMBER DEAN: And why Orange
13 County, Florida? I mean why not --
14 MR. COOLEY: Well, I looked all over the
15 country, you know. I looked at Oregon, I looked at
16 California, I looked up the east coast, the Midwest.
17 COUNCILMEMBER DEAN: Why not Dunwoody or
18 someplace that has --
19 MR. COOLEY: Pardon me?
20 COUNCILMEMBER DEAN: Dunwoody or an area
21 around here that has -- that has nice aesthetics?
22 MR. COOLEY: I looked at that. And if you
23 look at those, the functions are -- they're not to
24 the level that . . . What I've heard a little bit
25 was, you know, let's try to tie down exact materials

1 materials is kind of like in some of our zoning code
2 where it's so broad and you try and catch every
3 little thing, you can't catch every little thing.
4 And that's why I'd really like the idea of that
5 architectural design review because, you know, if
6 there's questions about it, they can apply it to
7 architectural review board. If the board says "No,"
8 no.
9 COUNCILMEMBER DEAN: Well, I don't think
10 it's a question of being tied down to materials. I
11 mean I think materials are really, really important.
12 MR. COOLEY: Yeah.
13 COUNCILMEMBER DEAN: You look along Buford
14 Highway. I mean we want something that's going to be
15 here for hopefully 10 years and in good condition.
16 So I think -- I mean, to me, my preference
17 would be start above what our expectations are and we
18 can work down from that if necessary rather than
19 starting with cinder block and metal and going up.
20 MR. COOLEY: Well, I think if you read
21 carefully on this, you'll see there's very limited
22 places where a certain smaller percentage of that is
23 allowed, and it's not where it's visible. And that
24 is a consideration I think that you need to give
25 anybody that is trying to build a business in here.

1 and things like that.
2 And they are not tied down like that.
3 What you've got, and especially in a place like
4 Dunwoody, is because the type of construction and the
5 type of development that was going on, it's more of a
6 higher-end type of development.
7 And to be quite honest with you, I think
8 that's the type of stuff that would probably see with
9 a redevelopment something like GM where you're not
10 going to have the same issues that you do with
11 redevelopment, especially on Buford Highway. So you
12 know, that may happen on its own without the
13 regulations.
14 It's better to have -- in my opinion, it's
15 better to have regulations that, you know, at least
16 have some control on it.
17 But you know, it's tough to prevent
18 somebody who's trying to redevelop a parcel or two on
19 Buford Highway that should look like this when the
20 cost is going to be cheaper and everything else and
21 easier for them to do it without some standards.
22 I mean you got to have some standards, I
23 think, and workable standards, you know, ones that
24 are flexible.
25 The problem when you get tying down into

1 And one of the examples is where it talks
2 about when buildings are so close together, that, you
3 know, you cannot see them. So you know, what is the
4 point of requiring materials that are there for
5 aesthetics to be there when you can't see them? You
6 know, all that does is drive up the cost and makes it
7 more difficult for businesses to come in.
8 What you want is have it where it impacts
9 the public or the residents around it. You've got to
10 have those sides, you know, treated properly. And
11 what this really does, it addresses materials, the
12 scale, the repetition of patterns; really gets down
13 to a pedestrian scale.
14 And this is one of those things that
15 really -- same thing with the form-based code: It's
16 talking about bringing things forward, bringing the
17 scale down where it's just not this shopping center
18 stretch or, you know, all these buildings along one
19 thing like that that all don't have that scale. The
20 best example I can think of are some of the big boxes
21 that we -- I think right now, you know, that's not
22 attractive.
23 COUNCILMEMBER DEAN: Okay. With the --
24 and we can talk about specifics later. This document
25 makes reference to the building official, but we

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1 don't have a building official.
2 MR. COOLEY: Actually, we do have a
3 building official. Our building official is Paul
4 Ivey.
5 COUNCILMEMBER DEAN: Okay. Contractor?
6 MR. COOLEY: Yes.
7 COUNCILMEMBER DEAN: Okay. And windows
8 and window dressings are not addressed. Parking
9 lots, landscaping is not a separate ordinance, it's
10 kind of incorporated into parts of it, and I'm just
11 curious as to why they don't have their own.
12 MR. COOLEY: Well, it's important. I
13 think we need more landscape.
14 COUNCILMEMBER DEAN: Right.
15 MR. COOLEY: You know, when we talked
16 about the concept of parking lots and streetscapes
17 and things like this.
18 Where you see landscaping here is in
19 association to the scale of the building. And these
20 are requiring a certain amount of shrub along the
21 facades for a certain percentage again to bring the
22 scale down, to soften the building, or it can be, you
23 know, building, sidewalk, and then the landscaping
24 type of thing. That's where you see the landscape
25 ordinances.

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1 We address the parking only to the fact
2 again the scale aspect of it where we talk -- and
3 safety -- where we talk about having textured or some
4 sort of designated pedestrian ways so you just don't
5 have people walking out in the middle through a
6 parking lot.
7 You know, there's some good examples. One
8 that I think was a pretty good example is the
9 development over in Chamblee where the Wal-Mart is.
10 The bad-example portion of that is the materials they
11 used. You take a -- you walk along and stuff, and I
12 have to imagine taking a shopping cart, and I believe
13 Councilman -- Yeah, I believe that was something that
14 you brought up and we corrected that and specifically
15 addressed that, talking about the smoothness of it.
16 So you know, really the things that you're
17 talking about, I absolutely agree with you. We need
18 a landscape ordinance. We don't really have a
19 landscape ordinance as such in commercial areas.
20 We really need one. I think that can make
21 as big an impact on the city as pretty much anything
22 else.
23 COUNCILMEMBER DEAN: Well, in this booklet
24 -- and this touches on what Ms. Alexander said --
25 with required landscape, it talks about xeriscape

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1 techniques.
2 MR. COOLEY: Xeriscape?
3 COUNCILMEMBER DEAN: Yeah.
4 MR. COOLEY: Okay.
5 COUNCILMEMBER DEAN: And it goes into a
6 little bit of detail about that but there's nothing
7 like that in the ordinance.
8 And also, one of the inconsistencies was I
9 think if you change or renovate 50 percent, then you
10 have to, with the new requirements, but in the
11 ordinance, it's 40 percent.
12 So these are -- I mean I don't think it
13 was just that here we're using this for the -- for
14 the general public to look at. I mean there are big
15 inconsistencies, I mean.
16 MR. COOLEY: Right; and we need to change
17 those. And part of that's a function of the changes
18 that we made in response to comments from Council,
19 especially the percentage basis --
20 COUNCILMEMBER DEAN: Okay. Right now --
21 MR. COOLEY: -- a number of things.
22 COUNCILMEMBER DEAN: -- with this -- All
23 right.
24 MR. COOLEY: Yeah. A number of those
25 things. Please don't get caught up in this guidebook

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1 too much.
2 COUNCILMEMBER DEAN: Okay.
3 MR. COOLEY: This was an example, trying
4 to show what we can do in order to help convey -- you
5 know, so people can understand and look at this and
6 say, "Okay. That's the primary facade. Okay.
7 There's the bottom of the building. Here's what a
8 transom is." You know, "Here's a cornice and a
9 parapet."
10 COUNCILMEMBER DEAN: Okay. With this
11 landscaping, I like it. I like this plan, but
12 there's nothing in the ordinance about that.
13 So I mean that's -- I mean that's kind of
14 what I'm, Well, that's real good, and I was looking
15 for it. Where is it?
16 Because the ordinance is going to be what
17 counts. Right?
18 MR. COOLEY: You're absolutely right.
19 But a xeriscape is a great approach. If
20 you're familiar with it, basically it's a selection
21 of plant materials and -- and/or irrigation systems
22 that are very low water usage, you know, basically,
23 and that gets into using materials that are native,
24 that are tough, you know, take streetscape
25 conditions. That's one of the things that's being in

1 those green codes that a Steven has been working on.
2 We've reduced the list and changed the list to get
3 rid of some of the bad materials in there and get
4 more of a xeriscape.

5 I don't know of any places that require
6 xeriscaping. I'm sure there are plenty, but I don't
7 know any. I know out west it is more used, and even
8 the term "xeriscape" is a copyrighted thing, have to
9 be kind of careful with that.

10 COUNCILMEMBER DEAN: Okay. And I will let
11 the others speak, but the other thing is that -- is
12 that with the half an acre, the parcels less than a
13 half an acre. We have a lot of big parking lots that
14 are divided into separate parcels; right?

15 MR. COOLEY: The shopping centers?

16 COUNCILMEMBER DEAN: Uh-huh.

17 MR. COOLEY: The majority of them are one
18 parcel. The only one that I think of and the common
19 space is all part of a shared is Asian Square. Each
20 one of those buildings or units is a condominium.
21 That's the only one I'm aware of.

22 COUNCILMEMBER DEAN: Okay. All right.

23 MAYOR PITTMAN: Does anyone else have any
24 comments on page 2?

25 (No response)

1 people from at least putting a new coat of paint on
2 and keep maintenance up; but if it's getting to the
3 point where they're getting into a larger portion of
4 that, you know, they've got an investment in it,
5 let's go ahead and make the change.

6 COUNCILMEMBER DEAN: Okay. So a
7 particular color. I mean if it's a pink building and
8 the renovate 20 percent or 19 percent of the
9 exterior, they still have to make that consistent
10 with the color of the building but they do not have
11 to conform to the colors set out in this guideline.

12 MR. COOLEY: At the 19 percent, yes,
13 ma'am, redevelopment.

14 Anything that's over 20 percent of the
15 exterior portion of the building would require that.

16 COUNCILMEMBER DEAN: Okay. But they would
17 have to paint it, right, to match the building as of
18 current?

19 MR. COOLEY: Yeah. And the whole idea of
20 that -- And there's an extra, a clearer copy of that,
21 and I just put together to try to give you an idea of
22 what we're looking at.

23 We're not trying to say each individual
24 color --

25 COUNCILMEMBER DEAN: Right.

1 MAYOR PITTMAN: Okay. Page 3?

2 Ms. Dean, do you want to start off, make
3 any comments on page 3?

4 COUNCILMEMBER DEAN: Sure.

5 Okay. On page 3, like the 40 percent of a
6 primary or secondary facade, I just talked about that
7 with the other one. In the document, it's 50
8 percent, but you told us about that.

9 And redevelopment or renovation that
10 changes more than 20 percent of the existing building
11 will require compliance with the -- with the building
12 color. So if they paint less than 20 percent, let's
13 say 18 percent, it can be a different color?

14 MR. COOLEY: Well, this is talking about
15 renovation and redevelopment of the building.

16 COUNCILMEMBER DEAN: Right.

17 MR. COOLEY: So if they did more than 20
18 percent of anything with the exterior of the
19 building, all sides --

20 COUNCILMEMBER DEAN: Right.

21 MR. COOLEY: -- they would have to come
22 into compliance with that color scheme.

23 I think what the intent of that -- And
24 this was something that was recommended by Council.
25 The concern was that, you know, we don't want to keep

1 MR. COOLEY: -- you know, if that's --

2 COUNCILMEMBER DEAN: Right, right.

3 MR. COOLEY: -- what you're asking. This
4 is the range. And what you'll notice, they're mostly
5 muted tones --

6 COUNCILMEMBER DEAN: Right.

7 MR. COOLEY: -- all colors.

8 COUNCILMEMBER DEAN: Okay. And as
9 determined at -- Number 5, "as determined by the
10 reasonable discretion of the city's Director of
11 Planning and Development after consultation and
12 written approval." From whom?

13 MR. COOLEY: Written approval from the
14 Development or Planning Director.

15 That was one of those sections I was
16 wondering whether it might be advantageous to put the
17 language in that we did about the architectural
18 review board. I don't know if that was just a missed
19 one that was supposed to be rewritten or, you know.
20 A certain amount of discretion is needed for speed's
21 sake. But really, in my opinion, that's one that
22 probably should have had -- also had added with the
23 verbiage about the architectural review board.

24 COUNCILMEMBER DEAN: Okay. But it's as
25 determined by the reasonable discretion of the city's

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1 Director of Planning and Development after
2 consultation and written approval.
3 Okay. So that would be the approval would
4 come from you or the architectural review board?
5 MR. COOLEY: Yes, ma'am, after
6 consultation; that meaning after the applicant has
7 consulted, would have discussions about it; and then
8 written approval -- don't want it to be verbal --
9 written approval based upon what was decided.
10 COUNCILMEMBER DEAN: Okay.
11 MR. COOLEY: Can I ask how y'all feel
12 about the architectural design board on that one?
13 COUNCILMEMBER DEAN: Well, yes, I like it,
14 and I also agree with what Ms. Bradford said. I
15 would like to see that committee implemented as soon
16 as possible. And I've spoken to a couple of people
17 in the community who are interested, so I would like
18 to see that moving forward sooner rather than later.
19 MR. COOLEY: Yeah. I think that was
20 something that you might want to consider
21 simultaneous or --
22 COUNCILMEMBER DEAN: Yeah, right.
23 MR. COOLEY: -- within a month or some-
24 thing of adoption or something to that effect.
25 There's no point in having it if we don't have . . .

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1 COUNCILMEMBER DEAN: Okay. Great.
2 MAYOR PITTMAN: Ms. Fleming?
3 COUNCILMEMBER FLEMING: Okay. On page 3,
4 I want to ask about the 40 percent remodeling or
5 renovation which requires the entire building to be
6 remodeled is what I understand.
7 So I want to go back to Buford Highway's
8 Farmers Market and ask about that specific property
9 just as an example for us to have a visual on that.
10 I was going to use one of these, and I thought no,
11 we know what that shopping center looks like.
12 So if that, whatever was the name of that
13 business that was going there, all right, was --
14 MR. COOLEY: Business that shall not be
15 named.
16 COUNCILMEMBER FLEMING: -- 40 percent --
17 MR. COOLEY: Right. So let's assume it
18 was.
19 COUNCILMEMBER FLEMING: -- okay, that the
20 balance of that shopping center, because it's all one
21 unit, would have to be remodeled --
22 MR. COOLEY: The building facade.
23 COUNCILMEMBER FLEMING: -- to comply with.
24 MR. COOLEY: Yes, ma'am.
25 If that had been 40 percent or greater and

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1 they were doing renovations to that facade, the
2 remaining 60 percent or less would have to have been
3 brought into conformity too. Part of that is --
4 COUNCILMEMBER FLEMING: To match whatever
5 they were doing.
6 MR. COOLEY: -- to be consistent, not
7 necessarily match, but what you want -- what you
8 don't want, I don't think, is getting a piece that
9 looks -- that has been brought up to standard, you
10 know, be flexible enough to allow changes to be made.
11 But when it gets to the point that it's substantial
12 enough that it's going to make a large visual impact
13 on that building, 40 percent or more, the idea is to
14 make it look consistent. And you'll see that
15 referenced in the ordinance about whatever's done
16 even on the different sides, they have to be
17 consistent with the overall character of the primary
18 facade.
19 So yes. To answer your question, yes.
20 COUNCILMEMBER FLEMING: Okay. So now I
21 want to now give us a visual on one of these, and I
22 think most of us have gone to Suwanee or other areas
23 that have -- you know, there are a long stretch of
24 buildings but they're all connected, and they are
25 different as far as different character. They're

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1 not, you know, a lot --
2 MR. COOLEY: Individuals?
3 COUNCILMEMBER FLEMING: -- they're not
4 cookie cutter.
5 And in regards to Trudy's comment about
6 our style and Ms. Pachuta's comment about, you know,
7 our style, I am not in favor of the entire city
8 looking like one style. I like the character look
9 of, for instance, Suwanee where they've got one
10 building is brick and the next one is such-and-such
11 and so forth but they're all connected.
12 MR. COOLEY: Right.
13 COUNCILMEMBER FLEMING: But if one of them
14 is 40 percent, then the balance of them have to be
15 redone as well?
16 MR. COOLEY: Yes. I mean if the whole
17 facade is now -- That doesn't mean that each one has
18 to -- it has to be compliant with the ordinance which
19 talks about -- they may already be that way, you
20 know, the scale and finish of the building.
21 Landscape may be an issue on some of them, you know,
22 leave some planting area and things of that sort, so.
23 And again, what the ordinance does is
24 gives a range of things that they can do to make it
25 consistent with the code. It's not so draconian that

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1 it comes in and says, you know, "You shall make this
2 look like that 40 percent," you know.

3 It can be the character of it it wants to
4 be as long as it meets the criteria of this code, and
5 again, which has the flexibility. You know, maybe
6 it's cornice; maybe it's architectural detail. It
7 may be the pedestrian entrance that has really a lot
8 of different detail where it's, you know, got really
9 neat materials there at the entrance and things like
10 that really bringing out entrances.

11 So it can be whatever. It's not trying to
12 make -- In fact, I think, if anything, it's probably
13 going the other direction to make the scale of each
14 individual business and each individual facade more
15 pedestrian oriented, more of that scale, something
16 that people can walk by and feel comfortable with as
17 opposed to walking down maybe some of the larger
18 stores right now that do not have this required, and
19 you've basically got sidewalk and you've got the wall
20 and whatever.

21 So what it does, it makes it come up to
22 those standards as opposed to saying you shall look
23 like this or you shall look like that, and I think
24 that's one of the positive aspects of the code.

25 COUNCILMEMBER FLEMING: Okay. The other

1 it's going to be time consumptive but I think it's
2 worth it, but it's going to have to go through that,
3 so that process will be incorporated with this.
4 Because this does talk about and applies this to --
5 it's conditions put upon based upon zoning, it has to
6 go through the Zoning Procedures Act.

7 Now, that being said, it could be -- the
8 section itself, I would suggest that it's going to be
9 3-something dash whatever; but you know, as long as
10 it's adopted under those standards, we're good.

11 COUNCILMEMBER FLEMING: Okay. And then
12 the only other comment I have on page 3 is since
13 Mr. Gillen has changed the department name to
14 Community Development Director, that's going to be
15 changed.

16 MR. COOLEY: Yes, ma'am, you're right.

17 MAYOR PITTMAN: Mr. Patrick?

18 COUNCILMEMBER PATRICK: I guess, if
19 anything, I would favor lowering the percentage in
20 Section (3) from 40 percent to 20 or 30 percent. I
21 think that was controversial at the time. When we
22 discussed this the last time, I had mentioned that I
23 would be okay with a lower percentage for the primary
24 and secondary facades. I don't know if it was
25 controversial the last time, but I'm just going to

1 portion of this was redevelopment or renovation that
2 changes more than 20 percent of the exterior of an
3 existing building will require compliance to our
4 building color.

5 We don't permit painting, so how are we
6 going to enforce that?

7 MR. COOLEY: Again, it would be a
8 compliance issue. They're going to have to come back
9 in for review of their plans, and on their plans
10 they're going to have to designate what the color is
11 going to be. So in a way, it's actually part of the
12 building permit at that point. I mean it's a Zoning
13 Ordinance requirement so it's going to be
14 incorporated into that.

15 COUNCILMEMBER FLEMING: So is that going
16 to take place where our painting of the commercial
17 building will be part of our zoning code and they'll
18 have to -- Painting will be part of the building
19 permit?

20 MR. COOLEY: The aesthetic portion of it,
21 any building permit is going to have to get -- it
22 goes through a number of reviews. You know, the
23 initial one is planning and zoning. This is adding
24 an additional area of review we have to do to make
25 sure that it is consistent with this ordinance, and

1 throw that out, that I wouldn't mind seeing it at a
2 smaller percentage.

3 And then like Trudy, as long as it's clear
4 that under paragraph (5), that's a discussion between
5 the board and then you're kind of intermediary
6 between the two, I think that's fine.

7 MAYOR PITTMAN: Okay. Ms. Pachuta?

8 COUNCILMEMBER PACHUTA: Just in response
9 to Robert, I think a problem might arise if we make
10 it too low. Then no one's going to want to do minor
11 renovations, so I'm thinking we might actually start
12 to see fewer renovations to older buildings, but
13 just, you know, minor renovations to even improve the
14 whole of it. So I think that's the risk of lowering
15 it.

16 But I want to ask about 40, 50 percent,
17 whatever, about going back to the Smart Code or
18 whatever Caleb calls it, because I was still confused
19 when I left the meeting with Caleb. If they are
20 making, you know, a 50, 60 percent renovation to make
21 the building more aesthetically pleasing, is that
22 going to have to trigger a new footprint closer to
23 the street or moving forward in their location --
24 does that make sense? -- if they're set far back?

25 MR. COOLEY: Right. There's a section in

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1 that ordinance that talks about a percentage basis
2 where it has to be moved forward.
3 This really doesn't really address this.
4 This addresses the change totally to the facade. It
5 doesn't talk about location of the building itself.
6 That's where the form-based code -- they complement
7 each other.
8 But no, we intentionally don't want to
9 have that conflict built in between this and the
10 form-based code, and I got to remember to use the
11 name, but --
12 COUNCILMEMBER PACHUTA: Okay. So the
13 form-based code --
14 MR. COOLEY: -- Livable Communities.
15 COUNCILMEMBER PACHUTA: -- that trigger is
16 going to occur more with, say, an expansion or
17 something like that.
18 MR. COOLEY: Correct.
19 COUNCILMEMBER PACHUTA: Okay. But not
20 just changing what the building looks like as long as
21 it's . . .
22 MR. COOLEY: Right. They very easily
23 could. If, say, they were doing a minor addition or
24 whatever that did not kick it into the requirements
25 under the Livable Communities Code, you know, it

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1 still could trigger it into this bring it up to
2 standards on this.
3 MAYOR PITTMAN: Okay. Mr. Bates?
4 COUNCILMEMBER BATES: I'll agree with
5 Karen. I think if you start dropping that percentage
6 down, you're going to actually I think inhibit
7 renovations, full-scale renovations.
8 Aside from that, having the architectural
9 review board as part of this, I think that's a good
10 step.
11 MAYOR PITTMAN: Okay. Ms. Alexander?
12 COUNCILMEMBER ALEXANDER: Back to
13 Councilmember Fleming's question, I don't think it
14 was answered, and, if it was, I apologize.
15 I own a commercial building on Buford
16 Highway. I can paint it without getting a permit.
17 MR. COOLEY: Right.
18 COUNCILMEMBER ALEXANDER: So how are you
19 going to enforce this code when I am not coming to
20 city hall to tell you I'm painting my building?
21 MR. COOLEY: Well, this kicks in when
22 there's 40 percent facade remodeling or renovation,
23 not just painting. Painting is a standard
24 maintenance procedure.
25 So yes, if they were not doing any work

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1 whatsoever to the facade or restoring the building,
2 they could come in there and repaint it the same
3 color.
4 COUNCILMEMBER ALEXANDER: So painting is
5 not considered renovation in your eyes.
6 MR. COOLEY: No, ma'am. That's -- that's
7 a maintenance issue.
8 COUNCILMEMBER ALEXANDER: Okay.
9 MR. COOLEY: Now, if it gets to be such
10 bad condition where, you know, painting is required
11 and it's not up to the International Property
12 Maintenance Code, Code Compliance could get on them,
13 you know, to paint it but they still would not --
14 could not kick them or force them into painting, you
15 know, within that color guideline.
16 COUNCILMEMBER ALEXANDER: The only other
17 question I had on this page in the way of notes says,
18 Is the architectural review board going to be a
19 binding committee or is it going to be advisory such
20 as the Planning Commission, and has that been
21 determined yet?
22 MR. COOLEY: Actually, the way it's
23 written in the code, it is final decision. It can be
24 appealed to the City Council. But it's a final
25 decision; it's not a recommendation.

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1 COUNCILMEMBER ALEXANDER: So why would we
2 have one committee advisory and one committee
3 binding?
4 MR. COOLEY: Well, under the Zoning
5 Procedures Act, the state statute for zoning actions,
6 that's the way it's stated. At that point, you're
7 talking about legislative action and you cannot have
8 an appointed body making legislative decisions.
9 That's something that is reserved for the city
10 council.
11 This is an implementation and an inter-
12 pretation. It is not a legislative action. If they
13 were trying to add something to the code, that would
14 be a legislative action, but it's not. So it's kind
15 of like an administrative decision where the city
16 administrators have the authority to make a decision
17 like that. That decision is binding unless they
18 appeal it to maybe the city council or to our
19 appointed person that we . . .
20 COUNCILMEMBER ALEXANDER: Okay. So
21 they're operating under the guise of Chapter 23,
22 which is covered by the ZPA. How is their telling
23 someone, "No, you cannot do that" not a legislative
24 action?
25 MR. COOLEY: It's an interpretation of the

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1 existing code.

2 COUNCILMEMBER ALEXANDER: Okay.

3 MR. COOLEY: Legislative action is
4 action --

5 COUNCILMEMBER ALEXANDER: I'd like Legal
6 to give a little bit more.

7 ATTORNEY ROBICHAUX: I think what Joe's
8 been saying actually is right on right now.

9 What the architectural standard -- what
10 that board would do would be interpreting what's
11 actually in the code. When like someone put forward
12 the building plans, they would say like yes, it does
13 conform with it or no, it does not conform with it,
14 so actually applying and using that administrative
15 function with it.

16 When someone goes to the Planning
17 Commission, they're really looking for like changes
18 to zoning or exemptions to it, something along
19 those -- more along those lines, which require the
20 legislative decision to allow it to change something,
21 not just an enforcement or an administrative action
22 of it.

23 Does that -- I'm trying to succinctly
24 answer your question. Does that kind of hit more
25 towards it?

1 it or approving it. Okay? And so my preference
2 would be nonbinding.

3 COUNCILMEMBER DEAN: Couldn't we make it
4 an advisory board?

5 COUNCILMEMBER BATES: The problem with
6 doing that, the pure volume of plans and reviews that
7 you're going to be reviewing on a weekly basis is
8 going to use a hundred percent of your time.

9 How many building permits do you guys get
10 on a weekly basis?

11 MR. COOLEY: I couldn't tell you. I know
12 we've got over 22 right now before the fire marshal
13 waiting.

14 COUNCILMEMBER BATES: So if you've got -
15 if you get two or three a week, you're going to have
16 that architectural review board review them, make
17 recommendations to this body, and this body is going
18 to review four or five every Council meeting and have
19 public hearings like you do for our Planning
20 Commission?

21 I'm not sure that's the best use of this
22 body's time, personally.

23 COUNCILMEMBER FLEMING: But, then, I'm not
24 sure that we would get a volunteer committee to do
25 three or four or five plan reviews. I don't think

1 COUNCILMEMBER ALEXANDER: So this binding
2 board, then, would be subject to litigation.

3 ATTORNEY ROBICHAUX: They're appealable to
4 the City Council, and the City Council's decision
5 would be appealable to the Superior Court of Dekalb
6 County.

7 COUNCILMEMBER ALEXANDER: But the board
8 members themselves could be subject to litigation.

9 ATTORNEY ROBICHAUX: No. They would be
10 covered under immunity as long as they act within the
11 reasonable confines of what they were doing, as long
12 as they reasonably made sure that they performed
13 their duties.

14 COUNCILMEMBER FLEMING: But they're an
15 appointed board. They're volunteer; they're not
16 receiving any monetary gain out of this.

17 DR. GILLEN: I would assume so.

18 COUNCILMEMBER FLEMING: I can't imagine,
19 you know -- I know why Ms. Alexander's questioning,
20 because, to me, just like the Planning Commission,
21 it's a nonbinding decision, and they give us their
22 reasons why they've come up with these different
23 scenarios and reasoning. And I would think that it
24 would be a nonbinding decision, and here are the
25 reasons that we're giving you whether we're denying

1 that's what --

2 I thought that the Design Review Board
3 would be for inconsistencies, that they would be
4 reviewing those to determine whether they're
5 acceptable or not, not looking at every single plan
6 that comes across the table --

7 MR. COOLEY: Correct.

8 COUNCILMEMBER FLEMING: -- or we're going
9 to have full-time volunteers having to do away with
10 their jobs.

11 MR. COOLEY: Oh, actually what we would
12 have would be a logjam.

13 COUNCILMEMBER FLEMING: Yes.

14 COUNCILMEMBER PATRICK: If I may say
15 something, because I happen to work in a city that we
16 do that, all new residential construction, all new
17 commercial construction has to go through a public
18 board for review. They're our citizens who are our
19 advocates in the community.

20 I mean this is what they want to do. If
21 they feel that their community needs to have a
22 certain look or style or feel that the code itself
23 doesn't, that's where they step in. That's where
24 we -- that's where we can rely on the residents to
25 help steward the city. And I'm comfortable with

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1 having it as that board has final decision.
2 If it's something so uncomfortable to --
3 to that applicant, then appeal it up here to the
4 board, and we can take a look -- or to Council;
5 pardon me -- we can take a look at it and make the
6 decision we agree with the board, we don't agree with
7 the board or we split it down the middle.
8 But I think that is an ideal opportunity
9 for the residents to speak up and have more influence
10 in the community. And it works. I can say it works
11 because I see it work.
12 COUNCILMEMBER ALEXANDER: What are the
13 requirements of your -- Norcross's members of the
14 board?
15 COUNCILMEMBER PATRICK: It's a four-board,
16 five-board panel: four are residents; an architect
17 or an engineer, someone with some kind of a
18 professional design background is required. That
19 person is not a resident. They do live in Gwinnett
20 County, but that person, to my knowledge, is not a
21 resident, not a resident of the city.
22 MR. COOLEY: So let me ask, so what
23 they've done, then, is they've required one person to
24 have those qualifications --
25 COUNCILMEMBER PATRICK: Correct.

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1 MR. COOLEY: -- as opposed to the entire
2 board.
3 COUNCILMEMBER PATRICK: Correct.
4 MR. COOLEY: That's interesting.
5 COUNCILMEMBER DEAN: Well, and I looked at
6 another city, and they don't have a requirement for -
7 - an architectural requirement. But what they have,
8 what they -- they require someone experienced in
9 design, but it's not -- to clarify, it's not, you
10 know.
11 MR. COOLEY: But what that does do is
12 opens up the pool, if you will, of people to serve.
13 COUNCILMEMBER DEAN: Well, we're not
14 paying them. But I think that we definitely --
15 especially since our pool is fairly small, you know,
16 I think that we need to make it as accessible as
17 possible, but someone who's interested --
18 No one is going to want to do this, no one
19 interested in doing this, I believe will -- will
20 volunteer without doing the work required.
21 COUNCILMEMBER BATES: I do think it's
22 important that we have someone serve as an advisory -
23 - an active member on that board who understands
24 architecture and engineering. They've got to be able
25 to answer questions and, you know, advise, say, "No.

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1 That's a normal practice in building construction."
2 If you leave that to interpretation, we're going to
3 get a lot of appeals up here.
4 COUNCILMEMBER DEAN: I think we'll find
5 someone, though.
6 MR. COOLEY: Well, I think what --
7 apparently what y'all have done really increases the
8 pool because if you don't have -- you may have people
9 in the community that have those skills, but
10 hopefully they're so busy they don't have time to do
11 it. You know, the Council can appoint someone in
12 that position familiar with architectural standards,
13 whatever, that would bring that to the board or to
14 the -- the board.
15 So that's an interesting approach that one
16 could be --
17 MAYOR PITTMAN: Excuse me. I think
18 Dr. Gillen --
19 DR. GILLEN: Just a quick suggestion since
20 we're on that topic. Why don't we jump to that page,
21 we'll take the notes and we'll redraft it according
22 to your comments. I think it's on --
23 COUNCILMEMBER ALEXANDER: That is 23.
24 DR. GILLEN: So it's a five-member panel
25 with one -- at least one member having --

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1 Robert --
2 COUNCILMEMBER PATRICK: Some kind of a
3 design professional background.
4 COUNCILMEMBER DEAN: Demonstrate knowledge
5 and design experience, something like that?
6 DR. GILLEN: Yeah.
7 COUNCILMEMBER DEAN: Because as was
8 pointed out earlier, I mean we -- I would have never
9 in a million years picked up some of the books I pick
10 up now and study some of the things I study now
11 without a need to, and I think that people are so
12 involved in the community that they -- they would do
13 the same thing. I mean I think that everyone could
14 learn.
15 COUNCILMEMBER PACHUTA: And I'm sorry. I
16 think it's --
17 DR. GILLEN: One --
18 COUNCILMEMBER PACHUTA: Oh.
19 DR. GILLEN: I'm sorry, go ahead.
20 COUNCILMEMBER PACHUTA: -- that it's
21 important to at least try to have at least three, you
22 know, three of the members being one from each
23 district.
24 MR. COOLEY: Yeah, I agree.
25 COUNCILMEMBER DEAN: Or maybe three

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1 members -- three from each district and two at-large,
2 I mean, if it matters.

3 DR. GILLEN: At large, yeah.

4 MR. COOLEY: And possibly one having that
5 architectural design.

6 COUNCILMEMBER FLEMING: Well, and the
7 fifth one, for him, is not within the city.

8 MR. COOLEY: I think that's a good option
9 to have in case you need. I mean y'all are going to
10 be appointing them, and if you can't find somebody
11 with that qualification in the city, hopefully you
12 could go to the close area around and find somebody
13 that would be willing to serve.

14 COUNCILMEMBER FLEMING: But we -- but the
15 term "design engineer" has been listed, but are we
16 not really looking for more of an architectural
17 design engineer rather than just saying design
18 engineer?

19 MR. COOLEY: Yeah. I think I would
20 probably suggest when we rewrite this is that we'd be
21 taking "engineering" out and getting back to the one
22 person that has architectural training or
23 architectural training or architectural aspects as
24 opposed to an engineer, because you really want to
25 have more an architect being able to help other board

1 that effect.

2 But I don't think we can afford to go less
3 than that. The five days prior to the meeting is --
4 is a little tough, too, and I might want to look at
5 that.

6 COUNCILMEMBER FLEMING: Let me understand
7 The Design Review Board is for everything and not
8 just for variances from this code; is that correct?

9 MR. COOLEY: The way this is written, the
10 Design Review Board, you know, if they're going by
11 what the code says, no, it's not required. If

12 there's a question about it or if they're saying,
13 "Well, we want to do this," and it's in -- it's -- be

14 for them to decide to go before the board to
15 determine whether yes or no; I mean is that something
16 that's appropriate or is it not appropriate?

17 So no, they would not be reviewing every
18 single plan that comes through.

19 COUNCILMEMBER FLEMING: Yeah, because
20 don't -- I --

21 MR. COOLEY: That's a lot of work.

22 COUNCILMEMBER FLEMING: I don't want u
23 holding up, I mean we already have -- It appears,
24 with the fire inspection and all this other stuff
25 that we're having to go through for businesses, that

1 members as opposed to an engineer. Civil is going to
2 be more structural type stuff or structural
3 engineer/construction, some of it's going to be site
4 design. So the architecture I think would be . . .

5 MAYOR PITTMAN: Okay. So if there are no
6 further questions on any of that, we're going to move
7 to page 4.

8 Okay. Go ahead.

9 COUNCILMEMBER PATRICK: Page 23,
10 paragraph (c). "Upon submission, the Design Review
11 Board shall review same in a public meeting no later
12 than ten business days following the date of
13 submission." That might be a difficult challenge for
14 a design review board that's made up of volunteers,
15 and I wanted to suggest perhaps a little bit of a
16 broader time frame.

17 MR. COOLEY: Yeah. I got to agree with
18 you, because, you know, we'd either have to be
19 setting something every --

20 COUNCILMEMBER PATRICK: Right.

21 MR. COOLEY: Yeah. I think you're going
22 to, just because of the timing of processing, and
23 we're trying to be, you know, processing things
24 through an expedient manner and things like that.
25 Maybe it's established twice a month or something to

1 we are having a backlog in approving business
2 licenses, and I just don't want us to get to a point
3 where we're not --

4 We want to be mainstream permitting and so
5 forth, but we cannot do that if we're going to hold
6 up stuff all the time.

7 MR. COOLEY: I think it --

8 COUNCILMEMBER PATRICK: If I may say
9 something to that, there's nothing wrong with taking
10 the time to do it right the first time. And to ask
11 an applicant who's going to put a couple million
12 dollars into our city to wait a couple extra days --
13 three days, even -- to make sure that it's something
14 that the residents like, that they're going to have
15 for the next 40 years, 50 years, I don't have a
16 problem with that.

17 And -- and, frankly, if the project is
18 scheduled appropriately by qualified people, they
19 know about this on the front end. They know that
20 they have to go through this. This isn't a millstone
21 around their neck while they're trying to swim across
22 the lake. This is just another step in the process
23 that they're aware of.

24 Fire plan is a process that everyone has
25 to go through. The choices are: Do you want your

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1 building to burn down and it be a place that no one
2 can get out of? So it's worthwhile to do that.
3 That's the benefit to doing these things.
4 Conversely, you end up with a story like
5 South Carolina where there was a furniture building
6 that was built. They made an addition onto it. It
7 wasn't done to code; it was no permits pulled on it,
8 and something tragic happens, and we don't need that.
9 So fire plan, building code review, design
10 review. They can all be done simultaneously and move
11 it through the process quickly but still get it where
12 it gets the eyes on it that it needs to have.
13 MR. COOLEY: And we've been talking about
14 that, the parallel review approach as opposed to a
15 linear, because it's, you know, much more expedient.
16 Something to that effect, though, I think it gets to
17 your scheduling, you know, if we had two meetings a
18 month, regularly-scheduled meetings, that this is the
19 times it will be heard, it gives some sort of time
20 frame to applicants, or more importantly, just as
21 importantly, to the people that are serving on the
22 board to know that they're going to -- you know,
23 these are the days that I potentially have something.
24 It's at least simpler. So I agree with you. I think
25 10 days is tough because you can't get in any routine

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1 at that point.
2 My recommendation would be twice a month
3 as needed. I mean if we don't need it, we don't have
4 that, we don't have a meeting, but at least people
5 are prepared and the people that are applying for
6 things will know: Here's the time frame I got to
7 have the plat in by here, it's going to be heard
8 here. And this is the process; and it's going to
9 take this long to go through this review, it's going
10 to take this long to go through this review. And the
11 question is how long will it take to go through the
12 plat review. Thank you for your time.
13 COUNCILMEMBER BATES: My preference, if
14 we're going to have an architectural review board,
15 let's send everything that's exterior to them.
16 Otherwise, who's going to make the determination on
17 the front end on whether or not the applicant is
18 going to be compliant with the standards?
19 MR. COOLEY: You've got the standards
20 spelled out, and it's just like a building plan
21 review.
22 COUNCILMEMBER BATES: Yeah, but who's
23 going to make that determination?
24 MR. COOLEY: Just like we do on building
25 plans and everything else. You know, that is staff's

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1 function.
2 If there's a question about it or they're
3 trying to do something off the wall or out of the
4 norm of those six things or whatever that are spelled
5 out, then it takes it beyond the code to a point
6 where a determination needs to be made. And at that
7 point, I think it's better to put that in the hands
8 of that board as opposed to allowing staff to make,
9 which is more of a -- I won't say arbitrary but more
10 of a subjective opinion on it, you know.
11 COUNCILMEMBER BATES: But there are
12 subjective pieces in this code, so staff is going to
13 make the subjective determination that may or may not
14 be within the thought process of the architectural
15 review board.
16 MR. COOLEY: Right, but by adopting this
17 ordinance, and y'all are setting -- the standards are
18 set. These standards are tight. I mean much tighter
19 than what I think has been alluded to. You know,
20 cornices, these different things that need to be
21 done, a certain percentage of.
22 You know, to me, that is a staff function,
23 I mean, and if there's a question about it, it gets
24 kicked over to the Design Review Board. I don't -- I
25 think it would be extremely difficult to expect,

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1 especially once we get rolling on the GM things, for
2 a citizens' review board to go through everything
3 just to see if it meets code requirements. That's
4 not a function of the board.
5 COUNCILMEMBER ALEXANDER: But to
6 Councilmember Bates' point, where in here does it say
7 that only plans that -- and I say "divert" -- that
8 don't agree with you get reviewed? I don't see that
9 in here.
10 COUNCILMEMBER BATES: It's actually on --
11 MR. COOLEY: It's --
12 COUNCILMEMBER BATES: It's actually number
13 (5) on page 3.
14 COUNCILMEMBER ALEXANDER: 5 on page 3.
15 MR. COOLEY: And it's also on page 23
16 where we talk about the Design Review Board (reading)
17 "or request specific variation pursuant to the
18 authority of this Article, shall be submitted to the
19 Design Review Board for approval." It's the last
20 three -- two or three lines of item (b) under
21 23-1710.
22 COUNCILMEMBER PACHUTA: I think if
23 someone's coming in and they're saying their plans
24 are we're going to be 100 percent stone all four
25 sides, we're going to be really close to the street,

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1 the minimum -- or maximum, whatever -- minimum
2 distance, we'll have this really nice -- exactly as
3 this thing, and I don't see any reason for that to
4 have to go to a review board.
5 COUNCILMEMBER PATRICK: I disagree.
6 COUNCILMEMBER PACHUTA: Yeah, and I --
7 COUNCILMEMBER PATRICK: I think for new
8 construction, especially in the GM site, that would
9 be the great opportunity for the residents to be
10 involved in the process. You know, if it's modifying
11 existing structures, and it conforms perhaps, you
12 know, maybe we just have it administratively handled.
13 But for new construction in new areas, most
14 definitely.
15 And again, it's an activity that brings
16 people into the community. And if, you know, we want
17 stakeholders, more active stakeholders, this is a
18 step towards getting that.
19 COUNCILMEMBER DEAN: And it's another
20 layer. I mean it's another layer that I -- and I
21 think that we want to ensure things are being built
22 well and properly, and if -- if we --
23 I mean the Planning Commission's a good
24 example. I mean I love them. I love what they do.
25 It's very helpful to me. In the decisions I make, I

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1 listen to what they said, I listen to their
2 recommendation, and I think that with something like
3 this, it's just another layer that -- that ensures
4 good development.
5 MR. COOLEY: Well, one of the things, keep
6 in mind, too, please, with sites like General Motors,
7 those will come in in special area plans. Special
8 area plans at that point, you know, they can pretty
9 much write whatever you -- they -- you know, if they
10 have a style or whatever, that's going to come to
11 y'all for review and decision.
12 To make it where each individual building
13 has to go through a review panel like that is going
14 to be problematic at best, because you're talking
15 about something that the Council has either approved
16 or -- you know, that is a huge impediment as a
17 developer.
18 COUNCILMEMBER PATRICK: Let me you tell
19 you my perspective. Where I work, there's a zoning
20 classification called DCD, Design Concept
21 Development.
22 MR. COOLEY: Right.
23 COUNCILMEMBER PATRICK: And it goes
24 through the council for approval, and they talk about
25 setbacks and they talk about form, how close you're

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1 going to be to the street and how far back, and
2 access for vehicles to individual lots. It also says
3 the actual style will go through the design committee
4 for review to make sure that it conforms with design
5 standards and overall fits the look and feel of the
6 city. So I see it working quite well, I mean.
7 COUNCILMEMBER DEAN: And another thing --
8 MR. COOLEY: I think maybe on that scale,
9 it might. But I really have concerns when you're
10 talking about a major redevelopment project of 150
11 acres and the time frame that you're talking about
12 putting this through.
13 The whole thing about the form-based code
14 is that it provides something for the development to
15 go by --
16 COUNCILMEMBER PATRICK: Sure.
17 MR. COOLEY: -- and they've got to have
18 it.
19 COUNCILMEMBER PATRICK: Right.
20 MR. COOLEY: And if you -- That's my
21 concern, you know. And the reason I say that, I've
22 seen it -- and Alpharetta's a good example where I
23 think their design review committee, where, I'm not
24 kidding, they spent a whole evening talking about the
25 color of white that would go on the back of a

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1 building that you could see from the interstate. I'm
2 not talking about whether it's white or blue or
3 purple or whatever; it was the shade of white.
4 And it can -- things can get goobered up
5 when it gets down to that point, when it becomes so
6 subjective, especially when you don't have a full
7 panel of design professionals.
8 I think it's very good. I think it's
9 great to have that review, but I question about
10 whether you want to lay that on top of, if nothing
11 else, in the special area plans, because I think
12 that's something -- That's where you start to get the
13 image that you were talking about, I think, of what
14 y'all wanted to see. That's where you have the
15 opportunity to say, "This is the vision. This is the
16 style."
17 COUNCILMEMBER DEAN: Well, the other thing
18 is is three points: sideways McDonald's, Zaxby's and
19 Krispy Kreme. I can make comments with all three of
20 those buildings that perhaps had they gone through a
21 review board, it wouldn't be that now.
22 MR. COOLEY: Well, again, if they'd gone
23 through the --
24 COUNCILMEMBER DEAN: Right.
25 MR. COOLEY: Also, I think if they'd gone

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1 through this ordinance and we had corrected some
2 other ordinances --
3 COUNCILMEMBER DEAN: Right.
4 MR. COOLEY: -- we wouldn't have had that
5 problem either. There's a lot of things we need to
6 get corrected, and we're working on that.
7 MAYOR PITTMAN: Dr. Gillen?
8 DR. GILLEN: I'm just going to make a
9 quick comment. You know, I'm still the new guy. And
10 one of the things -- Joe's right and you're both
11 right -- it could cause a logjam, it could make it
12 more administratively cumbersome for the developer.
13 However, we've got a community that's -- I
14 think to engage the citizens and to build that public
15 trust that what's going to happen over on the GM
16 isn't going to be some out-of-control thing, to
17 empower them to be a part of that decisionmaking is
18 going to be very important.
19 So I would lean towards having the
20 architectural review board for all the things,
21 because we need to start building that public trust
22 up and back to where they feel empowered to do that,
23 because if we don't, that might slow -- that can also
24 slow things: that the Council doesn't want to do
25 things that would push that development forward

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1 because the citizens are a little worried about
2 what's going to be happening and that they're out of
3 control.
4 That would be a concern of mine at the
5 outset. Because there's been such a sea change in
6 this community over the last five years since the
7 plant closure, it may be something we need to do,
8 understanding it may cause a logjam and cause this to
9 slow down dramatically. And if it causes problems,
10 then we can review that process.
11 I just think it's the sense that it's a
12 matter of public trust that we need to build up,
13 especially with the GM plant development.
14 So I just wanted to throw that out as a
15 perspective, from a policy perspective and policy
16 creation perspective, generating that public trust
17 may be the most important.
18 COUNCILMEMBER FLEMING: I'd like to make a
19 couple comments if you don't mind.
20 We have been working on this for close to
21 two years, no decisions, okay. And I do appreciate
22 all the resident input and all of the resident
23 committees that we have. I submitted, for instance,
24 my pop-up canopies -- okay. No-brainer, right? A
25 no-brainer -- pop-up canopies in August. We haven't

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1 seen the ordinance yet for us to either move forward
2 or --
3 And I am very concerned about the logjam
4 that may happen over this. I have nothing against
5 public input and resident committees, but I want to
6 be assured that we're not going to get into a logjam,
7 and that's all there is to it.
8 MAYOR PITTMAN: Okay.
9 COUNCILMEMBER DEAN: Well, this is
10 something we're not making a decision tonight, right?
11 It has to go before the Planning Commission.
12 MR. COOLEY: Actually, this has been
13 before the Planning Commission and approved.
14 COUNCILMEMBER DEAN: So this -- this is
15 it? But this is a work session so we're not going to
16 vote tonight.
17 MR. COOLEY: It's a work session. Y'all
18 would still have to advertise, do a public hearing
19 and all that.
20 COUNCILMEMBER DEAN: So we could do some
21 research, further research on that topic. I think
22 that it should be -- it should go before -- everyone
23 should go before the review board. I would feel
24 better about that.
25 I don't know how we want . . .

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1 COUNCILMEMBER FLEMING: Isn't this in
2 Section (5), this ordinance?
3 MR. COOLEY: No. It's 23.
4 COUNCILMEMBER FLEMING: Oh. My apologies.
5 COUNCILMEMBER PATRICK: What if we just
6 agreed to disagree on this component and then try and
7 handle the other stuff that might be out there.
8 COUNCILMEMBER ALEXANDER: Well, I'm fine
9 with everything going in front of the board for the
10 change that at least one member has architectural
11 design background.
12 MR. COOLEY: Architectural guidance.
13 DR. GILLEN: Isn't there like a time frame
14 as well, they have to make a decision by a certain
15 time frame?
16 COUNCILMEMBER ALEXANDER: Well, what was
17 Robert's concern is --
18 COUNCILMEMBER DEAN: 10 days.
19 (Brief discussion off the record, brief recess.)
20 MAYOR PITTMAN: Meeting come back to
21 order.
22 And I believe if we have no further
23 comments on the other subject that we talked about,
24 we'll be on page 4.
25 All right. We'll start with Mr. Bates at

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1 this time.
2 COUNCILMEMBER BATES: No questions.
3 MAYOR PITTMAN: Ms. Pachuta?
4 COUNCILMEMBER PACHUTA: No.
5 COUNCILMEMBER PATRICK: Mr. Patrick?
6 COUNCILMEMBER PATRICK: Yes. A side of a
7 building that faces a public or private right-of-way
8 or roadway or has a primary customer entrance.
9 Would there be a benefit to saying "and"
10 so that if we have a piece of land that's got
11 multiple frontages, it has some kind of --
12 MR. COOLEY: Actually, when you get into
13 the primary facade, it discussed that where you could
14 have up to three primary facades on a building.
15 COUNCILMEMBER PATRICK: Okay.
16 MR. COOLEY: So I think that's addressed,
17 but that's a very valid point. You know, you could
18 have a tertiary side that has the main entrance, has
19 to be brought up to the standards of the primary.
20 COUNCILMEMBER PATRICK: That was my page 4
21 question.
22 MAYOR PITTMAN: Okay. Ms. Fleming?
23 COUNCILMEMBER FLEMING: No.
24 MAYOR PITTMAN: Ms. Dean?
25 COUNCILMEMBER DEAN: I have just my

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1 statement earlier about having more definitions, I
2 mean to just make it clearer.
3 MAYOR PITTMAN: Okay. Page 5.
4 Ms. Fleming, we'll start with you.
5 COUNCILMEMBER FLEMING: No, thank you.
6 MAYOR PITTMAN: Okay.
7 COUNCILMEMBER FLEMING: No, thank you as
8 in I don't have any questions.
9 MAYOR PITTMAN: Okay. Ms. Dean?
10 COUNCILMEMBER DEAN: On (c)(1), "Mid-block
11 commercial buildings shall be oriented to face the
12 right-of-way/roadway, unless it can be shown that
13 compelling site conditions necessitate a different
14 orientation."
15 So if it shows that, would that be
16 changed? Would that be a variance?
17 MR. COOLEY: Yes, that would -- that would
18 be something that would need to go before the
19 committee because that's a -- would be a change of
20 the letter of it.
21 COUNCILMEMBER DEAN: Okay. And so, then,
22 this would go before the review board.
23 MR. COOLEY: Yes, ma'am.
24 COUNCILMEMBER DEAN: Okay.
25 MR. COOLEY: And again, depending on which

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1 direction y'all go, everything may.
2 COUNCILMEMBER DEAN: Okay. On the primary
3 facades, I talked about this earlier, "a building
4 shall have architectural style."
5 That's really ambiguous to me. I mean
6 architectural style as opposed to what?
7 MR. COOLEY: Where are you?
8 COUNCILMEMBER DEAN: I'm sorry. Under (d
9 (1).
10 MR. COOLEY: I think it goes on further.
11 You know, it's got "architectural style, detail, trim
12 features, and roof treatments that are consistent
13 with each other."
14 So what you don't want to have is one type
15 of architectural element that's not consistent with
16 the rest of it. So basically whatever that style may
17 be, it needs to be not helter skelter.
18 COUNCILMEMBER DEAN: Okay. "This is
19 inclusive of window, primary entrance," but we
20 don't -- we don't really set out standards for
21 windows -- frames, etc.
22 MR. COOLEY: Not the frames but the actual
23 -- the sizes, the heights and things of that stuff.
24 COUNCILMEMBER DEAN: Right. But the
25 frames and things, I think it could be flushed out a

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1 little more.
2 MR. COOLEY: I'm not quite clear about
3 what -- Do you mean the type of frames, whether it's
4 pane windows or --
5 COUNCILMEMBER DEAN: And the framing of
6 windows and whether it's framed with wood.
7 In fact I have one here. You can go on.
8 I'll find this, and you can come back to me.
9 MAYOR PITTMAN: Ms. Alexander?
10 COUNCILMEMBER ALEXANDER: Nothing on it.
11 Thank you.
12 MAYOR PITTMAN: Anybody have anything?
13 Mr. Patrick?
14 COUNCILMEMBER PATRICK: How did we resolve
15 the issue of LED lighting around windows, door treat-
16 ments or --
17 MR. COOLEY: Number one, LEDs are not
18 allowed. That's considered a sign, and it draws
19 attention to it, so by our definition, that's a sign,
20 and we don't allow it.
21 COUNCILMEMBER FLEMING: Could you speak
22 up, please.
23 MR. COOLEY: Yes, ma'am.
24 COUNCILMEMBER FLEMING: LED what?
25 MR. COOLEY: He said LED signs or LED

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1 lights around windows. And LED lights around windows
2 are considered by our definition something that draws
3 attention to the building or to the business. As
4 such, it was designed as a sign, and they are not
5 allowed.
6 COUNCILMEMBER FLEMING: Thank you.
7 MR. COOLEY: You're welcome.
8 COUNCILMEMBER DEAN: Okay. For example,
9 (reading) all windows shall be vert -- this is an
10 example of another city's code. All windows shall be
11 vertically proportioned standard sizes with a minimum
12 width of two feet four inches, etc. And then slit
13 windows, strip windows and ribbon windows are
14 prohibited. Windows and doors shall be provided on
15 at least 10 percent of the front facade.
16 I mean just detail like that.
17 (Reading) All windows shall have the
18 appearance of -- whatever. All windows shall be
19 surrounded with casing, one by four and back band,
20 one by six and back band.
21 Just something a little more detailed than
22 what we have.
23 MR. COOLEY: I think a lot of that would
24 be contingent upon the architectural detailing of it.
25 And there may be some where you may have brick within

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1 -- you know, between the spaces, and there may be
2 other ones that are panels, windows that take up much
3 larger space.
4 COUNCILMEMBER DEAN: Okay.
5 MAYOR PITTMAN: Okay. I guess we're going
6 to move to page 6; right?
7 Ms. Pachuta, we'll start with you.
8 COUNCILMEMBER PACHUTA: Huh-uh.
9 MAYOR PITTMAN: Okay. Mr. Patrick?
10 COUNCILMEMBER PATRICK: Not right now.
11 MAYOR PITTMAN: Ms. Fleming?
12 COUNCILMEMBER FLEMING: No, thank you.
13 MAYOR PITTMAN: Ms. Dean?
14 COUNCILMEMBER DEAN: Under (3), "Office
15 and institutional use primary facades shall have at
16 least one of the following components exclusive of
17 (4)(i) below; and a primary facade subject to
18 subsection (2) of this section" and "shall have at
19 least one of the following components exclusive of
20 (4)(ii) below."
21 What is that?
22 MR. COOLEY: Basically, it's saying that
23 office/institutional with primary facade shall have
24 one of the following, which is underneath (4)(i),
25 exclusive of (i) which is a primary customer

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1 entrance.
2 So you can't just put a primary customer
3 entrance and consider that one of your requirements.
4 And then --
5 COUNCILMEMBER DEAN: Okay. So either (2)
6 through (5)?
7 MR. COOLEY: (2) through (7).
8 COUNCILMEMBER DEAN: All right. Okay.
9 MR. COOLEY: Yeah.
10 Then they would also -- let's see -- "and
11 a primary facade subject to subsection (2)," which is
12 if it's less -- excuse me -- if it's greater than a
13 half an acre, it has to have at least one of the
14 following," and beyond number (ii) -- (4)(ii), which
15 references parcels below a half acre. Under (ii)
16 parcels under a half acre have to have certain
17 things.
18 So basically it's just saying, you know,
19 that's irrelevant because you're bigger than a half
20 acre so you got to pick from the others.
21 COUNCILMEMBER DEAN: Okay.
22 COUNCILMEMBER BATES: I made this comment
23 the last time; I'm going to make it again: Why can't
24 we have a chart in this location that clearly takes
25 the text out of it but puts it into a much more

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1 readable, easy-to-understand format?
2 If you're reading "must include (4)(i)
3 except exclude parts of (4)(ii) but only if you're
4 above (5)(a), nobody's going to follow it. If you've
5 got a chart that's very clean, you can delineate out
6 above half an acre, below half an acre, and make this
7 much cleaner and easier to read.
8 Understand the intent, but I consider
9 myself fairly intuitive, and I don't understand it.
10 COUNCILMEMBER ALEXANDER: And I believe
11 that Ms. Fleming brought the samples I had given to
12 Council, and there is somebody in MuniCode -- I can't
13 remember which city -- that they have a chart
14 embedded in their code in MuniCode.
15 MR. COOLEY: Yeah, I think charts can
16 work, because, you know, even in ours under the
17 bottom portion of the design criteria, we've got kind
18 of charts in there. So I would think that would
19 work.
20 It's when you get into real graphics, I
21 think that gets to be an issue.
22 COUNCILMEMBER ALEXANDER: Because one of
23 the things that I couldn't understand is you have
24 parcels half acre or larger and half acre or less,
25 and when I was reading the landscaping requirements,

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1 they look to be the same on either one of them.
2 MR. COOLEY: Actually, they are different
3 in percentages, I do believe. I'd have to back and
4 look at that.
5 COUNCILMEMBER ALEXANDER: It's not.
6 MR. COOLEY: But yes, I --
7 COUNCILMEMBER ALEXANDER: It's a planting
8 requirement.
9 MR. COOLEY: A planting?
10 COUNCILMEMBER ALEXANDER: Planting, yeah.
11 MR. COOLEY: Yeah. I think there's a
12 percentage of the primary or secondary facade that
13 has to be -- have it along it, a percentage, 100
14 percent or 60 percent depending on the size of the
15 lot. I think that's the difference with that.
16 COUNCILMEMBER ALEXANDER: And either way,
17 the ordinance again conflicts with the language in
18 the design guidebook --
19 MR. COOLEY: Right.
20 COUNCILMEMBER ALEXANDER: -- because the
21 design guidebook says eight feet wide and the
22 ordinance says five feet wide.
23 MR. COOLEY: Right.
24 COUNCILMEMBER ALEXANDER: And I guess my
25 thing with that is give me an example. If you're

1 wanting to encourage people to put the building up
2 closer to the road, are they going to have room to do
3 a five-foot -- minimum five-foot, preferably an
4 eight-foot sidewalk, and another five or eight feet
5 of landscaping before you get to the building?
6 MR. COOLEY: Depends on where you set
7 those setbacks, yes, ma'am.
8 COUNCILMEMBER ALEXANDER: Because you look
9 at some of the examples we were given, and there's no
10 way these people have five or eight foot of land-
11 scaping along the primary facade of their building.
12 MAYOR PITTMAN: Mr. Bates, did you have
13 something?
14 COUNCILMEMBER BATES: That was it.
15 MAYOR PITTMAN: Okay.
16 MR. COOLEY: I think we could incorporate
17 that in.
18 MAYOR PITTMAN: Okay. Anything else on
19 page 6?
20 (No response)
21 MAYOR PITTMAN: Okay. We're going to move
22 on to page 7.
23 Mr. Patrick?
24 COUNCILMEMBER PATRICK: No.
25 MAYOR PITTMAN: Ms. Fleming?

1 COUNCILMEMBER FLEMING: No, thank you
2 MAYOR PITTMAN: Ms. Dean?
3 COUNCILMEMBER DEAN: Just the comment that
4 I made earlier about the landscaping, that there
5 should be more landscaping standards in general.
6 MAYOR PITTMAN: Okay. Ms. Alexander?
7 COUNCILMEMBER ALEXANDER: It was the same
8 comment about the difference of five feet in the
9 ordinance and eight feet in the guidebook.
10 MAYOR PITTMAN: Mr. Bates?
11 COUNCILMEMBER BATES: No.
12 MAYOR PITTMAN: Ms. Pachuta?
13 COUNCILMEMBER PACHUTA: Huh-uh.
14 MAYOR PITTMAN: Okay. Page 8.
15 Ms. Alexander?
16 COUNCILMEMBER ALEXANDER: The mention
17 of metal panels gives me heartburn.
18 Also, in the design guideline on roofing
19 material, we are not prohibiting metal roofing. No
20 offense to our city municipal complexes that all have
21 green metal roofs, but I'm not exactly a huge fan of
22 that, so I'm a little concerned about architectural
23 metal panels being acceptable.
24 MR. COOLEY: That is one thing that was
25 brought up before, and I believe Councilwoman Pachuta

1 brought that up. I sent out examples to everyone to
2 show just the different types just so we have the
3 different types so that's understandable.
4 What it does do is it keeps the corrugated
5 metal out, but architectural metal panels are . . .
6 COUNCILMEMBER PACHUTA: And that was my
7 concern. You know, the photos that you sent us were
8 nice. And I mean I've since noticed it on Freedom
9 Parkway near Memorial, the Martin Luther King
10 Memorial area, there are some newer buildings, and
11 they're all very ultra-modern looking --
12 MR. COOLEY: Right.
13 COUNCILMEMBER PACHUTA: -- and they have
14 the metal, architectural metal panels.
15 But we have such a history with our ugly
16 metal buildings that it's like, "Oh, we can't put
17 that in there."
18 COUNCILMEMBER PATRICK: Yeah.
19 COUNCILMEMBER PACHUTA: But obviously, the
20 pictures that you sent us where there's modern-
21 looking, you know, nice buildings. So it just would
22 need to be very clear.
23 MR. COOLEY: Yeah. That's the difference
24 between a corrugated metal panel and the archi-
25 tectural metal panels.

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1 But again, that may be a very good point
2 with board's reviewing these things. Kind of brings
3 quality control too.
4 COUNCILMEMBER ALEXANDER: Can we put a
5 limitation on the amount that could be used?
6 And again, I don't know if we want to
7 address roofing materials and not allow metal
8 roofing.
9 MR. COOLEY: We certainly could address
10 the metal roofing without any problem. I'll say that
11 -- well, metal roofing's a portion, yeah, but I think
12 that wouldn't be a problem.
13 As far as the percentage of the panels,
14 again, that's more of a design thing. The buildings
15 I showed, you know, there were some that were
16 primarily architect- -- you know, metal architectural
17 panels and not just -- I mean some of them you see
18 are these kind of lattice type of things, you know,
19 these forms and stuff. It's -- you know, that's
20 y'all's call, whatever you think.
21 COUNCILMEMBER BATES: Can we go into the
22 shopping cart storage area section which is (5) right
23 above section (e)?
24 The majority of new grocery store/shopping
25 centers that are being built require or have -- I

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1 don't know if they're required, but they have all
2 their storage as part of the interior of the
3 building.
4 MR. COOLEY: Many do.
5 COUNCILMEMBER BATES: I'm not comfortable
6 with a four-foot wall on the exterior. I think we
7 need to look at having that as part of the building
8 itself so that it's fully enclosed, protected, not
9 air conditioned.
10 MR. COOLEY: You can make it a requirement
11 where it's interior.
12 COUNCILMEMBER BATES: I think that needs
13 to happen. An exterior storage is going to be a
14 trash collector. A four-foot-high wall is also a
15 security issue to me. You know, it's real easy to
16 hide behind.
17 MR. COOLEY: Yeah.
18 COUNCILMEMBER BATES: If it's inside of a
19 building, you know, it's secure and protected. So
20 that is my preference on that.
21 I do also agree with Ms. Alexander on the
22 metal. Best intentions sometimes often go awry, so
23 the less ambiguity we've got in here, the better.
24 MR. COOLEY: So are you -- so you're
25 talking about general metal roof --

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1 COUNCILMEMBER BATES: No. I --
2 MR. COOLEY: -- across the board?
3 COUNCILMEMBER BATES: I'm --
4 MR. COOLEY: Or metal panels.
5 COUNCILMEMBER BATES: Metal panels.
6 MR. COOLEY: Got you.
7 MAYOR PITTMAN: Ms. Pachuta, do you have
8 anything?
9 COUNCILMEMBER PACHUTA: No, nothing.
10 COUNCILMEMBER PATRICK: And just to be
11 clear, we're not throwing out metal roofs. That's
12 not being contemplated; right?
13 COUNCILMEMBER PACHUTA: Not in that
14 section.
15 COUNCILMEMBER FLEMING: I think screening
16 of the outdoor storage is fine, because if you're
17 having to use internal floor space for the number of
18 carts that Wal-Mart has, they'd be losing a lot of
19 shopping area, retail area.
20 COUNCILMEMBER BATES: The Wal-Mart in
21 Chamblee is fully enclosed. The Wal-Mart in --
22 COUNCILMEMBER FLEMING: Excuse me?
23 COUNCILMEMBER BATES: The Wal-Mart in
24 Chamblee, the carts are fully enclosed.
25 COUNCILMEMBER PACHUTA: I don't think so.

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1 COUNCILMEMBER FLEMING: No, they're not.
2 COUNCILMEMBER BATES: They're not outside.
3 COUNCILMEMBER FLEMING: They most
4 certainly are.
5 COUNCILMEMBER PACHUTA: They're under
6 the --
7 COUNCILMEMBER BATES: It's -- it's --
8 COUNCILMEMBER PACHUTA: -- under the
9 awning.
10 COUNCILMEMBER FLEMING: They don't have
11 any shopping carts inside.
12 COUNCILMEMBER BATES: But you have to go
13 through -- Oh, you're right. You don't have to go
14 through a door.
15 COUNCILMEMBER ALEXANDER: But the Kroger,
16 the very large Kroger that I go to, it's all inside.
17 COUNCILMEMBER PATRICK: The Publix where I
18 go is enclosed as well.
19 MAYOR PITTMAN: It's enclosed, yeah.
20 MR. COOLEY: Target is using that quite
21 often now, too.
22 But you're -- you know, you're right. It
23 does take more space.
24 MAYOR PITTMAN: The new neighborhood
25 Wal-Mart is inside.

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1 COUNCILMEMBER FLEMING: So that was my
2 only comment.

3 COUNCILMEMBER BATES: And you are correct,
4 Ms. Fleming; it is outside at Chamblee.

5 COUNCILMEMBER FLEMING: Thank you.

6 COUNCILMEMBER DEAN: Section (ii) "Any
7 other treatment that, in the reasonable opinion of
8 the City's Planning and Development Director or
9 Design Review Board if one is constituted and after
10 consultation, meets the intent of this section."

11 And this -- this paragraph, this language
12 is throughout. I don't think that that should be
13 there because it allows too many exceptions: Oh,
14 and any other blank. I think that that -- you leave
15 a lot of openings.

16 If there are other treatments that you
17 want in the standards, then you can add them later,
18 but I think that it just -- Then why go through the
19 rest of it, you know? I mean why? Then why go the
20 rest of it?

21 MR. COOLEY: Well, I mean, again, I think
22 having the Design Review Board is kind of a good
23 fail-safe on it. The problem is if you want to --
24 you know, it's kind of like our uses in our Zoning
25 Ordinance. You try to list out everything that you

1 And I'm also not in favor of the smooth-
2 faced concrete. That "Smooth-faced concrete shall
3 have stucco or other decorative finish," that's just
4 cheap. It's cheap and it doesn't hold up very well.

5 So I think that those are my two big ones
6 on this page.

7 And to add something, for example,
8 (reading) exterior materials -- exterior cladding
9 materials shall consist of stone, earth-toned brick,
10 horizontal lap siding where lap siding is used. The
11 base of a structure must have a brick or stone
12 cladding from the grade to the first floor elevation.

13 I mean something that's specific. I mean
14 that's good strong language.

15 And then (reading) Prohibited materials:
16 vertical siding, stucco, external insulating
17 finishing system, metal siding, metal trim, vinyl
18 siding, vinyl trim, marble siding, marble trim,
19 exposed concrete, and block are prohibited.

20 This came from a code from one of our
21 neighboring cities. I mean that's -- and that's ...

22 I mean the materials kind of make a
23 building; right? Really, they do.

24 Okay.

25 MAYOR PITTMAN: Okay.

1 think -- that you can think of --

2 COUNCILMEMBER DEAN: Right.

3 MR. COOLEY: -- but I always forget some.
4 And to change it, you've got to go through --

5 COUNCILMEMBER DEAN: Right; the Zoning --

6 MR. COOLEY: -- that whole process --

7 COUNCILMEMBER DEAN: -- Procedures Act.

8 MR. COOLEY: -- again, the rezoning
9 process. So you know, if you put that decision kind
10 of in the hands of a public committee or something
11 like that, I think, you know, that that may be an
12 alternative that wouldn't be so slow.

13 COUNCILMEMBER DEAN: Okay. And then on
14 the section (3), and this is a stylistic thing, but
15 we start with some things that are not allowed, you
16 know, so instead of -- instead of doing it that way,
17 we should maybe put what building materials should be
18 used.

19 And by all means, take out the words
20 "strongly encouraged," because these are laws, and we
21 want to encourage people to follow our laws; if they
22 don't follow our laws, they'll be fined or there will
23 be some consequence.

24 But the corrugated metal panels, I'm not
25 in favor of them at all.

1 COUNCILMEMBER PATRICK: If I could jus
2 say one point to Trudy's stucco. From what I've seer
3 of stucco or EIFS, there's been a lot of problems
4 with that.

5 But as Caleb had told to us or talked to
6 us about, the original stucco from -- they used --

7 COUNCILMEMBER PACHUTA: North Druid Hill.

8 COUNCILMEMBER PATRICK: -- that is
9 something that is durable.

10 COUNCILMEMBER BATES: Well, that's --
11 that's card hard-coat stucco.

12 COUNCILMEMBER PATRICK: Hard-coat stucco

13 COUNCILMEMBER FLEMING: Yeah.

14 COUNCILMEMBER PATRICK: So if we don'
15 totally get rid of stucco or something like that but
16 make it clear that there is --

17 COUNCILMEMBER ALEXANDER: Make it rea
18 stucco.

19 COUNCILMEMBER PATRICK: Make it rea
20 stucco. Thank you.

21 COUNCILMEMBER BATES: I really have a rea
22 big issue with EIFS. It just -- it doesn't last, it
23 molds, it breaks easily. You put holes in it.

24 I'm okay with the EIFS being up high, you
25 know, after three or four stories, where you can't

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1 see it; but on the first floor, no.
2 MR. COOLEY: So you're recommending
3 smooth-faced concrete shall have hard-coat stucco or
4 other decorative finish?
5 COUNCILMEMBER PACHUTA: Yeah, and I think
6 that's --
7 COUNCILMEMBER PATRICK: I think that's --
8 COUNCILMEMBER PACHUTA: -- what we --
9 COUNCILMEMBER PATRICK: -- how he
10 described it.
11 COUNCILMEMBER PACHUTA: -- put in the
12 smart code also, as we had Caleb change that.
13 MR. COOLEY: So it'd be consistent.
14 MAYOR PITTMAN: Okay. We'll move to page
15 9, and I guess if you just got comments, just jump
16 out there.
17 COUNCILMEMBER BATES: Actually, I do agree
18 with Trudy. I think the use of the -- what's
19 approved should be first on the list. Let's talk
20 about what you can do.
21 MR. COOLEY: Just as a clarification,
22 then, is your intent to list these as the required
23 materials to be used?
24 COUNCILMEMBER PACHUTA: Yeah. I mean I
25 can see, you know, putting, you know, required

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1 materials, listing the required materials, and then
2 like added emphasis: The following materials are
3 prohibited.
4 MR. COOLEY: Right, but what level do you
5 want to take it to allow it? I mean, again, trying
6 to name all of the type of architectural materials
7 and things is --
8 COUNCILMEMBER PACHUTA: Well, and this --
9 MR. COOLEY: -- extremely difficult.
10 COUNCILMEMBER PACHUTA: -- may be where
11 it's or by approval of, you know, the architectural
12 review board --
13 MR. COOLEY: Well, and again --
14 COUNCILMEMBER PACHUTA: -- and still have
15 a section that these are definitely prohibited.
16 MR. COOLEY: Right. Yeah. I think, you
17 know, there are some things that y'all just do not
18 want, period, you know, and we need to make sure that
19 that's there.
20 Maybe the "strongly encouraged" is not the
21 right language. Maybe it's "these materials or as
22 approved by the committee or --
23 COUNCILMEMBER DEAN: Are required.
24 COUNCILMEMBER BATES: How about something
25 on these are acceptable materials or --

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1 MR. COOLEY: Others based upon the
2 approval of the board. That'll keep some flexibility
3 in it but tie it down.
4 COUNCILMEMBER PACHUTA: Yeah. And then it
5 would still have a section, you know, "Under no
6 circumstances will any buildings be made of."
7 MR. COOLEY: You will be shot.
8 COUNCILMEMBER PATRICK: Just from a staff
9 point of view, it's easier to say, "Here's what you
10 can't do," on the front end, and that eliminates a
11 lot of conversation and, well, what-ifs and how-
12 about-this.
13 That's from my perspective with the code.
14 If you tell people straight off that you can't do
15 these things, it makes the conversation a little more
16 direct on the front end. That's just my opinion.
17 MAYOR PITTMAN: All right. Anybody have
18 anything additional on page 9?
19 COUNCILMEMBER ALEXANDER: Item number (6).
20 you've got hard coat stucco as a major component,
21 then we have this galvanized steel again. That gives
22 me a little heartburn.
23 But then you have stucco mentioned again,
24 but we need to add "hard coat" to that.
25 MR. COOLEY: Right.

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1 MAYOR PITTMAN: Okay.
2 COUNCILMEMBER ALEXANDER: And then again
3 on number (3) parcels one-half acre or larger, again
4 we've got a conflict between the footage and depth in
5 the design guidebook.
6 MR. COOLEY: Right. We'll need to totally
7 revamp that. No question.
8 MAYOR PITTMAN: Okay.
9 COUNCILMEMBER DEAN: Could -- I'm sorry.
10 MAYOR PITTMAN: That's okay.
11 COUNCILMEMBER DEAN: Back for page number
12 9, I agree with the galvanized steel. I don't think
13 that that's a good match for what we have or what we
14 want to have.
15 And then for the secondary facade
16 standards, so there are no requirements where the
17 side yard is less than 10 feet?
18 MR. COOLEY: I'm sorry. Where are you on
19 that?
20 COUNCILMEMBER DEAN: I'm sorry. On (f),
21 secondary facade standards.
22 MR. COOLEY: Okay. All right. That
23 basically is where you got a situation where the side
24 yard, the side of a building, the secondary facade is
25 not visible because adjacent buildings, you know, may

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1 come out further or whatever the case may be at that
2 point, that basically does not -- If it's deemed
3 wholly or practically inapplicable by, you know,
4 Director or Design Review Board, because of the
5 narrowness and low visibility, you don't have to do
6 that.

7 There's no point in putting architectural
8 -- you know, those type of costs into a building
9 where there's no point from a visual, because all
10 this is about is aesthetics, primarily.

11 COUNCILMEMBER DEAN: Right. What if you
12 have two buildings and one was taken away? I mean
13 would there then be a requirement to bring that
14 building up to standard?

15 MR. COOLEY: That's a good question.

16 COUNCILMEMBER DEAN: And if not, could
17 there be some language added to require that?

18 MR. COOLEY: Yeah. Let me take a look at
19 that. That's . . .

20 COUNCILMEMBER DEAN: Okay.

21 MAYOR PITTMAN: Ms. Fleming?

22 COUNCILMEMBER FLEMING: That's okay.

23 MAYOR PITTMAN: Okay. Mr. Patrick, did
24 you have something?

25 COUNCILMEMBER PATRICK: Huh-uh.

1 MAYOR PITTMAN: Okay. We'll move to page
2 10. Anyone who has comments, just pop in.

3 COUNCILMEMBER ALEXANDER: On (ii), the
4 arcades and colonnades, again it's a conflict between
5 this and the design guidebook. The design guidebook
6 says six feet.

7 MR. COOLEY: Uh-huh.

8 MAYOR PITTMAN: Anyone else?

9 COUNCILMEMBER BATES: This to me would be
10 another place where a chart might be helpful or --

11 MR. COOLEY: I agree. It's absolutely
12 much simpler to look at something and go cha, cha.

13 COUNCILMEMBER BATES: Or have one chart
14 that is broken down by acreage: You know, if
15 you're --

16 MR. COOLEY: Right.

17 COUNCILMEMBER BATES: Instead of having
18 four pages of text, because some of these are
19 duplicative between the two. So I think there's an
20 easier way of --

21 MR. COOLEY: I think it would be --

22 COUNCILMEMBER BATES: -- addressing --

23 MR. COOLEY: -- good organizational, do it
24 by the acreage: the half acre, you know, greater
25 than.

1 COUNCILMEMBER DEAN: And I only have --
2 have one question with the secondary facade shall
3 have at least one of the following components. Why
4 is one the magic number? I mean why? So choose
5 which one you want to have? I mean why one, just out
6 of curiosity.

7 MR. COOLEY: Well, again, the primary
8 facade requires I believe two.

9 COUNCILMEMBER DEAN: Two? Uh-huh

10 MR. COOLEY: This is a secondary facade.
11 So if you had the two, basically you'd be bringing it
12 up to the same level as the primary, and the whole
13 idea of a secondary facade is it's not as visible.

14 COUNCILMEMBER DEAN: Okay.

15 MAYOR PITTMAN: Okay. All right. Page
16 11?

17 COUNCILMEMBER ALEXANDER: Same comment as
18 before on the corrugated metal.

19 MR. COOLEY: Which item is that? Oh.

20 COUNCILMEMBER ALEXANDER: "i."

21 MR. COOLEY: Right there. I got it
22 highlighted.

23 So you, as opposed to the secondary
24 facade, eliminate corrugated metal completely? Is
25 that the intent?

1 COUNCILMEMBER DEAN: Yes.

2 COUNCILMEMBER BATES: I don't think
3 corrugated metal has any business being on a building
4 facade, personally.

5 MAYOR PITTMAN: Okay.

6 COUNCILMEMBER DEAN: And then --

7 COUNCILMEMBER PATRICK: Um.

8 COUNCILMEMBER DEAN: I'm sorry. Go ahead

9 COUNCILMEMBER PATRICK: I was going to
10 just say for 6 (2) or (ii), smooth-faced concrete,

11 perhaps we could have that hard-coat stucco instead
12 or just eliminate smooth-faced altogether.

13 COUNCILMEMBER PACHUTA: And then are we
14 going to also take out the outdoor storage of
15 shopping carts for the secondary facade --

16 COUNCILMEMBER PATRICK: Yeah.

17 COUNCILMEMBER PACHUTA: -- if we're
18 putting them in the building?

19 MR. COOLEY: That was the desire, was it
20 not, to --

21 COUNCILMEMBER PACHUTA: Yeah.

22 COUNCILMEMBER ALEXANDER: Yes.

23 MR. COOLEY: -- incorporate it into the
24 building?

25 COUNCILMEMBER PACHUTA: Yeah. So I think

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1 we need to take out that section.
2 MR. COOLEY: Yeah. There's probably going
3 to be some things based upon what we're hearing
4 tonight that'll probably run through like the hard-
5 coat and things like that.
6 MAYOR PITTMAN: All right. Page 12.
7 COUNCILMEMBER DEAN: You're talking about
8 the exterior ground level mechanical equipment,
9 mechanical equipment package units or related
10 attachments.
11 Is there something we could put in here to
12 include dumpsters or trash receptacles as well?
13 MR. COOLEY: If I'm not mistaken, it's
14 further back, but we'll make sure --
15 COUNCILMEMBER DEAN: Okay.
16 MR. COOLEY: -- that it's in there.
17 COUNCILMEMBER DEAN: Okay.
18 MAYOR PITTMAN: Okay. Page 13?
19 COUNCILMEMBER ALEXANDER: Back on page
20 12 -- I'm sorry, Mayor; I was --
21 MAYOR PITTMAN: That's okay.
22 COUNCILMEMBER ALEXANDER: -- trying to
23 catch up.
24 MAYOR PITTMAN: That's okay.
25 COUNCILMEMBER ALEXANDER: Regarding peaked

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1 roofs and pitched roofs, say we have one of the
2 buildings on GM property is eight or nine stories.
3 We're going to require them to have a pitched roof?
4 MR. COOLEY: Some of the -- the other roof
5 requirements on there require the balustrade to be
6 above, so it does allow for flat roofs. Because
7 you're absolutely right, you know; I've seen some
8 with neat looking pitched roofs, but for the most
9 part, they're not.
10 COUNCILMEMBER ALEXANDER: That was just a
11 concern. Thank you.
12 MR. COOLEY: Uh-huh.
13 COUNCILMEMBER FLEMING: Yes, but even some
14 of the -- But see, the buildings here that Mr. Gillen
15 has provided, they've got flat roofs. I don't see
16 any reason why we can't have flat roofs.
17 MR. COOLEY: No. I think one of the key
18 things on that is so you get the parapet up high
19 enough where you don't see all those air conditioning
20 units, and there's one that comes to mind when you
21 come into town that blasts you in the face right
22 there.
23 COUNCILMEMBER FLEMING: But we're saying
24 that it's requiring pitch; correct?
25 MR. COOLEY: Well, they're going to have

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1 to be covered. I mean they're going to have to be
2 either not up there. There's somewhere in here, I
3 know, that addresses about not being able to see the
4 AC units on top of the building.
5 COUNCILMEMBER BATES: But is that seeing
6 it from the ground level or seeing it from an
7 elevated . . .
8 MR. COOLEY: That is from the ground or
9 street level.
10 COUNCILMEMBER BATES: So if you are at New
11 Peachtree, which is elevated, looking over Doraville
12 Plaza, are you saying that Doraville Plaza would need
13 to have a wall that extends up, a parapet wall that
14 extends up so that you can't see any of the rooftop
15 units?
16 MR. COOLEY: If something was new built
17 there, they would have to have it to the point where
18 they were not visible, unless they came in because of
19 the topography or whatever and requested that change
20 or whatever they were proposing from the advisory
21 board.
22 If you're talking about designing a new
23 building on that tract as a mixed use or whatever,
24 higher density, I got a feeling that your elevation,
25 the densities may be higher.

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1 COUNCILMEMBER BATES: So let's -- let's --
2 MR. COOLEY: But not existing condition,
3 no.
4 COUNCILMEMBER BATES: But if they renovate
5 40 percent of the front of Doraville Plaza, this code
6 kicks into effect.
7 MR. COOLEY: The 40 percent applies to
8 that facade, I'd have to go back and look at the
9 details. But yeah, let me check that.
10 COUNCILMEMBER BATES: I'm not opposed to
11 it. I just want to make sure that we know what --
12 MR. COOLEY: Yeah, and that's . . .
13 COUNCILMEMBER BATES: -- what we're
14 getting into.
15 MR. COOLEY: At this point, I'd have to go
16 back and really reread it.
17 MAYOR PITTMAN: Okay. Anything else on
18 page 12?
19 (No response)
20 MAYOR PITTMAN: Okay. Page 13?
21 COUNCILMEMBER ALEXANDER: Section (3) and
22 a couple other places in the design guidebook we
23 reference color limitations but talk about the use of
24 corporate colors.
25 Well, if my corporate color is not on your

1 color chart, am I still allowed to use it? I'm just
2 thinking of Chick Fil-A has red trim.
3 MR. COOLEY: Right. I believe there was
4 something in here about the color being -- corporate
5 colors being allowed for accents. There's something
6 in here about corporate colors. Let's see.
7 COUNCILMEMBER BATES: 14 top page, number
8 (4.)
9 MR. COOLEY: Yeah, that's the graphic
10 schemes and murals.
11 COUNCILMEMBER BATES: That says color
12 schemes are not permitted.
13 MR. COOLEY: Right.
14 COUNCILMEMBER BATES: Except as part of
15 allowable signage.
16 MR. COOLEY: Now, the three colors. Yes,
17 basically the way I read this, that would be correct
18 unless you wanted to allow trim to be in corporate
19 colors.
20 COUNCILMEMBER BATES: So Home Depot
21 wouldn't be able to use their Home Depot orange.
22 MR. COOLEY: They certainly would be in
23 their signage but not in their roofing.
24 COUNCILMEMBER BATES: Right.
25 COUNCILMEMBER FLEMING: But not in their

1 limit it so it's --
2 COUNCILMEMBER PACHUTA: You don't have -
3 MR. COOLEY: I've seen it done.
4 COUNCILMEMBER PACHUTA: -- a big orange
5 building?
6 Have you?
7 MR. COOLEY: Yeah. There are a lot of
8 corporate buildings, franchises, whatever, all over,
9 depending on how strict the requirements are, that
10 you would never guess. Out in Colorado, I saw one
11 It was a Taco Bell and it looked like a residence,
12 and it was -- The only way you knew it was Taco Bell
13 was the sign. That was it. It was cool, you know.
14 COUNCILMEMBER PACHUTA: That's how it i
15 in Cary.
16 MR. COOLEY: Is it?
17 COUNCILMEMBER PACHUTA: Yeah.
18 MR. COOLEY: Yeah. So they're used to it.
19 I mean I like it.
20 COUNCILMEMBER FLEMING: Well, I'm going to
21 throw out my personal opinion as far as the -- I do
22 believe that we need to have a color palette for the
23 main color of the building, you know, the facade,
24 secondary facade, and so forth and so on.
25 The only time that I would, you know, go

1 what?
2 COUNCILMEMBER ALEXANDER: Roofing.
3 MR. COOLEY: Roofing.
4 COUNCILMEMBER FLEMING: The trim.
5 COUNCILMEMBER BATES: No.
6 COUNCILMEMBER ALEXANDER: No.
7 MR. COOLEY: Not unless --
8 COUNCILMEMBER ALEXANDER: It's not on the
9 chart.
10 MR. COOLEY: -- it's a muted, it's --
11 Yeah, that would be considered a --
12 Well, and that's one thing y'all need to
13 look at: Does that color palette make sense or do
14 you need to allow a certain amount of trim to be in a
15 corporate color, or, you know, what are your
16 thoughts?
17 MAYOR PITTMAN: I think we need to somehow
18 allow them to use their corporate colors. I don't
19 know as a percentage or . . .
20 MR. COOLEY: I assume that would be as a
21 trim only?
22 MAYOR PITTMAN: A lot of times, the color
23 is their trademark, so --
24 MR. COOLEY: Yeah, I know.
25 MAYOR PITTMAN: -- you know, how could you

1 beyond that, I don't think we should have a separate
2 trim chart, because they may want to incorporate
3 their corporate color into their trim even if it's
4 flamingo pink.
5 MR. COOLEY: Well, you could write it so
6 that, you know, no trim or -- you know, I would think
7 that you would want to limit it maybe on width or
8 height, you know, so they don't do 45 percent of the
9 building as their trim.
10 But, you know, a reasonable amount. Maybe
11 it's a percentage of the facade height or something.
12 I could look at that and try to address that to allow
13 a certain amount of corporate color into it.
14 COUNCILMEMBER DEAN: Well, and if we look
15 at that Starbuck's near Perimeter Mall, that's just a
16 nice place. It looks like a little house; right?
17 MR. COOLEY: Yeah.
18 COUNCILMEMBER DEAN: I mean that's . .
19 The parking lot's always full, so I don't think that
20 it's discouraging.
21 MR. COOLEY: Now, their corporate color is
22 kind of a dark green, is it not?
23 COUNCILMEMBER DEAN: Uh-huh.
24 COUNCILMEMBER PACHUTA: That's the
25 example, the Target with the red.

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1 COUNCILMEMBER DEAN: Uh-huh.
2 MR. COOLEY: Yeah.
3 MAYOR PITTMAN: It's still got the red but
4 it's not a big, huge amount.
5 COUNCILMEMBER ALEXANDER: Right.
6 MAYOR PITTMAN: So it still gives the
7 message that it's a Target.
8 MR. COOLEY: Let me see what I can draft
9 up to --
10 COUNCILMEMBER BATES: Are you saying --
11 MR. COOLEY: -- address that.
12 COUNCILMEMBER BATES: -- that BrandsMart
13 would not be allow to do what they've done?
14 MR. COOLEY: Yeah.
15 COUNCILMEMBER BATES: Just checking.
16 MR. COOLEY: Personally, I think that
17 whole building is a sign.
18 COUNCILMEMBER FLEMING: For Purina Dog
19 Chow?
20 MR. COOLEY: Well, it sure does draw
21 attention to the business, and under our definition
22 of a sign, that's what it does. But it is what it
23 is, I guess.
24 MAYOR PITTMAN: All right. Any other
25 comments on page 13?

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1 (No response)
2 MAYOR PITTMAN: Page 14.
3 (No response)
4 MAYOR PITTMAN: Okay. Page 15.
5 COUNCILMEMBER ALEXANDER: Robert wants to
6 talk about metal roofs.
7 COUNCILMEMBER PATRICK: They're okay.
8 They're not bad.
9 MAYOR PITTMAN: Okay. Additional comments
10 on page 15?
11 (No response)
12 MAYOR PITTMAN: Okay. Page 16.
13 COUNCILMEMBER ALEXANDER: I mean how does
14 Council feel about allowing metal roofs?
15 MR. COOLEY: That's what I was going to
16 ask. What's your desire?
17 COUNCILMEMBER DEAN: I don't know. I
18 don't like -- I don't love/like metal roofs. I mean
19 I don't, unless it's raining, of course.
20 I mean I think that if we want to -- I
21 think we have enough. I think we have our share of
22 metal roofs; right?
23 COUNCILMEMBER PATRICK: So if -- if you
24 have a covered walkway that incorporates a sloped
25 roof to the building facade, are we going to say that

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1 you can't have a metal -- metal roof on that?
2 COUNCILMEMBER DEAN: What is an advantage?
3 What's the advantage of having a metal roof?
4 COUNCILMEMBER PATRICK: Well, one, they're
5 very durable; two, they can be repainted. They hold
6 up, they don't rust or corrode or . . .
7 MR. COOLEY: There are some high-rises, I
8 know, down in Midtown that actually have the pitched
9 roof with the seamed, and it's metal.
10 COUNCILMEMBER BATES: Uh-huh.
11 MR. COOLEY: So you do see them on high-
12 rises also. It's not what we typically think of
13 under -- you know, it's more -- Where I've seen it a
14 lot is on cottages and things of that sort. You
15 know, maybe a '20s style cottage.
16 COUNCILMEMBER DEAN: Uh-huh.
17 MR. COOLEY: You know, they used to have
18 metal roofs.
19 COUNCILMEMBER PATRICK: Are we drawing a
20 distinction between a metal roof and an awning?
21 MR. COOLEY: Well, the thing was that with
22 any of the accessory structures or things like that,
23 it has to be -- the roofing would need to be
24 consistent. Accessory, any other additional
25 elements, you need consistency there.

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1 That doesn't mean that you might have a
2 high-rise that has parapets and basically a flat roof
3 and then you might have a connection. One that comes
4 to mind is the connection between the Promenade and
5 the Arts Center down in Midtown. I'm pretty sure
6 that has a metal -- a pitched metal roof if I'm not
7 mistaken, but the building does not. It works.
8 I've also seen the domed, plastic domed,
9 and the problem with those is they get dirty looking
10 and they don't look good.
11 COUNCILMEMBER PATRICK: We could say no
12 plastic domes. That's -- that's okay.
13 COUNCILMEMBER ALEXANDER: Well, if you
14 look at the pictures that Dr. Gillen gave us, I guess
15 this is page 2, if you look at the bottom picture on
16 the right-hand side, that mental roof is a whole --
17 it's part of the facade and everything.
18 That's pretty ugly in my opinion. There's
19 no delineation. It looks like one giant roof sheet
20 that's just bent on the front.
21 MR. COOLEY: I think what they --
22 COUNCILMEMBER PATRICK: It's almost like a
23 mansard roof.
24 MR. COOLEY: Oh, yeah. Yeah, I've seen
25 that. That becomes part of the facade. That would

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1 be allowed.

2 COUNCILMEMBER PACHUTA: But you know, I

3 don't have a problem like the top picture -- not the

4 building that's in the forefront but the next one --

5 that looks like a textured metal roof, and I'm okay

6 with that.

7 COUNCILMEMBER BATES: That's this one.

8 It's the same building.

9 COUNCILMEMBER PACHUTA: Exactly, yeah.

10 COUNCILMEMBER ALEXANDER: Yeah. But I

11 don't like City Hall's roof.

12 COUNCILMEMBER PACHUTA: It is bright.

13 COUNCILMEMBER ALEXANDER: So I guess, you

14 know, these metal roofs aren't the main focal point

15 because of the design, how they're designed as far as

16 the pitch and orientation and all.

17 But I just don't want all the buildings to

18 look like City Hall, no offense to our predecessors.

19 COUNCILMEMBER DEAN: Well, there's also a

20 building in Tilly Mill that has the metal roof that's

21 over the setback, and it's not -- it's not very

22 aesthetically pleasing at all.

23 MR. COOLEY: So did we come to consensus

24 on that?

25 COUNCILMEMBER PATRICK: What about this?

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1 It's something that you could write in a line that

2 says something to the effect of the design board will

3 pay particular attention to any contemplated metal

4 roofs and it shall be determined on a case-by-case

5 basis --

6 COUNCILMEMBER PACHUTA: Right.

7 COUNCILMEMBER PATRICK: -- so it's not a

8 broad stroke "yes," but it is a "We don't allow it to

9 happen unless."

10 MR. COOLEY: Yeah. And metal roof as

11 approved by the architectural design board --

12 COUNCILMEMBER PACHUTA: I like that.

13 MR. COOLEY: -- being consistent with the

14 intent?

15 COUNCILMEMBER PATRICK: Yeah.

16 COUNCILMEMBER PACHUTA: Yeah. That's

17 good.

18 MAYOR PITTMAN: Okay. Page 15. We're on

19 page 15? Comments on page 15 or 16?

20 COUNCILMEMBER ALEXANDER: I had a note I

21 wrote on page 16 but now I don't know what it meant.

22 I just wrote down "conflict." So there must have

23 been a conflict on this page between part of the

24 ordinance and the design standard guideline book.

25 MR. COOLEY: Yeah, I think you mentioned

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1 that earlier because I got the same note here.

2 COUNCILMEMBER ALEXANDER: Okay.

3 MAYOR PITTMAN: Okay. Page 17.

4 COUNCILMEMBER ALEXANDER: On page 17, the

5 comment I had was item (c) that continues on to page

6 18. It talks about "Control and expansion joints

7 constitute a detail feature only if incorporated as a

8 decorative pattern and spaced apart at intervals of

9 six feet. . ."

10 I think that expansion joints are dictated

11 by building code and the actual -- it's a calculation

12 based on the area of a wall.

13 So I don't think in this code that we can

14 define six feet. I think that a building official or

15 somebody like that would define that, I mean, more

16 than us.

17 MR. COOLEY: Yeah. From a structural

18 perspective, you're absolutely right.

19 The only thing I could think of is if they

20 wanted to incorporate those into the design and add

21 additional almost fake expansion joints or something

22 to create a pattern. In that case, it might make

23 sense, but that's the only way.

24 You're absolutely right; that's a

25 materials function.

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1 MAYOR PITTMAN: Okay. Page 18.

2 COUNCILMEMBER ALEXANDER: There's an error

3 in section (d). It says, defined in section 38-1?

4 MR. COOLEY: Yes.

5 COUNCILMEMBER ALEXANDER: Okay.

6 COUNCILMEMBER DEAN: And under (1),

7 (d)(1), it says "Owners shall maximize the amount of

8 pedestrian-scaled windows, avoiding extensive opaque

9 surfaces."

10 So which windows? We already have an

11 ordinance that stipulates you cannot have more than

12 30 percent of the windows covered; right?

13 MR. COOLEY: With interior signs, that's

14 correct.

15 COUNCILMEMBER DEAN: Okay. And so what

16 about like this reflective? I thought it was just

17 they have --

18 MR. COOLEY: Actually, there's --

19 COUNCILMEMBER DEAN: -- to be transparent

20 MR. COOLEY: -- something further back

21 down here that basically says no smoked windows,

22 nothing that blocks that.

23 COUNCILMEMBER BATES: It's on page 8.

24 So my question was going to be, doesn't

25 this conflict with that? Because if we say -- and I

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1 think it's on page 7 or page 8 that specifically
2 excludes blacked-out windows and addresses treatment,
3 window treatments. If you're referencing the
4 opaque -- you know, limiting the opaqueness, doesn't
5 that conflict with that other prohibition?

6 COUNCILMEMBER ALEXANDER: On page 8, it
7 says, "Blacked out or darkened windows and window
8 treatments or uses that obscure clear visibility into
9 and out of the building shall be prohibited."

10 MR. COOLEY: Okay. I'm lost. Where was
11 that section again about the -- that you were asking
12 about? I'm sorry.

13 COUNCILMEMBER BATES: It's (d)(1) on page
14 18.

15 COUNCILMEMBER DEAN: (d)(1). Okay. This
16 is under Big Box Developments under building entry
17 finishes.

18 MAYOR PITTMAN: Okay. I'm going to take
19 just a second. It's 10 till 9:00. We only have
20 about seven more pages to go. I'm assuming the
21 Council wants to finish that.

22 COUNCILMEMBER BATES: You're assuming
23 incorrectly.

24 MAYOR PITTMAN: You don't want to finish
25 the seven pages?

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1 COUNCILMEMBER BATES: I mean this is going
2 to come before a newly-seated Council. I don't see
3 any reason to extend this tonight. It's going to go
4 through an open hearing.

5 MAYOR PITTMAN: Works for me.

6 COUNCILMEMBER DEAN: Yeah. I'm good with
7 that.

8 MAYOR PITTMAN: Okay. So at 9 o'clock.

9 MR. COOLEY: Let me know.

10 COUNCILMEMBER FLEMING: Shut it down.
11 Shut it down.

12 MR. COOLEY: Well, it might be a good
13 stopping place, then. Let's see where the -- I mean
14 this actually goes on and on and on. This starts
15 with (1) and goes quite a ways.

16 COUNCILMEMBER PACHUTA: I would suggest
17 maybe at the next one you start with the big box
18 development or -- yeah.

19 MR. COOLEY: That would be a logical
20 stopping point, because the big box goes on for
21 (counting) one, two, three --

22 MAYOR PITTMAN: Forever.

23 COUNCILMEMBER PACHUTA: And pick back up
24 there.

25 MR. COOLEY: You know, it goes on and on,

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1 so we might want to consider the next major section's
2 curb stops, and that's back over on page 22, so you
3 have four more pages. If that's the case, my
4 suggestion would probably be just stop and address
5 big box development from there on out.

6 COUNCILMEMBER ALEXANDER: Because if you
7 could, like Councilman Bates and Councilmember Dean
8 said, on page 19(2) again it's for the windows --

9 MR. COOLEY: I'll go ahead --

10 COUNCILMEMBER ALEXANDER: -- and the
11 percentage.

12 MR. COOLEY: I'll go ahead and review
13 those, because we know that's an issue, and make sure
14 everything's consistent.

15 DR. GILLEN: Mayor, that begs the next
16 question. Would you like another session like this
17 in December, a three-way discussion? Do we have a
18 special meeting in December to address just this?

19 COUNCILMEMBER FLEMING: Just make it next
20 June.

21 COUNCILMEMBER BATES: No.

22 MAYOR PITTMAN: Are you having -- are you
23 having --

24 DR. GILLEN: Do you want to have it in
25 January and do it or do you want to have another

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1 special meeting or put it on the December work
2 session?

3 COUNCILMEMBER DEAN: We don't need no
4 stinking holidays.

5 COUNCILMEMBER BATES: I'm actually going
6 to suggest to Council that we not have a December
7 work session. I mean the reality is is that two of
8 us are lame duck and that any of those conversations
9 need to be done with a fully-seated Council.

10 I mean if the four members and Mayor want
11 to have a work session on topics in December, I think
12 that's fine. I don't know if there's any validity or
13 value for Ms. Pachuta and I to be a part of those
14 conversations. And I don't want to speak for Ms.
15 Pachuta, but that's -- that's my opinion.

16 COUNCILMEMBER DEAN: I'd like the month of
17 December to be as clear as possible.

18 MAYOR PITTMAN: I was going to say --

19 DR. GILLEN: That's fine with me.

20 MAYOR PITTMAN: -- I mean there were times
21 in years past they had no meetings in December just
22 because of everybody being so busy, but at least
23 eliminate the work session.

24 DR. GILLEN: Would you like us to try and
25 plan a special meeting in January, then, to cover

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1 this instead of putting it on the January work
2 session?
3 COUNCILMEMBER ALEXANDER: Yes.
4 COUNCILMEMBER DEAN: Or even if we have a
5 short agenda sometime between now and . . .
6 COUNCILMEMBER ALEXANDER: Never mind,
7 Trudy.
8 COUNCILMEMBER PACHUTA: What was that?
9 Fantasy?
10 COUNCILMEMBER DEAN: It was.
11 MAYOR PITTMAN: It was a good job.
12 DR. GILLEN: Well, we could do this, you
13 know, in the mid part of January and wrap up at least
14 the input section of it and get something drafted and
15 come back in February at a work session.
16 COUNCILMEMBER FLEMING: When does their
17 due diligence run out?
18 COUNCILMEMBER PATRICK: Are we under any
19 kind of time constraints with a certain site that
20 could be under redevelopment?
21 DR. GILLEN: No.
22 MAYOR PITTMAN: No.
23 DR. GILLEN: No, this won't impact.
24 COUNCILMEMBER DEAN: What about a
25 moratorium? How would that work if we want to impose

1 is it ready or is it not by the end of January.
2 COUNCILMEMBER DEAN: Right. Can we -- do
3 we have to make that decision right now? I mean can
4 we . . .
5 DR. GILLEN: No. What I'll do is Sandra
6 will set a meeting for that second or that third --
7 CLERK BRYANT: The second Monday?
8 DR. GILLEN: -- the second Monday in
9 January and --
10 CLERK BRYANT: January 13th.
11 DR. GILLEN: -- and we'll make sure it
12 works for everybody and then we'll schedule the
13 meeting.
14 COUNCILMEMBER DEAN: And I have a work
15 related commitment next week. I'll be out of town
16 next week, so I'm sorry, I'm going to miss the
17 meeting.
18 MAYOR PITTMAN: Okay.
19 MR. COOLEY: I would like to thank all of
20 y'all. This is the type of input and blow-by-blow
21 that I need to be able to make these changes and
22 things. So thank you. This is extremely helpful,
23 and I think it's a good process, so thanks.
24 MAYOR PITTMAN: Motion to adjourn?
25 COUNCILMEMBER ALEXANDER: So move

1 a moratorium?
2 COUNCILMEMBER FLEMING: On building
3 nothing?
4 COUNCILMEMBER DEAN: On building -- well,
5 I mean the thing is, if we -- and maybe we should
6 reconsider, because the things that we have --
7 I mean if something is built, then it's
8 there: right? And we need some standards I think
9 fairly quickly, so that might be another considera-
10 tion.
11 DR. GILLEN: That's you-all's decision
12 if you want to do that. We can't do it tonight --
13 COUNCILMEMBER DEAN: Right. Right, right.
14 DR. GILLEN: -- because we're not going to
15 take any action tonight.
16 But we'll plan a special meeting in
17 January, first part of January, because we've got a
18 meeting that first Monday in January, and probably
19 the following Monday we'll plan a special work
20 session for this. And you've got a work session in
21 January where we can hit it again if we want.
22 And if you're satisfied with it, we can
23 bring it to the first meeting in February for a vote
24 or we can put it on the February work session. So
25 you're going to have a lot of flexibility as far as

1 MAYOR PITTMAN: Second?
2 COUNCILMEMBER DEAN: Second.
3 MAYOR PITTMAN: Discussion?
4 (No response)
5 MAYOR PITTMAN: Call the roll, please.
6 CLERK BRYANT: Councilmember Alexander?
7 COUNCILMEMBER ALEXANDER: Yes.
8 CLERK BRYANT: Councilmember Bates?
9 COUNCILMEMBER BATES: Yes.
10 CLERK BRYANT: Councilmember Dean?
11 COUNCILMEMBER DEAN: Yes.
12 CLERK BRYANT: Councilmember Fleming?
13 COUNCILMEMBER FLEMING: Yes.
14 CLERK BRYANT: Councilmember Pachuta?
15 COUNCILMEMBER PACHUTA: Yes.
16 CLERK BRYANT: Councilmember Patrick?
17 COUNCILMEMBER PATRICK: Yes.
18 (Meeting adjourned at approximately 8:55 p.m.)
19 -o0o-
20
21
22
23
24
25

Attachment: NOV 12 minutes (1031 : November 12, 2013 Minutes)

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 5th day of December 2013.

16

17

18 Theresa Bretch, CCR

19 Permit No. B-755

20

21 [SEAL]

22

23

24

25

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City Council

Meeting: 01/06/14 06:30 PM Category:

Minutes

STATUS: SCHEDULED

Prepared By: Sandra Bryant

Initiator: Sandra Bryant

AGENDA ITEM (ID # 1032)

November 18, 2013 Minutes

- NOV 18 minutes (PDF)

In The Matter Of:*City of Doraville**State of Georgia*

*City Council Meeting - Work Session**November 18, 2013*

*American Court Reporting Company, Inc.**52 Executive Park South**Suite 5201**Atlanta, Georgia 30329-2217**(404) 892-1331 - (800) 445-2842*

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Attachment: NOV 18 minutes (1032 : November 18, 2013 Minutes)

CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

WORK SESSION

Transcript of the meeting of the
Doraville City Council held at Doraville
City Hall, 3725 Park Avenue, Doraville,
Georgia, Mayor Donna Pittman presiding,
before Theresa Bretsch, Certified Court
Reporter, commencing at 6:30 p.m. on Monday,
November 18, 2013.

* * *

1 PROCEEDINGS
2 MAYOR PITTMAN: Meeting come to order.
3 Call the roll, please.
4 CLERK BRYANT: Councilmember Alexander?
5 COUNCILMEMBER ALEXANDER: Here.
6 CLERK BRYANT: Councilmember Bates? I'm
7 sorry.
8 CLERK BRYANT: Councilmember Dean? She's
9 not here.
10 Councilmember Fleming?
11 COUNCILMEMBER FLEMING: Here.
12 CLERK BRYANT: Councilmember Pachuta?
13 COUNCILMEMBER PACHUTA: Here.
14 CLERK BRYANT: Councilmember Patrick?
15 COUNCILMEMBER PATRICK: Here.
16 MAYOR PITTMAN: Ms. Dean is out of town and
17 Councilmember Bates is under the weather tonight, so
18 neither one will be here.
19 There is no approval of minutes.
20 And everyone I would assume has reviewed the
21 agenda, and if there's no questions, we need approval
22 of the meeting agenda please.
23 COUNCILMEMBER ALEXANDER: So moved
24 MAYOR PITTMAN: Second?
25 COUNCILMEMBER PACHUTA: Second.

1 APPEARANCES:
2 Doraville City Council:
3 Mayor Donna Pittman
4 Councilmember Maria Alexander
5 Councilmember Pam Fleming
6 Councilmember Karen Pachuta
7 Councilmember Robert Patrick
8 Shawn Gillen, City Manager
9 Sandra Bryant, City Clerk
10 Connie Rockelein, Deputy City Clerk
11 Cecil McLendon, City Attorney
12 Leonid Felgin, Assistant City Attorney

1 MAYOR PITTMAN: Discussion?
2 (No response)
3 MAYOR PITTMAN: Call the roll, please.
4 CLERK BRYANT: Councilmember Alexander?
5 COUNCILMEMBER ALEXANDER: 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. Okay. We're
13 going to open the floor for public comment. Anyone
14 wishing to make public comment please come forward
15 limit your comments to three minutes and state your
16 name for the Clerk.
17 MR. BEN CRAWFORD: Ben Crawford, Oakcliff
18 Estates, Council, Mayor.
19 This concerns the noise level on Saturdays
20 at the arena. About eight-something in the morning.
21 we can lay in bed and hear that number 25 has just
22 scored a touchdown quite clearly in the bedroom with
23 the windows shut and the heater going. We can hear
24 number 17 is doing pretty good. He just went out for
25 a long and wide and caught the ball, and we hear cheer

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1 and cheer and cheering. And I guess repeated attempts
2 to tell them to tone it down has not worked over the
3 years.
4 It kind of, you know, impacts people's
5 property values. Let's say somebody comes over to buy
6 my house and it's right during football season. I
7 mean, to me, it seems like probably I'm guessing the
8 equipment over there is owned by the City and maybe
9 the audio equipment is possibly owned by the City too.
10 I don't know that.
11 But you know, there's devices you can put on
12 boilers where you limit the amount of pressure, you
13 know, within a certain limit that stops it from
14 getting anything past that limit. Seems to me we
15 could tap into a little hole in the knob and put a
16 little -- drill a little hole and put a little screw
17 that can't be unscrewed.
18 You know, I'd love those guys that are over
19 there just to get nice jobs announcing somewhere else,
20 because, you know, that's what they're shooting for,
21 because it can't be for the kids. You dial it down,
22 the kids can hear it fine.
23 I've been over there before. You can't get
24 over there to say anything to them nicely because it's
25 all locked up, which maybe it needs to be.

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1 But, to me, it just seems like it's time for
2 the Council to kind of get into it a little bit and
3 say, "Hey, you know, enough's enough. Dial it down
4 and keep it down," and maybe it needs to be so they
5 can't dial it past.
6 We get over there, investigate it a little
7 bit, see what kind of -- I think as the crow flies my
8 house is about a mile -- about a mile away from the
9 arena. I think when I drove it, it was a little more
10 than that.
11 So you know, let's establish some limits and
12 make sure that they can't go over the limits, because,
13 obviously, talking to them is not doing any good. So
14 I mean you got limit devices on all kind of things in
15 life: carnival rides, boilers, your car. You know,
16 you run a truck, it's got a speed limit on it where
17 you can't go over -- you got a governor on the thing,
18 so you floor it, and it's only going 60 because they
19 don't want you taking the truck beyond 60 miles an
20 hour.
21 So let's establish some reasonable limits
22 where the children -- you know, I think it's great
23 that they're there. The sports are great. I don't
24 think it's a money-making business for the City, but
25 that's not my concern.

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1 My concern is for the neighborhood. And it
2 just seems like we need to investigate it a little
3 bit, see what an acceptable noise level is, establish
4 the parameters and make sure they don't get exceeded
5 any more.
6 MAYOR PITTMAN: And I just want you to know
7 that after your phone calls, that they were made aware
8 of that, and I know Susan said they had been turned
9 down somewhat.
10 I will make sure the city manager talks to
11 them.
12 MR. CRAWFORD: Yeah. And I mean I'm just
13 lazing around on a Saturday reading a book and, you
14 know, wasn't really reading a book; I was thinking
15 about the plays that were being made on the field.
16 But thank you for your time.
17 MAYOR PITTMAN: Thank you.
18 DR. GILLEN: I'll talk to Rick.
19 MAYOR PITTMAN: Yeah. Thank you.
20 He is aware of it, but yeah.
21 COUNCILMEMBER FLEMING: Can I make a
22 comment?
23 Dr. Gillen, I made a comment over a year
24 ago, being heavily involved with North Dekalb Youth
25 Sports for 20-some-odd years, if there are speakers

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1 facing the residential district, they do need to be
2 taken down, because there is only seating on the
3 concession-stand side. So the speakers need to be
4 going toward the parking lot, not toward the
5 residential district.
6 DR. GILLEN: Yes, ma'am.
7 MR. STUART ANDERSON: Stuart Anderson.
8 Complain, complain. Sorry.
9 This is also sports related. I noticed -- I
10 have two things. One, I have difficulty on the Web
11 site. I couldn't copy anything off, which I wanted
12 to. But either way, I was having difficulty looking
13 at the Web site or the -- the financial plan for the
14 discussion for tonight.
15 But I did manage to see that Halpern Park
16 was scheduled for 2015 and '16 for \$50,000. In the
17 meantime, we could just for a couple bags of cement,
18 straighten up the basketball thing. We painted it,
19 but we could just straighten it up and most people
20 could have a lot better experience. Thank you.
21 MAYOR PITTMAN: Okay. Anyone else wishing
22 to make public comments?
23 (No response)
24 MAYOR PITTMAN: Okay. Reports and
25 presentations. Actually, I just want to make

Attachment: NOV 18 minutes (1032 : November 18, 2013 Minutes)

1 announcement of the Christmas tree lighting that will
2 be coming up the weekend of Thanksgiving. I believe
3 the 30th is the date, and it'll be here at City Hall.
4 And I understand it's a very, very nice event, so if
5 you could please help spread the word, and we also
6 will have the road race at 4:30. That's also going to
7 be a very nice community event. Hope everyone can
8 come out, and if you know of someone that might not
9 know about it, please share.

10 COUNCILMEMBER ALEXANDER: And Toys for Tots.

11 And Toys for Tots. Thank you, Maria.

12 This will be incorporated with Toys for
13 Tots, and we will hopefully by tomorrow have a box out
14 here for Toys for Tots, and this is a worthy cause.
15 We will have a marine here to pick up the toys on the
16 night of the tree lighting. So if you could help out
17 with that or know someone that might like to, the box
18 will be out here hopefully by tomorrow.

19 So again, very nice events for the city.

20 All right. We're going to go into
21 Unfinished Business, and next is going to be the
22 Retirement Plan Revision, Dr. Gillen.

23 DR. GILLEN: Thank you, Mayor and Council.

24 As you recall last time we had a discussion
25 on the projections, we did a 10-year projection on

1 the 10 percent contribution level.

2 If we look longer term, in year 2027, that's
3 a \$730,000 cost compared to an \$820,000 cost of the
4 current plan. So you're seeing almost a \$300,000
5 increase per year in the cost of the plan if we stay
6 as-is.

7 We're seeing that cost decreased with the
8 change, so long-term the savings is dramatic and
9 short-term the savings is significant, so it is some
10 very good numbers.

11 So when we look at options, we look at the
12 employer contribution here and then maybe a match. So
13 if you want to make the equivalent of a 10 percent
14 contribution, let's say we go with an 8 percent direct
15 contribution and allow the employees to match up to
16 3 percent. So we'll match up to 3 percent of their
17 own money into the plan.

18 We can go back and we can look at what the
19 cost savings is. It's slightly more expensive
20 because, you know, it's closer to an 11 percent total
21 contribution, but you still -- the savings is still
22 significant.

23 And so we also talked last time about a
24 phased-in vesting, which we can also do, but we really
25 wanted to show the longer term impacts. You know,

1 switching the plan to a defined contribution plan; for
2 scenario 2 on the spread sheet that you see on the
3 screen shows just allowing new employees coming into
4 the defined contribution, and scenario 3 on there
5 shows if we allow all new employees to come on and
6 anyone else who might be eligible or not vested in the
7 current plan to voluntarily switch over.

8 So they did a 15-year projection as
9 requested by the Council. And as we see -- as we look
10 at the numbers coming in, we set the benefit level as
11 10 percent. The Council hasn't decided on what that
12 would be, and we can alter those numbers here as we
13 speak if you wish and kind of see how the numbers
14 change as the contribution levels change. And we see
15 a significant -- of course, again, a significant cost
16 savings short term and long time making this change.

17 In year -- the first year of the plan
18 change-over, which -- sorry -- plan year 2014 --
19 sorry, I'm getting used to the keyboard here -- you
20 see those numbers are in millions. So \$500,000 would
21 be our contribution for the current plan and the
22 defined contribution plan compared to a \$560,000 cost
23 to us in that first year if we stay with the plan as-
24 is. So right off the bat, you're seeing a \$60,000
25 savings. That's at the 10,000 dollar -- pardon me --

1 we're looking right now at some very good revenues
2 over expenditures for the last two years and into the
3 future. However, with increased healthcare costs,
4 employee cost, and with the pension costs increasing
5 over time, that can disappear very quickly. So we
6 need to make changes like this to maintain that lower-
7 cost revenue-over-expenditure scenario into the
8 future.

9 So our recommendation to you, we need to
10 start moving towards this plan. And there are several
11 steps that are going to have to take place, and Lenny
12 and Cecil can kind of talk to you about the legal
13 aspects of it, what legal documents have to be
14 drafted.

15 But what we would look for is coming back to
16 you at a work session, say in January, with a
17 resolution drafted that kind of outlines the framework
18 of the plan. So here's how it's going to work: it's
19 going to be this level of contribution and this level
20 of match. These are the people that are eligible to
21 come into it, new employees, any employee that might
22 voluntarily switch over, that sort of thing.

23 Then we'd lay out all those details, and the
24 Council says, "Here's what we want the plan to look
25 like." Then we would take that resolution, once

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1 passed by the Council in a subsequent meeting, and
2 start drafting the plan documents and getting the
3 implementation finalized.
4 So that's what the timeline would look like
5 on this as you move forward.
6 So what we'd like tonight is to seek a
7 little more input from you, if these numbers look as
8 satisfactory to you as we think they do, and what
9 other information you might want. And with your nod
10 of the head, we can have a draft resolution ready at
11 the next work session, the work session in January,
12 for you to review -- not vote on at that time, but
13 review and make any other changes to bring back to a
14 subsequent meeting, and that will get the ball
15 rolling.
16 So this takes awhile to get implemented
17 because there's a lot of hoops you got to jump through
18 with GMA and things like that to make the change.
19 MAYOR PITTMAN: Okay. Ms. Alexander?
20 COUNCILMEMBER ALEXANDER: Can you go back to
21 the other page, please?
22 DR. GILLEN: Which one?
23 COUNCILMEMBER ALEXANDER: I can't -- There
24 you go.
25 So the match percentage, explain that to me,

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1 because in my plan, my match is I put so much
2 percentage and my company matches 50 percent of that
3 up to a certain limit, so --
4 DR. GILLEN: This is a dollar-for-dollar
5 match up to 3 percent.
6 COUNCILMEMBER ALEXANDER: So we're going to
7 give them a flat 8 in this scenario --
8 DR. GILLEN: Right.
9 COUNCILMEMBER ALEXANDER: -- and match up to
10 3 percent of what they put in.
11 DR. GILLEN: Correct.
12 COUNCILMEMBER ALEXANDER: Okay. So
13 obviously, a higher paid employee, the match would be
14 higher.
15 DR. GILLEN: Yes, yes.
16 COUNCILMEMBER ALEXANDER: Okay. And what is
17 our flexibility? One of the things that we were hand-
18 cuffed by is we had no flexibility. There was no
19 ability for us to adjust our contributions. I mean,
20 you know, are we going to be able --
21 I don't want us to handcuff ourselves again.
22 DR. GILLEN: Right.
23 COUNCILMEMBER ALEXANDER: So is that --
24 which one of those numbers is flexible should we not
25 have the money to do an 8 percent in a certain budget

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1 cycle?
2 DR. GILLEN: Both of them are flexible. So
3 when we set up the plan documents, we would build that
4 into the plan itself, that the Council can change the
5 contribution level and the match level when/if needed.
6 COUNCILMEMBER ALEXANDER: Okay.
7 DR. GILLEN: So you set the plan up, this is
8 the way it is, and that can always change in the
9 future.
10 If you want to be more generous and the
11 future councils want to be more generous or less
12 generous in the match or the contribution, that can --
13 that can be altered. It's not like a defined
14 contribution plan where it's kind of the current plan
15 is set, and you can't alter that So we would want to
16 structure the plan to have maximum flexi-bility.
17 COUNCILMEMBER ALEXANDER: And at the current
18 plan right now, we're contributing about 17 percent of
19 their pay; is that right?
20 MS. LISA FERGUSON: It's between 15 and 17
21 because we lowered the -- we increased the
22 amortization this year, and I'm not sure what the
23 exact percentage is.
24 COUNCILMEMBER ALEXANDER: Okay. All right.
25 Thank you.

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1 DR. GILLEN: Okay.
2 MAYOR PITTMAN: Ms. Pachuta?
3 COUNCILMEMBER PACHUTA: So we currently do
4 have a plan that the City doesn't match.
5 MS. FERGUSON: Right.
6 COUNCILMEMBER PACHUTA: Okay. Would that
7 plan still be in place or would that money get
8 transferred over?
9 And then kind of along with that, are we
10 capping like the one-to-one match or is there going to
11 be an additional percentage that we allow employees to
12 contribute? Like say we put in 8 percent, we'll match
13 up to 3 percent; but then can the employee put in even
14 more that we don't match?
15 DR. GILLEN: The employee will be able to
16 put in up to the IRS limits --
17 COUNCILMEMBER PACHUTA: Okay.
18 DR. GILLEN: -- and I can't tell you off the
19 top of my head what those limits are, but David
20 Griffin is here.
21 MR. GRIFFITH: It's \$17,500 if they're under
22 50 and another \$5,500 if you're --
23 DR. GILLEN: Does that include the employer
24 contribution?
25 MR. GRIFFITH: That is just employee money.

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1 That does not include employer money.
2 DR. GILLEN: Thank you.
3 MS. FERGUSON: What I have done in other
4 cities is we put all of the employer money, the
5 retirement and the match, into a 401 plan, and then
6 the employee money that we are matching will go into a
7 457 which is capped at 17,5, because we don't want
8 to -- we don't want to limit what they can put in
9 there by putting our money in with theirs. Does that
10 make sense?
11 COUNCILMEMBER PACHUTA: Okay. And do you
12 have -- and this has been a long time since I've dealt
13 with H.R. issues. Where there used to be -- I know
14 with my private employer, highly compensated employees
15 were putting in a higher percentage than the lower
16 compensated employees. Like some of that money ended
17 up having to go back to the higher, like because the
18 plan had to be balanced so that it contained . . .
19 Does that still work with --
20 MS. FERGUSON: It does, but we --
21 COUNCILMEMBER PACHUTA: -- public?
22 MS. FERGUSON: -- don't have anybody that
23 qualifies as a highly compensated employee, not even
24 him.
25 [To Dr. Gillen] Sorry.

1 MAYOR PITTMAN: Mr. Patrick?
2 COUNCILMEMBER PATRICK: No questions right
3 now.
4 MAYOR PITTMAN: Ms. Fleming?
5 COUNCILMEMBER FLEMING: I'm just working off
6 of the October 21st materials. We didn't receive a
7 copy of that, and I cannot see the smart board from
8 here, so I would appreciate this PowerPoint being
9 printed for me.
10 DR. GILLEN: It's a spread sheet. We can
11 get that for you, yes.
12 COUNCILMEMBER FLEMING: I'm sorry?
13 DR. GILLEN: It's a -- it's not a
14 PowerPoint, it's a spread sheet, but I can --
15 COUNCILMEMBER FLEMING: Okay.
16 DR. GILLEN: I'll zoom it in just a little
17 bit more.
18 COUNCILMEMBER FLEMING: That's quite all
19 right. It's the way the angle -- I mean the board --
20 DR. GILLEN: Right.
21 COUNCILMEMBER FLEMING: -- for Ms. Dean and
22 myself, it's very difficult because we're looking at
23 it sideways.
24 DR. GILLEN: Right.
25 COUNCILMEMBER FLEMING: Okay. And I notice

1 that the gentleman is here this evening. The other
2 questions that we asked were -- I asked at the October
3 21st meeting was comparisons with Norcross and
4 Chamblee, and I have not heard back on that yet.
5 MR. GRIFFITH: I did just receive some
6 updated numbers from them, Ms. Fleming, and I'm sorry
7 those weren't distributed prior to today's meeting.
8 Currently Norcross is doing a 50 cent on the
9 dollar match up to 3 percent on a 457, and they're
10 also doing a pension program wherein the employee is
11 required to participate at a 3 percent contribution
12 and the city is making a 7 percent contribution
13 currently to fund the defined benefit program. But
14 they did go for the election to require employees to
15 defer into the DB plan, which of course increases cash
16 flow into the plan and reduces the city expense;
17 however, it does severely hinder any plan changes in
18 the future for a municipality once you force employees
19 to defer money into the DB plan.
20 So Norcross still has a combination of the
21 DB and the defined contribution. The match is 50
22 cents on the dollar up to 3 percent, so an exposure of
23 1-1/2 percent of payroll there, and they've got a 7
24 percent contribution in the DB from the city and a 3
25 percent contribution on the employee side. Five year

1 vesting, regular retirement age of 62 or 65 is the
2 basic structure of the plan.
3 Chamblee is still doing a pension program
4 through GMA. Currently their contribution to the plan
5 is about 11.65 percent of payroll, which is what their
6 budget numbers were going into this next year, and
7 they have a discretionary 457 program. It doesn't
8 appear there's any employer moneys going in that plan
9 at present; it's just there for employees to defer
10 some money on a pretax basis and save.
11 COUNCILMEMBER FLEMING: So they're on a
12 defined benefit, then?
13 MR. GRIFFITH: Correct.
14 DR. GILLEN: That's correct.
15 COUNCILMEMBER FLEMING: Okay.
16 MR. GRIFFITH: Correct.
17 COUNCILMEMBER FLEMING: In regards to what
18 believe Maria was asking or Ms. Alexander was asking
19 regards to changing the percentages if we found
20 ourselves . . . I would find that though we might need
21 to do that, I think that we would need to discuss that
22 on an annual basis or on an every two-year basis,
23 because I don't want our employees to -- you know,
24 they're employed and they believe they're going to
25 get, you know, up to 8 percent and we're going to

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1 match to 4, etc. etc., and then all of a sudden, we
2 backtrack because of our funding and change it the
3 next year.
4 So I would like us to be consistent with
5 what we're doing. Either we're going to do a con- --
6 you know, a retirement contract, let's say, or let the
7 employees know that we are going to reevaluate our
8 retirement plan every November to determine what the
9 flexibility will be come January 1, okay, or make it
10 an every-two-year issue; because I just -- I think
11 trying to change it every single -- it's like the
12 millage rate --
13 DR. GILLEN: Right.
14 COUNCILMEMBER FLEMING: -- you know. I mean
15 we need to be consistent --
16 DR. GILLEN: Right.
17 COUNCILMEMBER FLEMING: -- at some point.
18 I think that's all the questions that I have
19 at this moment.
20 DR. GILLEN: Okay.
21 COUNCILMEMBER ALEXANDER: And we asked about
22 Rule of 75 and Rule of 80.
23 MR. GRIFFITH: I don't have any further
24 details on the Rule of 75. I wasn't able to pull any
25 of those from the other municipal plans that I saw,

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1 but I will revisit that and see if *McCreedy & King
2 can provide anything as well from their municipal
3 plans.
4 But on a local level, I didn't see the
5 verbiage in the documents that I reviewed, but I will
6 get that.
7 COUNCILMEMBER ALEXANDER: And I think we're
8 going to look and see if you could do any kind of cost
9 analysis --
10 DR. GILLEN: Right.
11 COUNCILMEMBER ALEXANDER: -- on a Rule of 75
12 or a Rule of 80.
13 MR. GRIFFITH: Yes.
14 COUNCILMEMBER PACHUTA: And then I had sent
15 information on the COLA from the plan document. I
16 don't know if y'all have had a chance to look at that.
17 ATTORNEY McLENDON: We did look at that, and
18 I did review that issue on the current plan document.
19 Where we are right now is based upon the
20 last election when we went into the defined benefits
21 plan, we have agreed that there is a certain
22 calculation that happens. And it's not something that
23 can be changed yearly; it's on a certain calculated
24 number. And to change that, you'd sort of have to
25 jump through some hoops, and we'd really need to plan

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1 in advance, and it would be a pretty substantial
2 maneuver to change that.
3 But at the moment, it is just a -- there is
4 a calculated benefit COLA increase and it is set based
5 upon our last election.
6 MAYOR PITTMAN: Okay. Any additional
7 questions?
8 COUNCILMEMBER FLEMING: I had one --
9 I'm sorry. Do you have questions?
10 COUNCILMEMBER ALEXANDER: No, go ahead.
11 COUNCILMEMBER FLEMING: It just hit me. It
12 went and now it's come back again.
13 I believe the majority of Council, though we
14 didn't do a consensus type vote, is that I believe we
15 liked the idea that Ms. Pachuta commented about: the
16 five-year vesting --
17 DR. GILLEN: Correct.
18 COUNCILMEMBER FLEMING: -- with the 20, 40,
19 60, 80, and then fully vested at five years. I think
20 that was the consensus though we did not . . .
21 So I think we're going in that direction,
22 personally.
23 DR. GILLEN: I think so too, yeah. That'd
24 be great.
25 COUNCILMEMBER ALEXANDER: And I think that's

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1 what I had quoted that Smyrna did when they did their
2 conversation.
3 DR. GILLEN: I think it's wise. It does
4 give some incentive for longevity but still gives
5 maximum flexibility to the employee or it gives more
6 flexibility to the employee than the current plan.
7 The next steps would be, with your
8 permission, to draft a resolution to bring back to you
9 for review in January that would kind of outline
10 everything you've talked about -- addressing the five-
11 year phase-in, the concerns about stability in the
12 plan, things like that -- and bring it back for you
13 guys to review and revise in January, and, if it's
14 ready, for me to bring back in February.
15 We'd bring it back for a vote at that point
16 and then start the implementation process, and Cecil
17 can describe to you all those different legal hoops we
18 got to jump through and plan documents that will have
19 to be drafted and those sorts of things for the final
20 implementation of it.
21 So sometime -- the timeline would be
22 sometime in 2014 when we make the transition. and any
23 new hire at a specific date set in the plan document
24 would be the date when all new-hires from that point
25 will be in the plan and at what point people could

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1 transfer over if we elect to allow people to transfer
2 over, which I would recommend because it looks like
3 the cost savings is much more dramatic if we allow
4 people to voluntarily transfer over.

5 The remaining question is the contribution
6 level, and I didn't know if you just wanted us to kind
7 of just leave that one kind of gray for now as we
8 think about this, and -- because it could be a dollar-
9 for-dollar amount, it could be a 50 percent match, and
10 we can hone that as we move forward.

11 But it seems to be that 10 percent total
12 contribution range seems to maximize -- create a
13 benefit that is relatively competitive with other --
14 other cities in the area and also it can maximize cost
15 savings for us somewhere in a combination of total --
16 of direct contribution and match that comes somewhere
17 in that 10 percent range total for the City, be it a
18 dollar-for-dollar match or 50 percent match, and we
19 can -- we can hone that once we get the resolution
20 document in front of you in January.

21 COUNCILMEMBER PACHUTA: Now, the employees
22 that are currently vested in the pension --

23 DR. GILLEN: Correct.

24 COUNCILMEMBER PACHUTA: -- they would not be
25 participating; is that correct?

1 would fall around -- that would make the City's
2 contribution be around 10 percent.

3 Let me --

4 COUNCILMEMBER FLEMING: But if I'm reading
5 these first scenarios correctly, for instance,
6 scenario 2, the previous one that you gave us,
7 scenario 2 providing 8 percent defined contribution
8 with our 4 percent match.

9 DR. GILLEN: Right. That's the -- Are we
10 talking the October numbers that we gave you?

11 COUNCILMEMBER FLEMING: Uh-huh.

12 DR. GILLEN: The ones in October? I don't
13 have that in front of me.

14 Right now what you're looking at is an 8
15 percent direct contribution and a 3 percent match. So
16 with the formula that we have in there, we think about
17 75 percent of employees that would have -- or 75
18 percent of the match would be utilized. So it comes
19 out to be about --

20 If we go to the payroll sheet here, I'll
21 show you where we get the numbers. 8 percent match on
22 8 percent direct contribution and 3 percent match,
23 we're estimating about 75 percent of the match would
24 be utilized. So the total contribution, the effective
25 contribution for the City would be 10.25 percent.

1 MS. FERGUSON: They would have the option.

2 COUNCILMEMBER PACHUTA: Of just --

3 MS. FERGUSON: It probably wouldn't be in
4 their best interest, but they would have the option.

5 DR. GILLEN: Yeah. Most -- if I'm an
6 employee in the pension plan, if I'm not vested yet,
7 it's probably more attractive to that type of employee
8 than someone who is vested. And also, depending on
9 how close to vesting they are, they may decide, "You
10 know, I understand that I might be a little better
11 off, but I got six months to be vested, and I'm just
12 going to stick with it because I like the idea of
13 defined benefits.

14 So it's up to them, and that's why they --
15 you know, we run a scenario, a worst-case scenario
16 here that has every eligible employee that is not
17 vested in the plan currently would be changing over
18 when we run those numbers.

19 MAYOR PITTMAN: Okay.

20 DR. GILLEN: Does that --

21 COUNCILMEMBER FLEMING: But at 10 percent,
22 you just made a comment about that they would
23 contribute 10 percent; is that correct?

24 DR. GILLEN: Somewhere in that range total.
25 Some combination of direct contribution and match that

1 That what I mean, somewhere in that 10 percent area or
2 range would get us significant cost savings short-term
3 and long-term and generate a competitive contribution
4 level for the employee.

5 COUNCILMEMBER FLEMING: Okay. Only because
6 I really haven't put my head to it, if we are
7 contributing 3 percent, why are we now contributing
8 10?

9 DR. GILLEN: What you'll be doing in this
10 scenario, the yellow here, is you're going to be
11 contributing 8 percent.

12 COUNCILMEMBER FLEMING: That's the employee
13 contribution.

14 DR. GILLEN: That's the --

15 COUNCILMEMBER PACHUTA: That's ours

16 DR. GILLEN: -- employer contribution right
17 here.

18 COUNCILMEMBER FLEMING: Oh, I'm sorry

19 DR. GILLEN: Then we would match dollar for
20 dollar, in this scenario, up to 3 percent. So I could
21 put in an additional 3 percent of my own money into my
22 plan; the City would match that with 3 percent.

23 We estimate that only about 75 percent of
24 the match would be utilized. So some would match 1
25 percent, some -- some would go for 2 percent, some

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1 wouldn't do any at all, some would do the full amount.
2 So based on the numbers that David has seen in other
3 cities, we estimate about 75 percent, and that's
4 typical behavior in a large group like this.

5 So your total contribution including the
6 direct contribution and what you're going to match
7 your employees' contribution with would be effectively
8 around 10.25 percent in this scenario.

9 So if we change that and say we want to do
10 let's say 7 percent and match 3, your contribution is
11 only 9-1/4; but if, say, you want to match 4 percent,
12 so you want to put more on the employee, then you fall
13 right at 10 percent total contribution.

14 COUNCILMEMBER FLEMING: It was because I was
15 reading it as employee --

16 DR. GILLEN: Okay.

17 COUNCILMEMBER FLEMING: -- I read these as
18 this is what the employee was allowed to contribute,
19 not the -- not that we were going to contribute 8
20 percent and then also match 4.

21 DR. GILLEN: Correct.

22 COUNCILMEMBER FLEMING: That, to me --
23 Ms. Alexander, what is your company doing?

24 COUNCILMEMBER ALEXANDER: Mine's real low.
25 I contribute 6 percent and they match 3, so it's a

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1 total of 9.

2 COUNCILMEMBER FLEMING: You contribute 6.

3 COUNCILMEMBER ALEXANDER: Yes.

4 COUNCILMEMBER FLEMING: But then they --

5 COUNCILMEMBER ALEXANDER: Match 3.

6 COUNCILMEMBER FLEMING: -- match 3 percent
7 of that.

8 DR. GILLEN: Uh-huh.

9 COUNCILMEMBER FLEMING: So that's more in
10 line of what I thought we were doing here.

11 DR. GILLEN: Okay.

12 COUNCILMEMBER FLEMING: 8 percent -- they
13 were contributing 8 percent and we were going to match
14 4 percent.

15 DR. GILLEN: Right. No. It is a direct
16 contribution by the City of 8 percent and whatever
17 contribution level you would want to make or whatever
18 match level you would want to make. Let's go back to
19 the 8 and 3 scenario. That would be a direct --

20 What these numbers are based on is what
21 other cities in our area are doing, and they're
22 actually right in the ballpark. Some are a lot
23 higher.

24 MR. GRIFFITH: Some are higher and some are
25 lower. It's all with the blend of defined

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1 contribution and defined benefits.

2 The cities that are funding defined
3 benefits, depending upon the makeup of their work
4 force, are funding between 10 and 18 percent of
5 payroll to a defined benefit program for future
6 benefits for existing retirees and for people accruing
7 benefit.

8 So the idea, the theory behind this
9 structure is let's put a plan that encourages some
10 participation from the employee but at the same time,
11 if they participate at a high level throughout their
12 career, can replicate a benefit similar to what a
13 defined benefit program provides but also gives the
14 city and, subsequently, taxpayers the ability to
15 decide what the match is on an annual basis.

16 Every city that uses a defined contribution
17 plan like this, they don't have a stated document
18 where they're required to do a match every year. They
19 have a discretionary document similar to the private
20 sector where every year there can be a decision of
21 this year it's an 8 percent contribution and the match
22 is going to be 50 cents on the dollar up to 6 percent,
23 so you can -- you have flexibility in the documents.
24 You're not having to amend and have administrative
25 expense to change the documents on an annual basis but

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1 you have the flexibility to adjust for budgetary
2 purposes.

3 So when we initially were designing some of
4 these plans for new cities years ago, it was to try to
5 have a plan that could attract and retain as well as a
6 DB plan but still, you know, be able to compete with
7 cities that had traditional pension plans but also
8 afford some more flexibility.

9 And you know, the balance in this situation
10 is how do we keep the current retirees whole and how
11 do we also keep a rich benefit program for your
12 existing non-vested employees and future employees.
13 And I think the formula is somewhere right around
14 where we are right now; it's around that 10 percent.
15 It's just how to fine tune the structure.

16 You know, personally, I like an 8 percent
17 contribution and a 50 cent match on the dollar to 6
18 percent. So an employee has to do 6 percent to get
19 the 3 but then they've got more total dollars going
20 into the plan to help them save properly for
21 retirement. And just finding that right balance is --
22 it's not an exact science, but, you know, based on
23 experience of what we see in the market, you know,
24 it's somewhere right around that 10. It's just how
25 you want to structure the match component with it.

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1 COUNCILMEMBER FLEMING: I was more familiar
2 with private structure, as Ms. Alexander was and so
3 forth, so that's why I was reading it as their
4 contribution of the 8 percent.
5 DR. GILLEN: That's completely under-
6 standable.
7 COUNCILMEMBER FLEMING: Okay.
8 DR. GILLEN: We're -- we're --
9 MR. GRIFFITH: And Ms. Fleming, the 50 cents
10 on the dollar to 6 percent, what Maria indicated, that
11 is the most common match in the private sector today.
12 COUNCILMEMBER FLEMING: And though we have
13 not done a consensus of that -- and I'm not sure we're
14 ready to do that tonight -- that seems --
15 DR. GILLEN: Yeah.
16 COUNCILMEMBER FLEMING: -- you know, logical
17 to me.
18 But one other question I have for you,
19 Dr. Gillen, was that you made a comment that, come
20 January, you and Legal would be bringing us documents
21 to review.
22 Would those documents be incorporating what
23 we've decided on, because --
24 DR. GILLEN: What we're going to --
25 COUNCILMEMBER FLEMING: -- I'm not --

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1 DR. GILLEN: What we'd bring you is a
2 resolution that would incorporate the things we've
3 talked about to date as far as how the plan would be
4 structured in general.
5 We haven't decided on the contribution
6 levels yet. We would leave that part blank and we
7 could hone that in January and figure out, okay, what
8 should it be? Should it be 50 cents on the dollar
9 match? What is the direct contribution and what
10 should the match be?
11 COUNCILMEMBER FLEMING: And I'm probably the
12 only person here that I don't vote on blank documents.
13 DR. GILLEN: Well, we're not asking for a
14 vote in January.
15 COUNCILMEMBER FLEMING: Okay. Yeah. I mean
16 if --
17 DR. GILLEN: I want to be clear on that.
18 COUNCILMEMBER FLEMING: -- there's an
19 unknown --
20 DR. GILLEN: Right.
21 COUNCILMEMBER FLEMING: -- I won't vote on
22 the document.
23 DR. GILLEN: That's why I want to be clear
24 on that and why this process is the way it is. We'll
25 bring it to the work session in January, and I'm not

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1 expecting a vote at all. What we wanted to do is --
2 MS. FERGUSON: Fill in the blank.
3 DR. GILLEN: -- kind of fill in the blank.
4 We got a framework set up based on the input you've
5 given to date, which can change in January when you
6 guys think about this more. "Well, I don't like this
7 piece of it. Let's change that."
8 It gives us an opportunity to kind of set up
9 a more formalized framework, get something in front of
10 you, and then we can start, okay, filling the blanks
11 about what type of contribution is right, what type of
12 match is right; give you more time to investigate
13 other cities and ask more questions of employees and
14 constituents and that sort of thing.
15 But the numbers we're showing tonight is
16 just a simplified mechanism to show instead of -- The
17 spread sheet isn't set up to do the 50 cent on a
18 dollar match -- I can't show you that; it's a dollar-
19 for-dollar match -- but to show you where the impacts
20 are. The 50 cent on the dollar would just -- those
21 impacts wouldn't change dramatically but it would be
22 structured.
23 What we're saying is somewhere in that 10
24 percent is kind of the sweet spot for competitiveness.
25 if we want to be competitive.

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1 COUNCILMEMBER FLEMING: Okay. Thank you
2 DR. GILLEN: Okay.
3 COUNCILMEMBER ALEXANDER: I assume that the
4 401 is going to be -- is going to be type A. Is that
5 correct?
6 MR. GRIFFITH: Yes.
7 COUNCILMEMBER ALEXANDER: And I'm in a ty
8 K.
9 Do you still have the opportunity to -- and
10 I assume it's going to be a bundle of funds.
11 MR. GRIFFITH: Yes.
12 COUNCILMEMBER ALEXANDER: And the employee
13 is going to get to choose a percentage of that.
14 MR. GRIFFITH: Yes.
15 COUNCILMEMBER ALEXANDER: So they will have
16 the ability to receive prospectus?
17 MR. GRIFFITH: Yep.
18 COUNCILMEMBER ALEXANDER: Are we going to
19 offer any educational services to them?
20 MR. GRIFFITH: Absolutely.
21 COUNCILMEMBER ALEXANDER: Because this is
22 going to be new and bold and --
23 MR. GRIFFITH: Yes.
24 COUNCILMEMBER ALEXANDER: -- enlightenin
25 and empowering to them.

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1 DR. GILLEN: Right.
2 MR. GRIFFITH: Once a plan design is decided
3 upon, then I'll work with Lisa to kind of roll out
4 what the education campaign will be, because I think
5 it will be a pretty intensive process the first year
6 to provide education and to let them know exactly what
7 their options are, how the new structure works, and
8 what decisions they've got to make.

9 COUNCILMEMBER ALEXANDER: One of the things
10 I'd be curious on -- just knock on wood because I'm
11 doing so well this year -- is to see the rate of
12 return on what we would be offering them --

13 MR. GRIFFITH: Sure.

14 COUNCILMEMBER ALEXANDER: -- versus the rate
15 of return on what they have been receiving.

16 MR. GRIFFITH: Yep. I'll be happy to
17 provide you with a full breakout of what options would
18 be available.

19 Most municipal clients utilize the same
20 investment line-up for the 457 as the 401 just for
21 simplicity so they can have the same investment
22 choices on both plans, although 457s, because they are
23 for only government employees, they do have more
24 flexibility technically than a 401k program.

25 The main piece is that employees prior to 59

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1 and a half can take money out without penalty from the
2 federal government, whereas, in the private sector,
3 money out prior to 59 and a half is subject to a 10
4 percent penalty.

5 But that benefit is significant, and the
6 reason we have a 457 coupled with a 401 is because
7 many of your employees that are -- that are police or
8 fire won't work until they're 60 years old, and
9 they'll need to draw money at 55. So they can do that
10 from a 457 where they -- where they can't from the
11 401(a).

12 So the 401(a) is truly set up to be an
13 employer bucket; the 457 is the employee bucket. But
14 it also affords the employee a little bit more
15 flexibility from the distribution standpoint. So
16 those are all the subtle nuances of the plan but are
17 important on the education piece for the employees to
18 understand it so they properly make use of the plans.

19 COUNCILMEMBER FLEMING: Did the law change
20 to 59 and a half? because I thought it was 57 and a
21 half.

22 MR. GRIFFITH: 59 and a half for -- for the
23 past several years for money to come out of a 401
24 without any penalty. Prior to 59 and a half, it's a
25 10 percent penalty. And then 70 and a half is the

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1 required minimum distribution that's the -- The upper
2 limit where the government requires you to pull money
3 out is at 70 and a half. So it's 59 and a half to 70
4 and a half.

5 MAYOR PITTMAN: Anyone else?

6 (No response)

7 MAYOR PITTMAN: Okay, Dr. Gillen. Thank
8 you.

9 Do you have anything else you wanted to add
10 to that?

11 DR. GILLEN: Well, what I would like -- what
12 I'm going to do is have Cecil help me draft a
13 resolution for the January work session. Again, no
14 decisions will be made in January. That'll be another
15 chance for you to review: here's the framework that
16 we've gotten input from the Council in two meetings.
17 Here's the framework, that we understand it the way
18 you guys would like to see it.

19 And then we'll go from there. We'll have to
20 make decisions on the contribution levels and the
21 match levels then and -- or when you're ready to.

22 MAYOR PITTMAN: Okay. Next agenda item is
23 CIP.

24 DR. GILLEN: Thank you, Mayor.

25 Lisa had sent out a ranking sheet for you,

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1 ranking criteria, and you guys did a good job of doing
2 your homework there and getting it back to us, and
3 she's reworked the CIP plan for you based on those
4 rankings. There wasn't a tremendous amount of change
5 in the plan.

6 I think a couple things -- there are
7 basically three things that would -- what I'm looking
8 for input tonight is, number one, on the rankings and
9 the five-year plan itself. We can walk through that.

10 Number two is the street paving program
11 itself. There is a list of street programs. You'll
12 see in the capital improvement plan on page two of the
13 plan under Paving Works and Paving-General (Citywide),
14 you see there's \$155,250 -- that's the current year's
15 LMIG money -- next year's LMIG money and a \$3,000
16 contribution from the General Fund towards paving, and
17 that is intended to accelerate that paving project.

18 So under that budget, we were going to look
19 at the list of streets and start selecting those
20 streets for -- for which projects in the next fiscal
21 year we want to do. And that needs to happen
22 relatively quickly because we have to let GDOT know by
23 the end of the year what the -- what streets we're
24 going to do next year.

25 But again, if you look in the budget, we've

1 got budgeted in the capital improvement plan, streets;
2 paving each year in a more accelerated fashion.

3 We currently -- we were getting \$55,000 from
4 GDOT and now we're going to get \$67,000 per year for
5 paving. We were recommending in the plan that we add
6 to that. We could, if you would like --

7 As you'll notice in the plan, we took the
8 Iron Sky project out completely because that wasn't
9 anyone's priority, and the Chief said it's not
10 something that's a real priority for us right now so
11 let's remove that.

12 We could add money into that. If you look
13 at the \$155,000 number, for example, you could say,
14 "Well, let's round. Let's make that \$300,000 in year
15 one and really get a jump start on the street paving,"
16 which needs to happen. There's a lot of paving that
17 needs to get done. That would give you a lot more
18 ability to get a lot done this year and then give you
19 maximum flexibility on which streets that you can do
20 in the years two, three, four and five of the CIP.

21 And again, you'll decide on which streets
22 get paved every year in that budget. And Luke has
23 supplied the list of streets for you. We don't have
24 to go directly by the GDOT list and their rankings
25 because of the engineering opinion of which streets

1 going to have a refurbished city hall here? Are we
2 going to do nothing? that sort of thing. So we need
3 to think about that, because it plays into
4 refurbishing the courthouse, refurbishing the library
5 and those sorts of things.

6 So those are important considerations you
7 need to make, and we need to start that conversation
8 now, because the time frame, five years is going to
9 happen real quick. When it starts to happen, it's
10 going to happen very quickly. We need to be ready to
11 discuss, okay, this is what we want to do, and we've
12 already planned it out; we know -- we've already
13 budgeted for it, we've got it in the plan, and get the
14 money identified and how to pay for it.

15 So with that, I'll invite Lisa up to kind of
16 walk you through how she calculated the rankings and
17 take a look at the five-year CIP.

18 MS. FERGUSON: Okay. So what I did was I
19 took your sheets and I added up all the points for
20 each project, and I divided it by five because I had
21 votes from five separate people, and we gave everybody
22 an average score.

23 And then we took the list of everything --
24 we separated the stormwater projects because that's
25 kind of a separate bucket of money and we didn't want

1 are worse.

2 And I always think when you're doing street
3 paving especially that there has to be a proper
4 geographic distribution throughout the city to make
5 sure that, you know, tax dollars are going back to
6 everybody more evenly, regardless of sometimes there
7 might be one street that's worse off that might have
8 to wait until the next round of funding. So that's
9 just something we want to consider.

10 And a third point that we've talked about
11 and in light of the potential redevelopment of the GM
12 site, we have to think about where is the seat of
13 government going to be in five years? If and when the
14 redevelopment occurs, they're planning -- you know, if
15 there is a town center in that area, do we want the
16 seat of government to be there? And that's a decision
17 you-all have to make because there's a lot of things
18 in the CIP over five years that -- you know, we don't
19 want to put a tremendous amount of money into
20 buildings if these aren't going to be the buildings of
21 government in five years or if we're going to be, you
22 know, disposing of those buildings, that sort of
23 thing.

24 So we have to put some thought into are we
25 going to have city hall in a new location? Are we

1 to get that mixed in with what we were doing.

2 Basically, we just took the list, sorted it
3 by the highest score to the lowest score. The first
4 10 projects got a priority of one, the second 10
5 projects got a priority of two, the third 10 was
6 three. Section number four is a little bit short
7 because we had several projects with the exact same
8 score, and I didn't want to split those, so they got
9 dumped into five.

10 Surprisingly, all of the stormwater projects
11 were within .2 of each other, so we really didn't
12 change the priority on any of those. We kind of left
13 that one where it was.

14 And once we did the rankings, we kind of
15 went back and looked at where we had put the projects
16 in year, one, two, three, four or five. And we kind
17 of tweaked the arrangement of the projects so that
18 your priorities were in year one and two and then the
19 things that you had put lower on your list are in like
20 years four and five.

21 There are some projects that have very high
22 rankings that are not in year one and two because
23 there's another project that has to be done before we
24 can do that project. One thing that comes to mind is
25 the park master plan. We need to do the park master

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1 plan before we do the pool upgrades so we'll have a
2 good idea of what we want to do. So both of those
3 ranked very high, but one has to come before the other
4 one. So the pool upgrades are -- I think they're in
5 year two or three.
6 Does anybody have any questions?
7 MAYOR PITTMAN: Ms. Alexander?
8 COUNCILMEMBER ALEXANDER: I thought that the
9 Honeysuckle bleachers was going to come out of
10 stormwater because stormwater is causing the issue.
11 MS. FERGUSON: There is a portion of it
12 that's going to come out of stormwater, and that is
13 reflected in the budget for these. There's a
14 component that is stormwater and there's a component
15 that's general fund or HOST.
16 COUNCILMEMBER ALEXANDER: Okay.
17 MAYOR PITTMAN: Ms. Pachuta?
18 COUNCILMEMBER PACHUTA: Huh-uh.
19 MAYOR PITTMAN: Mr. Patrick?
20 COUNCILMEMBER PATRICK: No.
21 MAYOR PITTMAN: Ms. Fleming?
22 COUNCILMEMBER FLEMING: Yes. Are we
23 discussing the whole thing right now or just --
24 MS. FERGUSON: Yes. Yes.
25 COUNCILMEMBER FLEMING: -- ones and twos and

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1 so forth?
2 In regards to Halpern Park Phase II, I know
3 it's got a number two on here, but we haven't finished
4 Phase I, and I made those comments.
5 MS. FERGUSON: I talked to Rip, and he is
6 under the impression that we have finished Phase I.
7 COUNCILMEMBER FLEMING: We have not finished
8 Phase I.
9 MS. FERGUSON: Okay. Then we need to go
10 back and talk to him again.
11 COUNCILMEMBER FLEMING: Because we have not
12 replaced the equipment that was in there. Have we,
13 Mayor Pittman or Mr. Patrick? We have not replaced
14 the equipment that was in there to begin with. And
15 that was part of the original outline for Phase I, and
16 so I'm a little bit discouraged about that.
17 MS. FERGUSON: Well, I talked to him, and he
18 said that all the playground equipment had been
19 installed.
20 COUNCILMEMBER FLEMING: Well, the only --
21 there has been no playground equipment purchased --
22 MS. FERGUSON: Uh-huh.
23 COUNCILMEMBER FLEMING: -- at all for
24 Halpern Park.
25 MS. FERGUSON: Okay.

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1 COUNCILMEMBER FLEMING: Before Ms. Stephens
2 left, she had purchased the red domed --
3 COUNCILMEMBER PATRICK: Jungle gym.
4 COUNCILMEMBER FLEMING: -- jungle gym that
5 you have to be 8 to 12 years old to, you know, climb
6 on. I mean Mr. Patrick's four and almost six --
7 right? -- year-olds can't really climb on them very
8 well.
9 MS. FERGUSON: We will make sure that we get
10 Phase I completed before we commit to Phase II.
11 COUNCILMEMBER FLEMING: We took down, as I
12 mentioned on my notes, a fort-type structure with
13 slide, and that had been up there for 20 years, and so
14 I'm a little bit discouraged about that.
15 Also I want to talk about the street
16 resurfacing. Dr. Gillen, I sent an email on November
17 the 11th --
18 DR. GILLEN: Yes, ma'am.
19 COUNCILMEMBER FLEMING: -- at 3:29/3:30 in
20 the afternoon, have not received a reply yet. It was
21 in regards to the item on resurfacing discussion
22 agenda item that we had had a couple of months ago
23 about streets that were presented to us.
24 And I don't recall the date, and I was
25 asking for the date and a copy of the minutes for that

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1 item, because, at that time, I remember commenting
2 about Park Avenue and New Peachtree potholes needed to
3 be repaired, I mean, because that's --
4 DR. GILLEN: Right.
5 COUNCILMEMBER FLEMING: -- the beginning of
6 our city. And I made a comment that Ms. Alexander had
7 even questioned why Carver Drive was at the top of the
8 list. And I don't see that list incorporated into
9 this list, before I even discuss this, because Carver
10 Drive, even though --
11 DR. GILLEN: Right.
12 COUNCILMEMBER FLEMING: -- it's -- first of
13 all, it's a displaced subdivision, and I feel very
14 sorry for that subdivision, and they don't need to be
15 neglected. So Carver Drive definitely needs help, and
16 they are down on this list.
17 I have one pothole on my street, and I'm
18 about 10 on this list above Carver Circle and Carver
19 Drive. I have one pothole. That's the only thing
20 wrong with my street. Okay?
21 So I don't know who did --
22 Did Dekalb County do this ranking or did we?
23 MR. LUKE HOWE: They use a system called
24 COPACES, which is a computerized rating system. It's
25 basically a truck with a computer on it that drives

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1 over each street in the county and assigns a rating.
2 30 plus is -- is very -- is bad or very poor, 20 to 30
3 is poor, 10 to 20 is --
4 COUNCILMEMBER FLEMING: Well, I have exactly
5 one pothole. So what I'm saying is I don't want to
6 neglect a displaced subdivision.
7 DR. GILLEN: Right. On this, to your email,
8 I did forward it to Sandra, and she sent you the
9 minutes of that meeting, I believe.
10 COUNCILMEMBER FLEMING: I have not received
11 this. I received the city manager minutes and so
12 forth and so on from that meeting, or the cell phone
13 meeting. I received those minutes. I didn't receive
14 these minutes.
15 CLERK BRYANT: No. I forward -- I sent, I
16 looked for the agenda for that particular meeting and
17 also the minutes that we received from the court
18 reporter, and I think it was --
19 COUNCILMEMBER FLEMING: I received that for
20 the cell phone issue.
21 CLERK BRYANT: I can resend it to you again,
22 but I did -- I did look for it.
23 COUNCILMEMBER FLEMING: Please, if you don't
24 mind.
25 CLERK BRYANT: Yes, ma'am.

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1 COUNCILMEMBER FLEMING: Mr. Patrick --
2 DR. GILLEN: I want to get to the point
3 about the list. What I talked about before with the
4 priority of the streets, we don't have to stick to the
5 ranking system that GDOT had. They're not as strict
6 on that as they used to be for use of LMIG money.
7 So what we need from you is input on, under
8 whatever budget we set for year one, which streets do
9 you want to do? So it's up to you as a council to
10 decide that. We're not going to tell you which
11 streets to do first, because you guys are the ones
12 that know where the real issues are and as far as
13 where the citizens want their money spent.
14 So what we're looking from you is how would
15 you rank that list? Which one would you choose? And
16 as council as a whole, deciding on, "Okay, under this
17 budget, we can do this many miles of streets or this
18 many blocks of streets. Well, this is how we want to
19 prioritize that money for this fiscal year." For the
20 next fiscal year, we'll come back and do the same
21 process again in every year.
22 So even though you say, "Well, I want to do
23 that one in year two," next year you might decide,
24 "Well, that one's unimportant to me, and now we're
25 going to do this one." Sort of like Carver Drive, for

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1 instance. If that is a priority for the Council, that
2 one can be done first. So I just want to make sure
3 we're clear on that --
4 COUNCILMEMBER FLEMING: Okay.
5 DR. GILLEN: -- that that power is in your
6 hands as far as which streets we're going to do each
7 year.
8 COUNCILMEMBER FLEMING: Okay. That's fine.
9 And then the other comment I want to make,
10 even though there are decisions that we have to make
11 regarding whether we do or don't move the city
12 complexes to the former GM property, that is five
13 years down the road.
14 DR. GILLEN: Yes, ma'am.
15 COUNCILMEMBER FLEMING: As far as allowing
16 our present locations to deteriorate, and I don't want
17 that happening.
18 DR. GILLEN: Neither do I.
19 COUNCILMEMBER FLEMING: So the moneys that
20 we need to upgrade the bathrooms in the library,
21 whatever the court needs for their specific
22 functioning, we definitely need to use those moneys to
23 upgrade.
24 And as far as us making a decision or the
25 City Manager and Council making a decision, I think

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1 that needs to be fully vetted with our residents --
2 DR. GILLEN: Yes, ma'am.
3 COUNCILMEMBER FLEMING: -- in a poll,
4 because we need to know about how the transportation
5 is going to get us over to the GM property.
6 DR. GILLEN: I agree with you --
7 COUNCILMEMBER FLEMING: All of those --
8 DR. GILLEN: -- 100 percent.
9 COUNCILMEMBER FLEMING: All of those things
10 have to interplay with each other before we make a
11 decision.
12 DR. GILLEN: We agree. You and I agree 100
13 percent on that. What I want to make sure is we have
14 that in our thought process, that if we're going to do
15 a major renovation, is that what we want to do now, or
16 do we want to wait to make sure we haven't decided to
17 move, you know; because if we are going to stay here,
18 we need to refurbish all of these buildings because
19 they're -- they're getting antiquated -- the library
20 especially, the civic center and the courthouse. So
21 do we refurbish each individual building? Do we
22 condense the campus and build a different type of
23 structure that could house everyone? All those sorts
24 of things we need to be looking, you know, down the
25 road, in the next five years, we need to be thinking

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1 about.

2 COUNCILMEMBER FLEMING: All right. Thank
3 you.

4 DR. GILLEN: Thank you, ma'am.

5 MAYOR PITTMAN: Okay. Anyone else have
6 comments?

7 COUNCILMEMBER ALEXANDER: Mr. Patrick did
8 have.

9 COUNCILMEMBER PATRICK: In one of our LCIs,
10 did we contemplate moving or discuss moving the
11 government to the General Motors area? And if we did,
12 then maybe that issue has already been spoken to us by
13 the residents.

14 DR. GILLEN: I don't think it's been
15 addressed clearly. I think there is a redevelopment
16 plan of this area that includes it as government
17 center. But there is discussion in the LCI about
18 potential, if I remember correctly, but as a specific
19 plan of action, no, I don't believe that's -- that's
20 the specific plan of action.

21 From my perspective as administrator of the
22 organization, we just need to figure out where we're
23 going to go at some point. It doesn't have to happen
24 immediately, but, you know, a year from now we're
25 going to be -- And if the development's happening,

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1 it's going to start happening quickly. We need some
2 lead time for proper planning, and sale of the
3 property if we move from here if we choose to sell the
4 property, or do we choose to redevelop it? All those
5 sorts of things that the Council needs to make the
6 decision on and decide which direction we want to go
7 with it.

8 COUNCILMEMBER FLEMING: In the second LCI,
9 if I'm not mistaken, because I worked on it --

10 DR. GILLEN: Uh-huh.

11 COUNCILMEMBER FLEMING: -- quite substan-
12 tially, is that it shows our properties as a potential
13 high-dollar redevelopment, and that because our -- our
14 complexes here could come across as a high-ticket,
15 high-dollar --

16 DR. GILLEN: Yeah.

17 COUNCILMEMBER FLEMING: -- item for us if we
18 sell it to a big developer, but it doesn't actually
19 put the complexes over into the GM area. I think
20 that's up to the prospective developer for the GM.

21 DR. GILLEN: Yeah. I mean that could all
22 change. This is a dynamic process. But we need to be
23 -- we need to be thinking about that and which way we
24 want to go. We are sitting on very valuable real
25 estate, so you would have funding to reconstruct if

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1 you decide to go that route.

2 MAYOR PITTMAN: Okay.

3 COUNCILMEMBER ALEXANDER: I did have some
4 more comments about the street paving. I wasn't -- I
5 don't want to be misunderstood that I was wanting to
6 neglect a certain neighborhood --

7 COUNCILMEMBER FLEMING: No, no, no.

8 COUNCILMEMBER ALEXANDER: -- in the city.

9 COUNCILMEMBER FLEMING: No, no. No, you
10 weren't. I'm sorry.

11 COUNCILMEMBER ALEXANDER: But you know, I
12 would really like to know how they come up with their
13 rating system, because I was thinking more of the
14 aspect of -- of what is the greater impact, I mean.

15 There's 15 houses on my street. If you pave New
16 Peachtree Road, I think that's going to have a little
17 bit more impact than, no offense to my 14 neighbors,
18 than our little short street.

19 Also on this list, I assume that we got from
20 the State, some of these streets are not even in our
21 jurisdiction or perhaps only a quarter of the street
22 are in our jurisdiction. Bagley Drive, I believe we
23 only have four houses on one side of Bagley Drive that
24 are in our city; all the property is in unincorporated
25 Dekalb at this time. So that would be -- And Laurel

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1 Oak Court is the same way: only half of Laurel Court
2 is in the city except for two houses on the other
3 side. So that's going to have some challenges, too,
4 because that is even split jurisdiction between
5 counties.

6 DR. GILLEN: You hit the nail on the head,
7 and that's why this decision needs to fall in the
8 hands in the elected officials, because --

9 COUNCILMEMBER ALEXANDER: So --

10 DR. GILLEN: -- you know where the -- where
11 the best --

12 COUNCILMEMBER PATRICK: Is there any --

13 DR. GILLEN: -- use of those dollars are.

14 COUNCILMEMBER PATRICK: -- data on traffic
15 flows on different streets?

16 COUNCILMEMBER ALEXANDER: That was one of
17 the things that I was wondering why GDOT doesn't
18 incorporate traffic-count studies with the analysis of
19 the street, because I would think that would be a
20 calculation that they in turn would use for the
21 durability of the pavement that's applied to it,
22 because the traffic on Buford Highway is going to be a
23 lot heavier than traffic on --

24 DR. GILLEN: Yeah. And I'm not familiar
25 with their rating system, and Luke says they do not

1 use traffic counts.

2 I think what the engineers are looking at is
3 the current condition of the road, a snapshot: here's
4 what the road condition is, this is what we see is
5 underneath, so this is how we rank them.

6 But I would always advise against letting
7 engineers -- no offense to the engineers in the room --
8 -- decide on how to spend tax dollars in the city,
9 because if you did, it would be on very strict
10 engineering criteria that's in a book somewhere and
11 get little into, you know, what are the neighborhood
12 effects that would fall under this? And what about
13 that part of the city that may not get as much traffic
14 but its road is kind of crummy on the surface, it has
15 a great base level, and the engineers say, "Well,
16 that's fine. It's going to last another 30 years,"
17 but these people have been paying taxes and never
18 gotten their street repaved.

19 So those are the considerations that you
20 guys take into effect when you rank these as far as,
21 "Okay. We're going to do two miles of road. Well,
22 let's do these five pieces and get those done this
23 year."

24 COUNCILMEMBER FLEMING: Well, resurfacing to
25 me is extremely important, but more importantly are

1 going to pave a road, you're going to have a pothole
2 pop up eventually within a year or two. So I think
3 those are two very important discussions we need to
4 have.

5 COUNCILMEMBER ALEXANDER: Can we try to
6 contact the County and get them? because I don't know
7 how many times you've been mailed about that one in
8 front of the MARTA station, and I hit it Friday night
9 so.

10 DR. GILLEN: Yeah. We have been -- every
11 time you contact us or every time a citizen complains,
12 we contact the County about the pothole service. I
13 think they're stretched pretty thin, and we have to
14 take that in consideration. Is that a task that we
15 want to undertake?

16 COUNCILMEMBER PATRICK: Any idea when we're
17 going to have that DMA representative come talk with
18 us?

19 DR. GILLEN: I talked to Mr. Baggett, and he
20 can be available. He was pretty busy these last two
21 months because they're dealing with the annexations
22 and new cities.

23 So let me talk with him again. I think we
24 have a policy meeting on Monday --

25 COUNCILMEMBER PATRICK: Okay.

1 all the potholes that we presently have that need to
2 be identified and say, "Hey, let's -- I mean this --
3 like I said, the one pothole on my street is about 8
4 or 10 inches deep --

5 DR. GILLEN: Uh-huh.

6 COUNCILMEMBER FLEMING: -- you know, and so
7 we need to identify the potholes and let's get those
8 repaired so that at least --

9 I mean even if Public Works can, you know,
10 put in concrete or something until --

11 DR. GILLEN: I don't disagree with you at
12 all, but we are dealing with two separate issues.
13 We're dealing with the street paving process and then
14 the ongoing maintenance, which we are under the SDS,
15 the Service Delivery Strategy, which I think is
16 another discussion we need to have. Are we satisfied
17 with the level of service we're getting from the
18 millage rate we're paying, and can we provide a better
19 service if that millage rate would have been on us,
20 and can we buy it more timely? And I don't know the
21 answer to that question yet.

22 But I think it's a separate discussion that
23 needs to happen from this, because I don't want to
24 confuse the two issues. They are two separate things,
25 ongoing maintenance versus the paving, because you're

1 DR. GILLEN: -- and I'll talk with him about
2 what date he could come.

3 COUNCILMEMBER PATRICK: Great. Thank you.

4 MAYOR PITTMAN: Okay. Anyone else?

5 DR. GILLEN: Okay. Again, there is -- we'll
6 be bringing this back. This is an ongoing discussion.
7 But we do have to make a decision on the plan as a
8 whole. But I wanted to point out, just make sure we
9 understand how this unfolds.

10 If you adopt the CIP, let's say, "Hey, this
11 looks great. Let's adopt it, you know, next meeting,"
12 that doesn't mean that you're going to -- these things
13 are automatically done. It just means that it enters
14 into our budget, we make the budget, make sure that
15 these projects go in the proper departments.

16 And for like purchasing the financial
17 software, we'll be coming back to you hopefully in
18 January. That's part of this.

19 So there's going to be some of this stuff
20 kind of ongoing as you approve the whole plan. It
21 also doesn't mean that if you fund something next
22 year, you say, "Okay. This is in year two," that
23 doesn't guarantee we're going to fund it next year,
24 because next year, we're going to have the same
25 discussion and you may shift things around. It's a

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1 dynamic document.
2 And you guys have to approve like the street
3 paving. If you were to say, "Okay. Here's those
4 streets we want to do," that doesn't mean that we just
5 go out and hire a firm to come do it. There would be
6 a bid process. We'd get an engineering firm to
7 develop the bid documents, they would open the bids
8 and bring back the projects to you for approval. So
9 there's several steps to the process.
10 But I think one important note is we need to
11 make a decision on the streets relatively quickly, so
12 we need to be thinking about what the next step is
13 there because I think GDOT -- to use the LMIG funds,
14 we got to get the street name, identify those by the
15 end of the calendar year.
16 MR. HOWE: By the end of the calendar year,
17 and if we're --
18 DR. GILLEN: For one year.
19 MR. HOWE: If we're going to spend, say,
20 \$300,000, then, you know, it typically costs -- if you
21 bid it out, it typically costs anywhere from 10 to 30
22 dollars a linear foot to resurface. So conserva-
23 tively, \$300,000 is about 300 -- three -- three miles
24 of a standard two-lane road.
25 The only time we've bid it out, it came in

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1 at about \$15.00 a linear foot, so.
2 DR. GILLEN: And correct me if I'm wrong,
3 Luke, but what number -- the streets we have to get
4 them in by the end of the calendar year has to be
5 those we're going to fund with the LMIG dollars
6 themselves.
7 So if we add dollars in, we're going to need
8 to let GDOT know that by the end of the calendar year
9 so there is some flexibility on which streets we want
10 to do, because in this proposal, there is additional
11 dollars added in.
12 COUNCILMEMBER PATRICK: So we have two miles
13 of funding that we can handle or is it three miles?
14 DR. GILLEN: Right now, it looks about one
15 and a half miles with \$150,000, basically, funded.
16 MR. HOWE: The total -- the total State
17 funding, what we didn't use this year plus what we'll
18 get next year is \$124,000. It's about -- it's close
19 to \$125,000. And Dr. Gillen is proposing this three
20 hundred, and the rest of that would be our money.
21 Under LARP, you had to go in order and you
22 had to pick the ones -- you had to go with the ones
23 that they rated the worst and you had to go in line.
24 Under LMIG, it's a little bit more flexible.
25 You can resurface anywhere you want to; you just got

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1 to let them know which ones you want to do.
2 DR. GILLEN: So the budget document you've
3 got in -- the CIP document you have shows about
4 \$155,000 in total funding in year one for resurfacing.
5 So using that rule of thumb -- that isn't going to be
6 exact -- it's about one and a half miles worth of
7 street. So it's about a million dollars a mile.
8 That's just from what we've seen in other -- other
9 projects. So if you want to add to that, you can do
10 more. So it kind of gives you, as you work through
11 your list of projects, "Well, I got about a mile and a
12 half with this. Here's the priority that I would like
13 to see."
14 Does it have the mileage on there? Do we
15 know for sure?
16 MR. HOWE: Yes, sir. It has the length of
17 the section.
18 DR. GILLEN: Here it is. Thank you.
19 MR. HOWE: This is Dekalb County data.
20 DR. GILLEN: In addition, one of the things
21 that we're proposing in this, typically we take the
22 LMIG money and pass this through to Dekalb and they do
23 the project.
24 Well, what we want to do is, if we're
25 putting our own money into this, we think -- we're

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1 pretty darn sure we can get better pricing if we did
2 the bid ourself, because we're getting charged for
3 their equipment and time that's a little above what
4 the going rates are.
5 So we think we can get more bang for our
6 buck just combining the LMIG money with our own and
7 getting the bid out ourselves, which we would then --
8 initially, we would put an RFP out for a civil
9 engineering firm that would handle the process of
10 preparing the bid documents, making sure all the bid
11 specs are met, and then those would come back to the
12 Council. And then that company, that firm, would then
13 manage the project, make sure that the contractors are
14 doing what they're supposed to be doing it and doing
15 it on budget.
16 MAYOR PITTMAN: Dr. Gillen, thank you very
17 much. Appreciate it.
18 Okay. Next is the Stormwater Infrastructure
19 Policy, Cecil.
20 ATTORNEY McLENDON: All right. Mayor and
21 Council, as we had previously discussed, what we've
22 done is put together just a draft stormwater policy
23 here, something for y'all to look at and sort of think
24 about and decide where we go.
25 This is a very simple policy. The big issue

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1 on stormwater repairs, first issue that always comes
2 up is who owns the stormwater infrastructure. Is it
3 the City responsibility to repair it or is it the
4 private property owner's responsibility to repair it?
5 What this policy does is it just states that
6 the first step of any stormwater request is for us to
7 look at it and determine -- make a determination as to
8 whether it is a City responsibility or private
9 property. And then it talks about the factors that
10 you would consider in determining whether -- you know,
11 deciding that issue.
12 If it's located in or adjacent to the right-
13 of-way, if it's in an easement dedicated to the City
14 that's been specifically dedicated to the City. You
15 know, is it not in one? Is it not in an easement area
16 that's been dedicated, and is it something that's been
17 approved in a subdivision plat when the subdivision
18 was approved by the County or the City? Was it
19 infrastructure that was shown connected to the road
20 and approved?
21 Another thing you'll find on these systems a
22 lot is you'll come in, and whatever might have been
23 originally approved has been added on. Over the years,
24 people have come in and extended systems.
25 All those things are basically looked at on

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1 a case-by-case basis to be able to make that
2 determination of: yes, the part of the infrastructure
3 which you're complaining of is broken. It is the City
4 responsibility or it's not.
5 I mean the first easy one to look at would
6 be one that had a pipe that went under the road, a
7 headwall on both sides, and it was totally within the
8 right-of-way. That's a City project, obviously.
9 If it goes outside the right-of-way, then
10 you would look. Is there an easement already in
11 place? If there isn't an easement, is it connected to
12 the system? Has it been extended?
13 Under this policy, you go through that
14 analysis, and a determination is made yes, that is the
15 City's, or it is not. At that point, it moves into a
16 classification system.
17 I mean the second part of this is really
18 very simple. The classification system is, If this is
19 an immediate danger or threat to public safety,
20 category 1; go fix it. Fix that immediately, get on
21 top of that.
22 If it is rapidly degrading, that becomes the
23 next category, and it allows for just a prioritization
24 because how these will work if you have a program is
25 you'll get complaints. People will call in and say,

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1 "There's a pipe and it's -- You know, I have sinkholes
2 in my yard and there's a pipe there." And then staff
3 can go out, review it, take pictures of it. Come
4 back, we look at it.
5 If it's clearly the City responsibility, it
6 goes on the prioritization list, you know. If it
7 immediately needs to be done, it goes up to the top of
8 the list; if it's just cosmetic in nature, it goes
9 down to the bottom. And you are continually working
10 through that list of projects with your stormwater
11 funds, making sure you're on top of your system.
12 This also states that if there's an
13 emergency situation, the City has the right to go in
14 under the police powers, especially with the drainage
15 easement areas that are established. I have seen that
16 has unfortunately happened where something may be on
17 private property, but it backs up, gets plugged, and
18 all of a sudden, it's about to flood everybody in the
19 neighborhood. And under this policy, the City goes in
20 under their police powers and can rectify that
21 situation to avoid damage to property.
22 Those are the big components to this. It's
23 really relatively simple. This sets forth the policy
24 of how you address the issues.
25 There are other issues that, as you come

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1 forward and you would take a project on, you know, we
2 would come in and need to make sure we had the proper
3 rights in place to go in and fix it.
4 And one of the things I think that the City
5 Manager and I have talked about is that when you go in
6 and fix these, document it. Get your easement in
7 place so in the future, 20 years from now, 30 years
8 from now, if it breaks again, there is an easement
9 document there. Everybody knows it's the City
10 responsibility. Once we touch something, we eliminate
11 the question in the future and -- and hopefully as we
12 go through and we clean this process over time, that
13 we get all the ambiguity out of it.
14 So that's really the basics of this. It's a
15 draft document. I welcome you to tear it up and give
16 me suggestions.
17 MAYOR PITTMAN: Okay. Ms. Alexander?
18 COUNCILMEMBER ALEXANDER: No, ma'am, no
19 questions.
20 MAYOR PITTMAN: Ms. Pachuta?
21 COUNCILMEMBER PACHUTA: Huh-uh.
22 MAYOR PITTMAN: Mr. Patrick?
23 COUNCILMEMBER PATRICK: Do we have any kind
24 of map or documentation showing our existing
25 facilities or structures and that we made public so

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1 that we can get better information to make a decision?
2 ATTORNEY McLENDON: We do. The City has
3 conducted a stormwater infrastructure inventory in the
4 past, and that's one of the documents that will be
5 brought into play. Any time somebody came up and
6 said, you know, there's a problem on this property,
7 you would pull together -- how you basically do it is
8 you pull together all the documents you can find.

9 You'll go get the plats if they exist that
10 show the original subdivision plats. You'll pull up
11 your inventory, your stormwater inventory, and it'll
12 show you what they've located in the field is out
13 there, and just any relevant documents that even -- if
14 people request us to look at it, we even say, you
15 know, "Do you have anything relevant? Bring it,
16 because we're reviewing all that."

17 But there is a stormwater inventory that the
18 City commissioned in the past, and it's a great
19 document that provides a ton of information.

20 COUNCILMEMBER PATRICK: Could that be made
21 public?

22 ATTORNEY McLENDON: I think it probably is
23 public, but it's -- it's a document that's out there.
24 I don't know if it could be put on the Web site or
25 anything like that but --

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1 DR. GILLEN: I'm not sure I like the quality
2 of the pictures are. Once the GIS system is in the
3 works and once that's completed, we'll definitely have
4 available specialized maps to locate that as well.

5 COUNCILMEMBER PATRICK: Okay.

6 DR. GILLEN: We're about I'd say 90 days out
7 from that being complete, but we can find what we got
8 and see how we can get it up.

9 MAYOR PITTMAN: Ms. Fleming?

10 COUNCILMEMBER FLEMING: So this has not been
11 adopted by Mayor and Council; this is just a draft?

12 ATTORNEY McLENDON: This is what we had said
13 last time: that I'd put a draft just for y'all to
14 look at it --

15 COUNCILMEMBER FLEMING: Okay.

16 ATTORNEY McLENDON: -- and think it through.

17 COUNCILMEMBER FLEMING: I find this to be an
18 appropriate policy.

19 What I would also like to see is a copy of
20 an easement --

21 ATTORNEY McLENDON: Uh-huh.

22 COUNCILMEMBER FLEMING: -- request attached
23 to the policy so that it's part of the package.

24 ATTORNEY McLENDON: I think that's really --

25 COUNCILMEMBER FLEMING: -- so that Council

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1 would know --

2 ATTORNEY McLENDON: -- a good suggestion.

3 COUNCILMEMBER FLEMING: -- how it reads, if
4 you don't mind.

5 ATTORNEY McLENDON: I think that's a great
6 suggestion, and -- and we could put a section that
7 would say the standard City document and have it
8 incorporated. Actually, that's a -- I think that's a
9 great idea.

10 MAYOR PITTMAN: Anyone else?

11 (No response)

12 ATTORNEY McLENDON: So if that's okay, --
13 I'll make that modification and we'll get a standard
14 easement section with standard documentation included
15 and bring it back to you.

16 MAYOR PITTMAN: And the next item is yours,
17 Mr. McLendon.

18 ATTORNEY McLENDON: Actually, Mr. Felgin
19 presented this to you last time and I was going to let
20 him do that again, and I think he's made some changes
21 based upon the conversation with the Council.

22 MAYOR PITTMAN: Thank you.

23 ATTORNEY FELGIN: Evening.

24 MAYOR PITTMAN: And for the citizens, it's
25 Amending the Charter --

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1 ATTORNEY FELGIN: Not the Charter.

2 MAYOR PITTMAN: -- Chapter 23.

3 ATTORNEY FELGIN: Chapter 23.

4 MAYOR PITTMAN: Chapter. Chapter 23,
5 Zoning, to Revise Procedural Provisions and Other
6 Inconsistencies.

7 ATTORNEY FELGIN: All right, Mayor and
8 Council, pursuant to our discussion last time, there
9 have been some revisions made to this document. The
10 cover memo details exactly what were made. I'll
11 quickly go through them.

12 In Section 5 and Section 6, revision to the
13 use regulations in order to comply with RLUIPA, which
14 is the Religious Land Use Act, there is a currently an
15 amendment going through the Planning Commission
16 regarding tents in the city, and so what I've done is
17 revised these provisions to refer to separate city
18 ordinance concerning tents, because a lot of the
19 religious provisions had exclusions for use of tents.

20 And so in order to make it equal throughout
21 the city and that's what the provisions are coming
22 through separately right now, they basically refer to
23 separate provisions of the ordinance concerning tents.
24 A very small change.

25 All instances of the term "Planning

1 Director" have been changed to "Community Development
2 Director" since the title of the Planning Director has
3 been changed to Community Development Director.

4 In Section 9, I had met with the Community
5 Development Director and discussed certain aspects of
6 Section 23-1402(A). If you go back to that section,
7 it concerns limitations on the grant of variances.
8 And I didn't look at those last time because I -- I
9 just transferred them all whole, but there's a couple
10 of them that are outdated according to our Planning
11 Director/Community Development Director, and have
12 really no application to our Zoning Ordinance as a
13 whole right now, and that's Subsection (4) and
14 Subsection (6).

15 I believe Subsection (4), the -- the
16 limitation on the allowed parking in a front yard in
17 an old -- quote/unquote "old district." I believe
18 Councilmember Patrick had asked last time what that
19 actually meant, and so we had to take a look at that,
20 and we noticed that actually we don't really have
21 those restrictions, so there's no point in getting a
22 variance for something that doesn't really have a
23 restriction.

24 And Subsection (6) is kind of the same way.
25 Discusses flood contour elevation. It's outdated and

1 not relevant, and there are other procedures in the
2 flood plain ordinance that take care of that, so that
3 has been suggested to be removed.

4 Section 13, which is the Code Section
5 23-1501 regarding conditional use permits, we put in
6 the last time the different things that had to be
7 submitted as part of the application process. Again,
8 I met with the Community Development Director. And a
9 couple of them were revised slightly to make them not
10 mandatory, because in certain applications for
11 conditional use permits, those wouldn't really help.
12 Specifically, the requirements for survey plats are
13 really unnecessary if a CUP is requested for a
14 specific suite in one building, so we made those
15 excluded from the requirement.

16 On Section 10 in the variances and Section
17 13 which is CUPs, the reconsideration, the Council
18 discussed making those for a year instead of six
19 months, so those were extended for a year.

20 And finally, we discussed Sections 16 and
21 17. Talks about stream buffer. All references to
22 Dekalb County have been taken out because Dekalb
23 County no longer does anything for us regarding stream
24 buffer.

25 Those were the changes. I had also sent

1 separately a memo at the request of Councilmember Dear
2 concerning nonconforming use regulations as requested
3 I don't have a copy of it here, but all of you-all
4 should have received that, and I can take questions or
5 that as well.

6 Those were basically the changes made since
7 last time and we can discuss if you have any
8 questions.

9 MAYOR PITTMAN: Okay. Ms. Alexander?

10 COUNCILMEMBER ALEXANDER: Can you star
11 with --

12 MAYOR PITTMAN: Ms. Fleming?

13 COUNCILMEMBER FLEMING: No thank you

14 MAYOR PITTMAN: Mr. Patrick?

15 COUNCILMEMBER PATRICK: There was a
16 question. For conditional use permits within a --
17 within a multi-tenant complex, wouldn't you want to
18 have a site plan to do parking calculations or is
19 there some other document that would cover that, that
20 requirement?

21 ATTORNEY FELGIN: I'll defer to the
22 Community Development Director who made that
23 suggestion.

24 MR. COOLEY: We do require the plan be
25 submitted but we don't need survey level --

1 COUNCILMEMBER PATRICK: Okay.

2 MR. COOLEY: -- documents. They're
3 extremely expensive for an individual to bear that
4 cost, so doesn't seem appropriate and is not really
5 needed, but we do require a count for parking to make
6 sure.

7 Now, it depends on what it is. If it's a
8 shopping center, there are set rates for shopping
9 centers, so it would depend on the situation.

10 COUNCILMEMBER PATRICK: Okay.

11 MAYOR PITTMAN: Ms. Pachuta?

12 COUNCILMEMBER PACHUTA: Huh-uh.

13 MAYOR PITTMAN: Ms. Alexander?

14 COUNCILMEMBER ALEXANDER: Sorry. I have
15 questions.

16 On page 10 of 31, regarding the application
17 for a variance and the time period, I just want to
18 make sure I'm understanding the way this is written,
19 because this says 24 months, 24 months, and then it
20 says 12 months. So the time period is 24 months, but
21 Council can waive --

22 ATTORNEY FELGIN: 12 months of that.

23 COUNCILMEMBER ALEXANDER: -- 12 months c
24 that.

25 ATTORNEY FELGIN: Yes.

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1 COUNCILMEMBER ALEXANDER: Okay. So we're
2 limiting ourselves --

3 ATTORNEY FELGIN: Yes. I believe you said
4 you could waive 18 months of that but y'all wanted to
5 move that a little --

6 COUNCILMEMBER ALEXANDER: Okay.

7 ATTORNEY FELGIN: -- further back, so.

8 COUNCILMEMBER ALEXANDER: Okay. And then on
9 page 15 of 31, item (a) at the bottom. This is
10 probably complete redundancy, but I had an issue with
11 an applicant that came before us with a rezoning
12 request, and the survey they brought us was over 25
13 years old and it did not have the current footprint of
14 the building.

15 Now I see we're allowing survey that's
16 within 10 years old, "Indicate the complete boundaries
17 of the subject property and all buildings and
18 structures existing thereon." So are we to deduce
19 that the word "existing" is currently as in today?

20 ATTORNEY FELGIN: Yes, ma'am.

21 COUNCILMEMBER ALEXANDER: Okay. On page 19.
22 let's talk conditional use permits. So we are being,
23 we believe, discouraged from putting a time limit on
24 them, it staying with the land.

25 What about provisions for removing them such

1 straight 12 months.

2 ATTORNEY FELGIN: This is actually a
3 difference between an approved and a denied.

4 If you read, it says, "successive
5 applications for a conditional use permit shall not be
6 submitted more than once every 12 months." And y'all
7 can reduce that requirement.

8 However, if you have denied one, then you
9 can't have one in less than 12 months.

10 Basically, if you've had a CUP approved and
11 you're asking for another CUP -- like we had -- we
12 just had the situation that if, for example, they got
13 the CUP on the suite, and that was within the last 12
14 months, I believe, and then they came back and wanted
15 to get in a new suite.

16 The problem we have here is that if you can
17 waive that 12-month period, then they wouldn't be able
18 to switch their CUP. But they were granted it, so you
19 could waive it.

20 If they had been denied a CUP, we put in
21 there that their cutoff was 12 months and y'all
22 couldn't waive that. We can of course --

23 ATTORNEY McLENDON: I would just weigh in on
24 that and say I think that makes some sense, because if
25 you have a straight denial on that, then there is so

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1 as we just had with the worship center at Clearview?
2 Is there any provision in here that allows them to
3 remove them and reassign them?

4 ATTORNEY McLENDON: You have that. Really
5 it's a zoning action, and you have the ability to do a
6 self-initiated rezoning.

7 COUNCILMEMBER ALEXANDER: Okay.

8 ATTORNEY McLENDON: So that already exists
9 in your ability to conduct a rezoning because the use
10 permit is, in essence, a zoning action.

11 COUNCILMEMBER ALEXANDER: Okay. But we
12 cannot put the --

13 ATTORNEY McLENDON: The automatic expiration
14 is -- it's just something under the law that I think
15 is very problematic.

16 COUNCILMEMBER ALEXANDER: On page 22, the
17 12-month time period, it confused me because it said
18 "Council may, by majority vote, waive or reduce," but
19 then it said, "shall be no less than twelve months."

20 So if we waive it to reduce less than 12
21 months, how can it be no less than 12 months, or am I
22 just reading that correctly?

23 COUNCILMEMBER PATRICK: That was kind of the
24 question that I had as well, and I thought we had
25 mentioned it at the last meeting just making it a

1 sort of no issue left on the table.

2 If on the other hand, if you granted a use
3 permit, you might have put conditions on that, you
4 know, you -- you would then have activity that was
5 taking place under that use permit, and I think you
6 would want to retain the flexibility to come in and
7 if, for instance, a condition that you put needed to
8 be modified, have the ability in your discretion to
9 revisit an approved application as opposed to -- and
10 it's discretionary -- but as opposed to being able to
11 say there's no way for us to fix this condition we put
12 in place even if it became something that was -- you
13 know, everybody looked at it and said, "You know, we
14 ought to change that," as they went in and were doing
15 the activity.

16 I think that's different than the denial
17 where you just said nothing happening, and then there
18 is no activity based on it.

19 So I think in this case, you probably would
20 want to retain that discretion and flexibility in the
21 event something came up through the process.

22 COUNCILMEMBER ALEXANDER: Okay. It still
23 doesn't make sense to me because it's saying we have
24 the ability to waive or reduce the 12-month period,
25 but the conditional use permit affecting the said

1 property shall be no less than 12 months.
2 So what am I waiving?
3 ATTORNEY FELGIN: Only if you have denied
4 it. If you -- if you look at the beginning of that
5 sentence --
6 COUNCILMEMBER ALEXANDER: I'm seeing it's
7 only if I denied it, but why am -- what am I waiving
8 if it has to be 12 months?
9 ATTORNEY FELGIN: If you've denied it, you
10 cannot waive that 12-month period. If you have
11 approved it previously, you can waive the 12-month
12 period. That's the difference.
13 COUNCILMEMBER FLEMING: But it says right
14 here, like Ms. Alexander is saying, it says, "City
15 Council may, by majority vote, waive or reduce this
16 12-month time interval provided that if the
17 application for a conditional use permit was denied.
18 COUNCILMEMBER ALEXANDER: Was denied.
19 ATTORNEY FELGIN: Was denied.
20 COUNCILMEMBER FLEMING: Was denied by the
21 Mayor and City Council.
22 ATTORNEY McLENDON: I think that we can --
23 we can -- if it's confusing everybody, I think we can
24 address the language, but I think what it's saying --
25 COUNCILMEMBER PACHUTA: It's not written

1 well.
2 ATTORNEY McLENDON: Yeah. I think we can
3 address it --
4 COUNCILMEMBER PACHUTA: That is not written
5 well.
6 ATTORNEY McLENDON: -- but what it's saying
7 is -- here's how it reads.
8 COUNCILMEMBER PACHUTA: Okay.
9 ATTORNEY McLENDON: Simplified, you can
10 waive the 12-month period, but if you denied it, then
11 you can't.
12 COUNCILMEMBER ALEXANDER: Okay.
13 COUNCILMEMBER PACHUTA: I think right now --
14 COUNCILMEMBER ALEXANDER: Okay.
15 COUNCILMEMBER PACHUTA: -- it's all in one
16 sentence.
17 ATTORNEY McLENDON: Let me work on that
18 sentence.
19 COUNCILMEMBER PACHUTA: Even if you just put
20 a period in there, it would make more sense.
21 ATTORNEY FELGIN: I'm a student of -- of --
22 COUNCILMEMBER PACHUTA: Commas?
23 ATTORNEY FELGIN: -- complicated sentences,
24 yes.
25 COUNCILMEMBER ALEXANDER: And that was my

1 last circuitous route.
2 ATTORNEY McLENDON: But I think that is, I
3 everybody is agreed, we'll get a sentence that says
4 that clearly and says --
5 COUNCILMEMBER PATRICK: One question I have
6 to go with that, though, is is so they file their
7 application. How do they know we've waived the 12-
8 month period?
9 ATTORNEY FELGIN: It would be up to y'all
10 when it came in front of you-all for a hearing.
11 COUNCILMEMBER PATRICK: So we would go
12 through a public announcement --
13 ATTORNEY FELGIN: Yeah. You would --
14 COUNCILMEMBER PATRICK: -- public
15 advertisement --
16 ATTORNEY FELGIN: -- still go through public
17 hearing.
18 COUNCILMEMBER PATRICK: -- it comes to us
19 and we can say, "You can't do that?"
20 ATTORNEY FELGIN: Yes. There would be a
21 request in the application for a waiver. There would
22 have to be. The Community Development Director would
23 tell this person that by ordinance, it's not been 12
24 months, so they need to request a waiver as part of
25 their application, so.

1 ATTORNEY McLENDON: And this would only be in
2 situation where somebody has a use permit, has begun
3 to implement it, and then probably what happened is
4 when they got into permitting --
5 COUNCILMEMBER PATRICK: Right.
6 ATTORNEY McLENDON: -- or they got into some
7 sort of an analysis, also of a sudden they realize,
8 "Uh-oh. We got an issue." And then probably I would
9 say 80 percent of those at least will be something
10 that your Community Development Director has probably
11 talked to them and said, "Well, let's get it back up
12 in front of the Council and see if they want to
13 address it."
14 COUNCILMEMBER FLEMING: But if a CUP has
15 already been approved and they're already in the
16 process of working on their building, why would we
17 have to waive 12 months because they'd already been
18 approved for the CUP.
19 COUNCILMEMBER PACHUTA: I can see -- and
20 this is an example I'm picturing in my head. Let's
21 say we gave someone a CUP and then put as a
22 requirement on there you have to build a sidewalk
23 here. And then they go to build it and Dekalb County
24 or Georgia Power's like, "No. We have a high powered
25 voltage line running right there. You cannot put the

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1 sidewalk right there," which means they would have to
2 come back before us: "Look, we have this CUP.
3 Georgia Power says we cannot put the sidewalk there.
4 Can we redo the CUP somehow?"
5 COUNCILMEMBER PATRICK: I understand that
6 part. It's just they're going to come to us, and we
7 have to vote whether or not we want to waive on it
8 or -- or --
9 ATTORNEY FELGIN: Yes.
10 COUNCILMEMBER PATRICK: -- grant them that
11 waiver, which, to me, seems kind of an intricate
12 process.
13 ATTORNEY FELGIN: That's fine. This is a
14 suggestion because it's standard to -- to not have
15 them come every week with a CUP request.
16 COUNCILMEMBER PATRICK: Okay.
17 ATTORNEY McLENDON: And it's sort of that
18 tension between, okay, I came and applied for one CUP
19 on this property for one thing, and then suddenly,
20 within three months, I'm applying for another, and we
21 continue going down that sort of road.
22 So you have the ability to say, "No, you
23 can't do that for 12 months," but it still gives you
24 the ability to do it.
25 COUNCILMEMBER PATRICK: Okay. So what if

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1 there's two different uses that want to go on -- two
2 different churches end up wanting to use the same
3 parcel of land. Church number one goes in first, and
4 they're approved. Church number two comes in, and now
5 we would say we have the right to not waive that 12-
6 month requirement?
7 ATTORNEY McLENDON: Joe? I mean I think
8 that would be different applications and we'd have --
9 ATTORNEY FELGIN: Hold on. I'm trying to
10 understand. If they received the CUP already --
11 COUNCILMEMBER PATRICK: Church one received
12 it -- that piece of land received a -- a -- CUP --
13 ATTORNEY FELGIN: CUP for religious use.
14 COUNCILMEMBER PATRICK: -- for one religious
15 use to a -- to a suite, and then the next one comes
16 along and wants to do another religious use.
17 ATTORNEY FELGIN: To a separate suite --
18 COUNCILMEMBER PATRICK: Separate suite.
19 ATTORNEY FELGIN: -- which is what just
20 happened. And this would allow you to waive that 12-
21 month period to be able to --
22 COUNCILMEMBER PATRICK: Okay.
23 ATTORNEY FELGIN: -- give them the CUP and
24 remove the CUP instead of saying, "No. You have to
25 wait 12 months before you come back to receive the

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1 CUP." It gives you that flexibility in situations like
2 that to waive the waiting period.
3 COUNCILMEMBER PATRICK: Okay.
4 COUNCILMEMBER FLEMING: But that's -- but it
5 would be a different --
6 COUNCILMEMBER PATRICK: Different applicant.
7 COUNCILMEMBER FLEMING: -- different
8 applicant.
9 ATTORNEY FELGIN: Yeah, but still it's the -
10 COUNCILMEMBER PATRICK: It's the same --
11 ATTORNEY FELGIN: -- same property --
12 COUNCILMEMBER PATRICK: -- property owner.
13 ATTORNEY FELGIN: And so since the old runs
14 with the land, it would allow the property to have
15 that ability.
16 ATTORNEY McLENDON: I would -- I think
17 different applicants would have a different -- it
18 would be separate.
19 MR. COOLEY: Our conditional use permits are
20 based upon the individual suite as a property when
21 they have a separate number.
22 I think where it really would come into
23 play, and I think you hit it right on the head when
24 you were talking about if the Council put a condition
25 on the conditional use permit and, for whatever

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1 reason, they cannot do that or it's problematic, if
2 someone wants to come in and modify a condition that
3 y'all have placed upon it, it's a whole new action.
4 So if there's that 12-month period where
5 they can come in, that y'all cannot waive, they're
6 stuck at that point. So they can't come back in
7 because it's a mod -- it's considered -- the
8 modifications of condition is considered a new zoning
9 action. It has to go through the whole process.
10 So what it would allow you-all to do is
11 address -- I think primarily where you would see it
12 would be when there is a condition for whatever reason
13 cannot be fulfilled or if there's difficulty, an
14 unforeseen difficulty or something like that, where it
15 gives them the flexibility to come back to y'all to
16 say, "Yes, we've got a problem here. Would you modify
17 this condition?"
18 COUNCILMEMBER PATRICK: Right.
19 MR. COOLEY: So that's where it really
20 addresses, I think, more than anything else.
21 COUNCILMEMBER PATRICK: Okay. All right.
22 ATTORNEY FELGIN: And I'll rephrase -- this
23 if y'all would vote to move this to the Planning
24 Commission stage, we'll rewrite this particular
25 sentence prior to it going there.

Attachment: NOV 18 minutes (1032 : November 18, 2013 Minutes)

1 COUNCILMEMBER FLEMING: Could I ask another
2 question?
3 MAYOR PITTMAN: Uh-huh.
4 COUNCILMEMBER FLEMING: In regards to
5 Ms. Alexander brought up, if I'm not mistaken, the
6 removal of CUPS,
7 And I think the time period if I'm not
8 mistaken, was 24 months. Is that correct? Removal of
9 CUPs from a property, weren't we talking about --
10 Maria, what page was that?
11 ATTORNEY FELGIN: Huh-uh. We were talking
12 about --
13 MR. COOLEY: It's page 10.
14 ATTORNEY FELGIN: -- if the Council wanted
15 to remove one, they would have to go through the
16 process again.
17 We're not talking about the -- The 24-month
18 period is only in the rezoning action or a variance to
19 allow them to come back to have another rezoning of
20 the same property, and you could waive that to about
21 12 months.
22 But the removal of a CUP, you'd have to go
23 through the same process again, and you can do that
24 whenever.
25 COUNCILMEMBER ALEXANDER: That was a

1 application for a variance.
2 COUNCILMEMBER FLEMING: I'm sorry?
3 COUNCILMEMBER ALEXANDER: Application for a
4 variance.
5 COUNCILMEMBER FLEMING: Okay. Application
6 for a variance. Go ahead.
7 COUNCILMEMBER ALEXANDER: That the time
8 period was 24 months. We can waive up to 12 months of
9 that.
10 COUNCILMEMBER FLEMING: If they're
11 requesting a variance.
12 ATTORNEY FELGIN: Yes. If they want to
13 request another variance on that same property, the
14 ordinance would limit them to doing it only once every
15 24 months but allows the Council to waive 12 months of
16 that.
17 COUNCILMEMBER FLEMING: But there -- and I
18 should have asked it right after you finished your
19 statement on that before you went to the next page,
20 because did you not say something about removing the
21 CUP or the variance?
22 COUNCILMEMBER ALEXANDER: I asked about
23 removing on -- when I got to page 19.
24 ATTORNEY McLENDON: That was the --
25 COUNCILMEMBER ALEXANDER: And that's --

1 ATTORNEY McLENDON: -- automatic --
2 COUNCILMEMBER ALEXANDER: -- when you say
3 it's implied; we already have the ability to remove.
4 ATTORNEY McLENDON: You have the ability to
5 initiate your own zoning actions, which would be
6 removing an approved CUP to a property. But the
7 provision in here that said it automatically expires
8 if it's not used, that one's going to be something
9 that can be challenged, and you would --
10 COUNCILMEMBER FLEMING: So that was taken
11 out of here?
12 COUNCILMEMBER ALEXANDER: The six month
13 was, yes.
14 COUNCILMEMBER FLEMING: Okay. So didn't you
15 -- It went from six months to a year, though; right?
16 ATTORNEY FELGIN: What was removed was the
17 automatic expiration date or automatic removal if they
18 didn't do something. That was removed. And the
19 provision was put in that said they couldn't ask for
20 another one for another 24 months but that Council
21 could waive up to 12 months.
22 Really separate issues in terms of what the
23 ordinance does, but the Council always has the right
24 to initiate its own rezoning or a CUP redo, even its
25 own variance removal. But you can't mandate that as

1 an automatic thing in the ordinance, because you have
2 to kind of go -- you have to go through --
3 COUNCILMEMBER FLEMING: Okay. That's --
4 ATTORNEY FELGIN: -- the procedure.
5 COUNCILMEMBER FLEMING: That's where I just
6 wanted to add, you made the comment about a variance
7 ATTORNEY FELGIN: Yes.
8 COUNCILMEMBER FLEMING: I thought, if -- I
9 I'm not mistaken, I thought variances had to stay with
10 the property --
11 ATTORNEY FELGIN: Yes. Everything --
12 COUNCILMEMBER FLEMING: -- that we could not
13 remove them.
14 ATTORNEY FELGIN: No. You could initiate
15 your own action, just like in the rezoning, to remove
16 them, but they don't automatically go away if you
17 don't go through the procedure, you know.
18 COUNCILMEMBER FLEMING: Because I've got
19 property on Tilly Mill for five years now, for
20 variances, and there's been nothing. Variances are on
21 that parcel, and nothing's been done to the property.
22 ATTORNEY FELGIN: The Council can, on its
23 own, initiate an action to remove those variances.
24 Obviously, we have to notify the property owner.
25 They'd have a chance to come in and challenge that

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1 as -- as inequitable or whatever; they've spent money
2 on it. That's a different issue.
3 But you can initiate that yourself and go
4 through the procedure of removing a variance.
5 COUNCILMEMBER FLEMING: All right. Thank
6 you.
7 MAYOR PITTMAN: Okay. Anyone else?
8 COUNCILMEMBER PACHUTA: Can we just send it
9 to the --
10 ATTORNEY FELGIN: Yeah.
11 COUNCILMEMBER PACHUTA: Do we need to vote
12 to send it to the Planning Commission --
13 ATTORNEY FELGIN: No.
14 COUNCILMEMBER PACHUTA: -- or just --
15 ATTORNEY FELGIN: No. If everyone's all
16 right with it, we will send it to the Planning
17 Commission.
18 COUNCILMEMBER ALEXANDER: I'm fine with
19 making a motion.
20 DR. GILLEN: We can't make a motion tonight.
21 It has to be made at the next --
22 ATTORNEY McLENDON: I think we've gotten the
23 direction on it. We will revise that sentence, and
24 then the whole thing will move through the Planning
25 Commission and it'll come back.

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1 ATTORNEY FELGIN: It'll come back.
2 COUNCILMEMBER ALEXANDER: Okay.
3 MAYOR PITTMAN: Okay. Thank you, Mr.
4 Felgin.
5 ATTORNEY FELGIN: Thank you.
6 MAYOR PITTMAN: And we're going to take a
7 five-minute break.
8 (Brief recess)
9 MAYOR PITTMAN: Meeting come back to order.
10 I believe next is New Business, Discussion for Third
11 Party Inspection of Multifamily Residential
12 Properties, Mr. Cooley.
13 MR. COOLEY: Good evening, Mayor and
14 Council.
15 Wanted to bring this in front of you just as
16 more of an introduction and let you take a look at
17 this and take it on hopefully at some other point to,
18 once you've had a opportunity to really review it and
19 get into it and see whether it's a direction that the
20 City might want to go to.
21 As you probably know, right now, the way our
22 code compliance works is our code officers can go into
23 common spaces only within multi-family residential, by
24 law. What a number --
25 Well, basically it started out -- I believe

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1 that was Sandy Springs, Dunwoody did it, and Dekalb
2 did it approximately two years ago, where they've gone
3 to a system that requires the individual property
4 owners, the apartment complex or multi-family
5 residential area, to provide a complete -- I won't say
6 sweep but a complete review of all the private and the
7 public sections to make sure that everything is up to
8 code compliance.
9 The problem with this in the past has been,
10 number one, if your staff is doing it, it's extremely
11 expensive and time-consuming.
12 The approach that is being taken now is
13 they're going to a third-party approach where
14 basically, again, the -- the owners are required to
15 use someone that the City has approved, a contractor
16 -- and there's qualifications within all this -- and
17 get a yearly inspection of all different elements of
18 the property, the private and the public.
19 So it allows the fire -- code compliance,
20 fire, police, everybody to really do an inspection
21 throughout the entire complex, which is critical. I
22 mean, as you know, we've had several fires in the
23 single-family [sic] residential that started within
24 the units.
25 It's a tremendous tool, I think, for a

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1 number of things. One is making sure that the units
2 that are in the city are safe, people are not going to
3 be hurt or injured, that also I think creates
4 opportunity to make sure, to find out what's going on
5 to make sure that the uses within these private areas
6 are legal uses. So that's a wonderful thing to have
7 about it.
8 The whole idea of it really is any time you
9 get a decline in multi-family units, it not just
10 affects those units but it affects the neighboring
11 properties, it affects property values and it also --
12 it's an incubator for potential crime.
13 We have discussed this over, I guess, the
14 last six months, maybe a little bit longer, with the
15 PD, with the City Manager, everyone, the different
16 departments, to talk about what are the pros and cons
17 on this. And I'm sorry that they're not here, but
18 both the Chief and Major Atkinson were very strongly
19 in favor of it because it addresses a problem that
20 they have had with our past housing units and also
21 with the annexation that we've had with additional
22 units.
23 Like I said, when we had the annexation, it
24 was interesting because we've had a lot of calls from
25 the different apartment complexes wondering, you know,

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1 when do we have to get our inspection? because they
2 came in from Dekalb, which was requiring it.
3 We don't require that. So I think a lot of
4 them took this big deep breath of relief that they
5 didn't have to fool with it.
6 So staff's recommendation was to bring this
7 forward to Council, get y'all's input on it, see if
8 it's something that you want to address. Legal did
9 draft a ordinance which was based upon Sandy Springs,
10 I think, and adopted there, and because we had it, so
11 we moved it forward to that point.
12 The fact that this is a building code, this
13 does not require going through the Zoning Procedures
14 Act. So this is something that y'all will not
15 necessarily -- Originally, I was thinking it needed to
16 go to the Planning Commission. But it is building
17 code, one you pointed out, and it was right on, so we
18 don't need to go there with it.
19 So at this point, what I was hoping to do is
20 maybe just give this to y'all, give you an opportunity
21 to go through it at another -- something other than a
22 work session, to bring it back up before Council for
23 your discussion, or if you'd like to discuss it at
24 this point now, be happy to. Lenny is here, who knows
25 it in and out, and I can address things too, I

1 has worked well other places, so.
2 Ms. Alexander?
3 COUNCILMEMBER ALEXANDER: I assume it covers
4 duplexes also?
5 ATTORNEY McLENDON: Multi-family, once
6 you've reached the number, if I'm correct.
7 ATTORNEY FELGIN: So long as they are rental
8 properties.
9 COUNCILMEMBER ALEXANDER: So a duplex that
10 rental.
11 MR. COOLEY: Yes, ma'am.
12 COUNCILMEMBER ALEXANDER: And I believe --
13 think it was Sandy Springs or it may even have been
14 the City of Marietta that also did a fire hydrant
15 inspection.
16 ATTORNEY McLENDON: This is, in Sandy
17 Springs, part of their apartment inspection ordinance
18 requires for -- requires the owners to go and provide
19 a certification that all the fire hydrants on the
20 property are working.
21 COUNCILMEMBER ALEXANDER: I didn't notice
22 that in ours unless I missed it.
23 MR. COOLEY: Right now, the City does not
24 handle the fire inspections. That's the fire
25 marshall's office in Dekalb County.

1 believe.
2 One of the things, too, I think would be
3 helpful, that I would like to do, would be to have our
4 building official here to also answer your questions
5 more specifically about the different aspects. I
6 spoke to him today, and I said, "Well, not tonight.
7 Let's wait, give them a chance to mull it over." And
8 then I'd like to have him come back and be here to
9 answer your questions also.
10 MAYOR PITTMAN: I just might want to add,
11 too, I received a phone call today from the apartment
12 association, and they were in big support of this, so.
13 MR. COOLEY: Yes. I also got a call from
14 them today, and they wanted to sit down, and they
15 basically said, "We have no objections to this. We
16 just want to kind of be involved."
17 What they've seen, they looked at the packet
18 and they had no problems with it, but they just want
19 to make sure that they are involved and understand --
20 MAYOR PITTMAN: Right.
21 MR. COOLEY: -- so they can --
22 MAYOR PITTMAN: And that's a good idea,
23 actually, and they --
24 MR. COOLEY: Yes, it is.
25 MAYOR PITTMAN: And they seem to think it

1 As you'll see on the next agenda item, that
2 may be something we may want to incorporate, depending
3 on where Council wants to go with the next item.
4 COUNCILMEMBER ALEXANDER: Because I have
5 cringed three times now because I was here when the
6 City condemned a certain apartment property, and now
7 we have had three fires at that one address in less
8 than two years, and that just is not very comforting.
9 ATTORNEY McLENDON: It would be -- I think
10 it would be something to look at how the County
11 handles it, because even through the -- since it's on
12 private property, this is a methodology to look at the
13 hydrants. And if the County's not -- it doesn't have
14 some other method to get onto it, we may still want to
15 continue it into this program just because it's a
16 vehicle to make them look at it on private property,
17 especially ones with multi-family where it's really
18 just . . . So we'd want to probably talk through that
19 issue.
20 MR. COOLEY: And I think another one we want
21 to look at at the same time is the double check-flow
22 valves, and that's especially more important on multi-
23 family and especially high-rise, and I think that's
24 another issue that we want to incorporate into this
25 also.

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1 COUNCILMEMBER ALEXANDER: I am fully in
2 support of this. I think it's something that we've
3 needed for a long time, and "Go for it" is my
4 response.
5 MAYOR PITTMAN: Ms. Pachuta?
6 COUNCILMEMBER PACHUTA: Yeah. We need this
7 stuff definitely.
8 MAYOR PITTMAN: Absolutely.
9 Mr. Patrick?
10 COUNCILMEMBER PATRICK: I absolutely agree.
11 Thank you.
12 MAYOR PITTMAN: Ms. Fleming?
13 COUNCILMEMBER FLEMING: I agree also;
14 however, I do tend to disagree on duplexes since it's
15 just, you know, two families there. I don't know
16 about an occupational tax placard, whether it's
17 required now or not on R-2 type buildings. So R-3s
18 and R-4s are condos that are owner occupied, so I'm
19 not sure how you're going to -- even though they are
20 attached dwellings, I mean I don't know how you're
21 going to deal with condo subdivisions, because they
22 own their own property but they are attached.
23 ATTORNEY FELGIN: This only covers rental,
24 those that are multi-family residential rental, not
25 owner-occupied.

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1 MR. COOLEY: That would be extremely
2 difficult. You're absolutely right on a condo. I
3 mean you really --
4 COUNCILMEMBER FLEMING: But there again,
5 when you stop and think about it, I mean even though
6 they generally have firewalls between each unit, they
7 are all attached to each other, which is the same
8 scenario that we're looking at to try to, you know,
9 help out their inspection purposes.
10 But I am not in favor of doing the condo
11 complexes. Okay? But I'm not so sure that we should
12 dwell on duplexes. That's my personal opinion.
13 COUNCILMEMBER ALEXANDER: I guess I would
14 understand not necessarily does a duplex owner have to
15 have an occupational tax placard, but I know that
16 we've had some safety issues in some duplexes, and I
17 would like to see those addressed.
18 I know when I was campaigning, there were
19 some -- I had safety concerns just in the yards of
20 some of the duplexes that I visited, and they have
21 lots of children around. And if you have somebody
22 that has a sinkhole in their front yard and is not
23 repairing it, that's an issue for every child that
24 lives in that neighborhood, not just that one duplex.
25 So I don't know if we could work on the language.

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1 MR. COOLEY: We can take a look at that, see
2 how it's addressed.
3 ATTORNEY McLENDON: I think this is a good
4 conversation to have, and what we might want to do --
5 and I do think bringing back the building, code
6 enforcement folks to talk to you about how this works,
7 because they've implemented this. That would be a
8 great idea.
9 Let me be prepared to talk about these
10 issues, because, you know, I think there are issues --
11 One thing with the duplexes, if there's an owner
12 occupant, it handles it that way: that this is really
13 the only people that are deriving significant income
14 from rental. So it sort of comes back at that level.
15 But you know, if we think about a work
16 session, I could get these questions, and when we come
17 back, we can all have a good discussion.
18 COUNCILMEMBER PACHUTA: Mainly with the
19 duplexes, it not be annual; it could be a greater time
20 frame since, you know, the owner is only dealing with
21 two units versus, you know, the larger complexes.
22 MAYOR PITTMAN: Okay. Anything else from
23 anyone?
24 COUNCILMEMBER PATRICK: Because we have
25 had -- we do have some older units, would it be

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1 possible to at some point discuss sprinklers for
2 rebuilt multi-family units?
3 ATTORNEY McLENDON: That's -- that's -- as
4 you probably well know, that's a very --
5 COUNCILMEMBER PATRICK: Yes.
6 ATTORNEY McLENDON: -- controversial issue.
7 I have seen -- I think it deviates a little bit from
8 this conversation, but I am seeing jurisdictions adopt
9 higher standards for sprinkling, but that's above my
10 head, but engineers and planners.
11 But it's been done. I've seen it.
12 MR. COOLEY: That would be a very good
13 question to have for the building official.
14 DR. GILLEN: Why don't we just add that to
15 the work session. The building official is going to
16 be here, and we can address it after we address this;
17 we talk about that as a separate policy change.
18 COUNCILMEMBER PATRICK: Sure. Thank you.
19 MAYOR PITTMAN: Anyone else on this?
20 MR. COOLEY: No, ma'am.
21 MAYOR PITTMAN: All right. Next we will be
22 going into the discussion of fire code services.
23 MR. COOLEY: There has been -- first off,
24 let me go ahead and pass some documents out to you-all
25 just to give you a rough idea.

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1 This was -- we just got this today, so, but
2 I wanted to give you some background as to kind of
3 where we stand with some of the reviews that we're
4 going through.

5 As you know, right now the County fire
6 marshall currently provides the health, safety, fire
7 code plan inspections, review and inspections. This
8 has never been a really huge problem in the past, but
9 what you've got -- what's happened is there's been
10 changes at the County where they've reorganized a
11 little bit. It's going through the permit department.
12 And what has happened is something that used to take
13 maybe a week, two weeks, is turning into -- the last
14 we were actually quoted by the fire marshall's office
15 for anything is a minimum of 20 business days for a
16 review period before they'll get something back to us.

17 Those two different documents I gave you,
18 one was the applications currently in review at Dekalb
19 County. And what you see on there is the permit
20 number, but they were released for review on the dates
21 that you see in the second column.

22 The key thing, I think, is when you look at
23 the third column and the numbers of review as of
24 today, those are the number of days that they have
25 been down being reviewed and still are in review.

1 doing construction, but they still have to go through
2 the review process. And it costs \$100 for the plan
3 review and \$100 for the inspection to come out. We
4 cannot actually do anything until -- issue a C.O. --

5 COUNCILMEMBER PATRICK: Right.

6 MR. COOLEY: -- until we get a certificate
7 of completion from the fire marshall. So until we ge
8 that, the City is tied up.

9 And the problem is that -- well, a lot of
10 problems with it. First off, it's an incredible
11 delay, any business, especially small businesses
12 trying to get in, they're under a lease, and they
13 can't open up for two to three months because it's
14 tied up.

15 COUNCILMEMBER PATRICK: Yeah.

16 MR. COOLEY: Beyond that, it's an incredible
17 -- from economic development incentive, it's terrible

18 COUNCILMEMBER PATRICK: Yeah.

19 MR. COOLEY: It's something that I've heard
20 I can't tell you how many times, "Well, I'm going to
21 go to Gwinnett County." I mean I've heard that so
22 many times, and --

23 COUNCILMEMBER PATRICK: Is there a rationale
24 coming from the fire marshall's office as to why we're
25 having these turnaround times?

1 COUNCILMEMBER PATRICK: Are you saying that
2 2654 Church Drive has been in review for 230 days?

3 MR. COOLEY: It has not come back.

4 Now, whether they -- There's one thing that
5 could possibly happen in that is that the fire
6 marshall may have called the applicant and the
7 applicant just ignores it, has walked off from the
8 project or whatever and decided not to do anything.

9 COUNCILMEMBER PATRICK: Okay.

10 MR. COOLEY: That's the only thing that I
11 could see might be the case in something like that.

12 But if you'll look at it, when you get down
13 to the bottom -- well, we don't have an average on
14 that but on the next page we've got average dates on
15 them.

16 The ones under Currently Completed -- this
17 was just a sampling that Jane went through and pulled
18 out -- and you can see the -- for projects that
19 actually involved sprinkler systems, commercial
20 renovations, they are averaging 52 business days, or
21 actually calendar days, excuse me, to get their review
22 done.

23 For other ones which are basically move in
24 as-is, which is very simple, where you've got a white
25 box or a built out unit within something. They're not

1 MR. COOLEY: I've had a number of
2 discussions with the fire marshall. We got a
3 relatively new fire marshall that came in. This is
4 something the county commission passed and allowed
5 them to do. He took it up where they could actually
6 charge for these reviews, charge for the -- the
7 inspections at these rates, and put it through this
8 process.

9 Before, again, it went through the fire
10 marshall's office directly, but it's gotten bogged
11 down in the bureaucracy, and just they are
12 overwhelmed. I mean this is across the county and all
13 municipalities that this has to be done, so they don't
14 have enough reviewers or inspectors to be able to keep
15 up with this.

16 So it's kind of created -- I won't say a
17 monster, but it's created a situation where -- The
18 idea was good, because what they were trying to do to
19 a certain extent was to go back and where over the
20 past years they had not gotten sufficient information
21 and what they needed to know what was going on in
22 these units; coming back and said, "Okay. We want
23 plans of this. We want something drawn so we know
24 what's out there."

25 So long-range, it's very good. The problem

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1 is there's not sufficient staffing, and the amount of
2 time and from the bureaucracy aspect of it that it
3 taking is causing huge problems for --
4 COUNCILMEMBER PATRICK: Yeah.
5 MR. COOLEY: -- for all of us. It creates a
6 huge problem for our Code Compliance. If they go out
7 and cite somebody for not having their current
8 occupational tax certificate or it's, you know, two
9 years overdue or they didn't get one, you know, they
10 have to give them the opportunity to come in and
11 apply. Normally that wouldn't be a big deal. Couple
12 weeks, you know, you take care of it.

13 But with this process, they come in, we have
14 to provide them a temporary or an initial permit
15 number because Dekalb County requires that to be able
16 to go through their process. Before we ever see a
17 plan or anything, we give them a number; they take
18 their plans down to the fire marshall and it goes
19 through the fire marshall review.

20 So when you're talking about a situation
21 where the City is trying to get compliance with our
22 codes and enforce things and then it's going out and
23 it's taking a minimum of 20 days for review -- and
24 this was business days -- for, you know, a month,
25 we're basically put on hold before we can do anything.

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1 And from a compliance perspective, that's not good,
2 it's not effective, and it's really, I don't think, in
3 the best interest of the City. That's the background
4 on it.

5 What we were suggesting or we, you know,
6 wanted to bring before you is the idea -- and this is
7 something that has been done by both Dunwoody and --

8 COUNCILMEMBER ALEXANDER: Brookhaven?

9 MR. COOLEY: No, not Brookhaven. What's the
10 little --

11 COUNCILMEMBER ALEXANDER: Brookhaven did it.

12 MR. COOLEY: Brookhaven did it also?

13 COUNCILMEMBER ALEXANDER: Yes, it did.

14 MR. COOLEY: Well, also the -- Avondale, the
15 little city of Avondale did it.

16 But basically they, on standard, on the
17 statute, cities over 45,000 population are required to
18 take on those duties. It's permissive for any
19 municipality under 45,000. There's a process that we
20 have to go through if y'all are interested in doing
21 it, we certainly wanted to explore it.

22 We want to explore whether it would be
23 smarter to try to subcontract these services through
24 another municipality that's already doing it, or do we
25 want to look at doing this ourselves within -- we have

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1 the capabilities under our current building inspectors
2 and things, you know.

3 I want to get a feel for where y'all think,
4 do we want to go this direction? If so, what we would
5 like to do is just kind of get your permission to
6 explore those different alternatives and bring them
7 back to you at a work session and say, Okay. Here's
8 the options. Here's what it costs to do this. Here's
9 the options if we want to do it in-house, and this is
10 what it would cost. Here are the time frames that we,
11 you know, we could do it within. Give you the whole
12 scenario.

13 But wanted to get in front of you because,
14 to me, this is probably one of the most important
15 issues, from my perspective, that we can do for the
16 city to make things work better from a lot of
17 different perspectives.

18 COUNCILMEMBER PATRICK: From my perspective,
19 yes, please look into it.

20 COUNCILMEMBER FLEMING: Do you have any idea
21 -- I know you're coming back to us with this, but do
22 you have any idea the cost to the applicant in Dekalb
23 County?

24 MR. COOLEY: Yes, ma'am. They charge a
25 hundred dollars for a plan review and a hundred

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1 dollars for the inspection, minimum.

2 COUNCILMEMBER PATRICK: Wow.

3 COUNCILMEMBER ALEXANDER: No matter size or
4 anything.

5 MR. COOLEY: Right. Even if it's they're
6 just moving in --

7 COUNCILMEMBER PATRICK: Wow.

8 MR. COOLEY: -- and, you know, to be quite
9 honest with you, discussions I've had with businesses,
10 small businesses, you know, \$200, that's a lot, but
11 that's not the problem. The problem is they're not
12 being able to open.

13 COUNCILMEMBER FLEMING: No, I just -- I was
14 trying to get the cost so we can evaluate contracted
15 services --

16 MR. COOLEY: Right.

17 COUNCILMEMBER FLEMING: -- to determine how
18 much they're going to charge and so forth and so on.

19 Do you have any idea whether they've got a
20 hidden admin fee?

21 MR. COOLEY: No, ma'am, that's -- that's the
22 fee that it goes into. In fact, I think the way the
23 statute reads, I don't think we could exceed that.

24 COUNCILMEMBER FLEMING: I'm sorry?

25 MR. COOLEY: I don't think we could exceed

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1 that based upon the state statute. There's something
2 that talks about fees in there, but we'll flush that
3 out and bring that back that back to you.

4 COUNCILMEMBER PACHUTA: This -- is this
5 something to -- when you look at the options that
6 another city in Dekalb like Chamblee might be looking
7 into sharing, like even if it's -- you know, we dealt
8 with a contract service if we do like a shared
9 employee type situation, because I'm assuming, you
10 know, Chamblee's having probably the same problem.
11 And you know, I don't know if Dunwoody already has
12 something set up, because I think they are over
13 45,000.

14 MR. COOLEY: They are.

15 MAYOR PITTMAN: And they do.

16 COUNCILMEMBER PACHUTA: But even if it isn't
17 contracted, maybe some kind of shared agreement or
18 you're under the shared contract between, you know.

19 MR. COOLEY: Yeah. That's one of the things
20 we wanted to look at was the idea of subcontracting
21 with another municipality that's already doing it
22 versus the possibility of doing it in-house. So
23 there's pros and cons, you know, because there's
24 paperwork. We could get into a situation where if
25 Chamblee did it or we did it or Dunwoody, where we

1 agreement with other jurisdictions, but we need to
2 flush all those -- those legal things out.

3 So you know, for us, budgetarily there's no
4 impact. It's just, you know, they pay a fee, the
5 inspection gets done. Instead of paying it to Dekalb
6 they pay it here.

7 COUNCILMEMBER PACHUTA: And is this
8 something like the Dekalb Commission is even on their
9 radar? because I'm assuming this is the same problem
10 in unincorporated Dekalb as far as funding to the fire
11 marshall's department.

12 MR. COOLEY: The Mayor has spoken to the
13 commissioners over there. I've discussed it with some
14 commissioners. I've discussed it with the fire

15 marshall numerous times. They're well aware of it.
16 They are trying somehow to address it, but as I said
17 in the thing, with all the discussions we have, there
18 hasn't been any action upon it.

19 MAYOR PITTMAN: Right.

20 MR. COOLEY: And you know, time is of the
21 essence.

22 MAYOR PITTMAN: Mr. Baggett even tried to
23 pick it up and take it and work with them, and it's
24 being discussed.

25 MR. COOLEY: Yeah. And just an FYI too,

1 could subcontract.

2 But I think under the fire marshall -- the
3 state fire marshall, the City actually has to pass a
4 resolution. The fire marshall actually has to appoint
5 the -- the fire marshalls within those jurisdictions.

6 So again, there are some technicalities to
7 it. It's relatively simple, but again, we want to
8 flush that out and give you all the options and
9 probably at least two-option approach to it. If a
10 third one is there, we'll bring that too.

11 MAYOR PITTMAN: Dr. Gillen, is there
12 something you wanted to add?

13 DR. GILLEN: But I think to that point you
14 can imagine the scenario where we decide we're going
15 to do this, we have a contract with Clark Patterson
16 Lee to do our other inspections. They would simply be
17 doing these inspections and collecting the fees, and
18 they have the staff on-hand to do that, who also do it
19 for Dunwoody.

20 So you could imagine we could contract with
21 Dunwoody. who already has the mechanisms in place,
22 where Clark Patterson Lee staff would be doing it.

23 So it would be coming here, you would get
24 your permit here and would -- just because of certain
25 legal reasons, we would have an intergovernmental

1 Dekalb County, the fire marshall is in a position now
2 where they're actually contracting out for plan
3 inspections with Clark Patterson Lee, so they're kind
4 of doing it all.

5 COUNCILMEMBER FLEMING: I would like us
6 even though you've already checked into Dunwoody, I
7 would like to see what Chamblee has to offer if they
8 have anything to offer.

9 COUNCILMEMBER ALEXANDER: Brookhaven is
10 contracting with the City of Decatur. Decatur has its
11 own fire department.

12 MR. COOLEY: Right.

13 COUNCILMEMBER ALEXANDER: I guess, no
14 offense to Clark Patterson Lee, but I feel comfortable
15 when I see someone in a fire fighter's uniform coming
16 to inspect my building, not somebody just with
17 certifications and clip boards, but that's just a
18 personal opinion. So I'm sure the fire marshall
19 office in Decatur is connected directly to the -- to
20 the fire department.

21 MR. COOLEY: Yeah, that's --

22 COUNCILMEMBER ALEXANDER: And the same is
23 Gwinnett County unfortunately when they come visit me.

24 MR. COOLEY: Yes, that's -- you're
25 absolutely right. Decatur has its own fire department.

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1 where everybody else -- if I'm not mistaken, everybody
2 else has -- relies on Dekalb County Fire Department
3 for actual fire suppression and all that.
4 COUNCILMEMBER ALEXANDER: And if we could
5 tie the hydrant, I think it's very important that they
6 especially test the hydrants in the -- in the multi-
7 family units, because, for example, we got into the
8 whole private road discussion. I don't know if those
9 fire hydrants over there in that townhome subdivision
10 Ash -- Is it?
11 COUNCILMEMBER FLEMING: Aspen.
12 COUNCILMEMBER ALEXANDER: Aspen or Ashland
13 Point or whatever.
14 COUNCILMEMBER FLEMING: Aspen Commons.
15 COUNCILMEMBER ALEXANDER: Well, I'm talking
16 about the ones --
17 MAYOR PITTMAN: Well, you're --
18 COUNCILMEMBER ALEXANDER: -- behind Friday's
19 Plaza. I don't know who owns those hydrants.
20 ATTORNEY McLENDON: Let me say that is a
21 very -- that's a whole different issue, very
22 sophisticated, lots of potential liability --
23 MAYOR PITTMAN: Avery Park.
24 ATTORNEY McLENDON: -- with going onto
25 private property.

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1 That's why, in the apartment inspection
2 ordinance, it's just a nice low-hanging I got -- you
3 know, I'm getting the inspection; let's get their
4 hydrants as well.
5 Private roads, though, are really a
6 different situation, and that gets even more complex.
7 So you know, it's an easy -- an easy big chunk with a
8 lot of people in the apartment inspection ordinance,
9 there's a place that -- that's a good place to grab
10 that.
11 The other part's a big, big discussion.
12 MAYOR PITTMAN: It was Avery Park.
13 COUNCILMEMBER ALEXANDER: Yes. Avery Park.
14 I knew it started with an "A."
15 COUNCILMEMBER PATRICK: Would the SDS have
16 any impact on fire marshall plan review? Is there
17 some -- we're not paying some percentage to the County
18 for providing fire plan review?
19 ATTORNEY McLENDON: We probably are paying,
20 but if we are, we're not receiving --
21 COUNCILMEMBER PATRICK: Well, that's --
22 ATTORNEY FELGIN: The millage rate that
23 everyone pays for fire services covers those
24 inspections. The County is not going to separate it.
25 This is a service the City will undertake, and the

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1 residents will be paying the same millage rate to
2 Dekalb. They will not sep- --
3 COUNCILMEMBER PATRICK: So we wouldn't get a
4 --
5 ATTORNEY FELGIN: There is no way to
6 separate that millage rate.
7 MR. COOLEY: Basically what it's doing is
8 just -- it's giving them an option. You're putting an
9 applicant in the position. You have the opportunity -
10 -
11 COUNCILMEMBER PATRICK: Sure.
12 MR. COOLEY: -- to still go to Dekalb County
13 and go through the process or you can --
14 ATTORNEY FELGIN: Yeah, we're not taking
15 away from Dekalb.
16 COUNCILMEMBER PATRICK: Oh, I understand.
17 ATTORNEY FELGIN: We're giving them a
18 separate option for --
19 COUNCILMEMBER PATRICK: I understand.
20 My point was was that would this possibly be
21 an opportunity for savings to our residents for that.
22 And perhaps if we talked with our neighboring cities,
23 maybe they might --
24 ATTORNEY FELGIN: We -- And Dunwoody and
25 Brookhaven had that discussion with Dekalb, and there

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1 was no way for them to separate the millage rate into
2 which part of it covers --
3 COUNCILMEMBER PATRICK: Fire services?
4 ATTORNEY FELGIN: -- fire suppression, which
5 part of it covers plan inspection, arson investi-
6 gation, all of those are tied into this millage rate.
7 They're more than happy with the
8 municipalities having --
9 COUNCILMEMBER PATRICK: Sure.
10 ATTORNEY FELGIN: -- outside services --
11 COUNCILMEMBER PATRICK: Sure.
12 ATTORNEY FELGIN: -- but they are not --
13 they're not fond of discussing any reduction.
14 COUNCILMEMBER FLEMING: I would imagine fire
15 hydrants is part of that millage rate as well --
16 ATTORNEY FELGIN: Yes.
17 ATTORNEY McLENDON: It is.
18 COUNCILMEMBER FLEMING: -- and I'd just as
19 soon not even worry about it because they're taking
20 care of the fire hydrants.
21 ATTORNEY FELGIN: Yes. It's all part of the
22 same millage rate, 2.5 mills I think.
23 MR. COOLEY: Well, and the other thing I
24 think would be really good on this is that it allows
25 the City to actually to get a more regular routine of

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1 doing fire --
2 COUNCILMEMBER PATRICK: Right.
3 MR. COOLEY: -- inspections, because, right
4 now, the way Dekalb County does it is they take random
5 sampling, and those are the ones they just go and
6 check. So that, you know, when you're talking about a
7 county-wide, that makes it really difficult on a small
8 area.
9 So as part of this, you know, I could see a
10 real advantage to it as being a situation where we do,
11 whether it be annually or biannually, where we
12 actually -- every property within the city is -- you
13 know, receives some sort of inspection.
14 But that'll be to, you know, it's finances.
15 That would be --
16 ATTORNEY McLENDON: Commercial, yes.
17 MR. COOLEY: Yeah, commercial; exactly.
18 We're not talking residential here.
19 ATTORNEY McLENDON: Right.
20 MR. COOLEY: Thank you.
21 But that's something I think that would be
22 tremendous help also and just -- and giving you an
23 example, we -- the code compliance has run into
24 several things, for example, where there were -- there
25 was one that wasn't even a restaurant but they had a

1 contract, and they have already certified people to do
2 it. So they basically, once we worked out changing
3 the IGA with Dekalb, we changed our contract with
4 Clark Patterson and they started inspections.
5 To start your own, like to subcontract it
6 versus to have an IGA with a jurisdiction, there are
7 certain different time limits involved. It would
8 probably be faster to do an IGA with someone who is
9 already established and subcontract than subcontract
10 their own, because you have to get the state fire
11 marshall to deputize yours.
12 COUNCILMEMBER PATRICK: Right.
13 ATTORNEY FELGIN: There's a lot of paperwork
14 in terms of submitting monthly reports and things like
15 that, that kind of increase the amount of time before
16 that start-up can happen. But if you already have an
17 IGA with someone who is already doing this, it's a
18 seamless transition.
19 COUNCILMEMBER PATRICK: Right.
20 ATTORNEY FELGIN: But there still needs to
21 be a discussion with Dekalb County because you have to
22 change your IGA with them --
23 COUNCILMEMBER PATRICK: To accommodate that
24 ATTORNEY FELGIN: -- to make sure that
25 they're comfortable with it, so.

1 charcoal grill going in the back room. I mean, you
2 know, we're talking about deadly potential issues
3 there. There's been other ones I won't get into, but
4 very similar. There's -- there's things like that
5 that are happening. Unless they happen in for another
6 reason or for whatever reason they're being there,
7 there's a lot of things like that are going on that
8 are huge potential fire hazards that, you know, we --
9 I think we owe it to the people to make sure it's
10 done.
11 COUNCILMEMBER PATRICK: If we were to go for
12 this, what would be the implementation time frame?
13 MR. COOLEY: Again, I'd like to, you know,
14 be able to look at that and see what the time frame,
15 discuss it, find out what it takes with the fire
16 marshall, what type of time frame it would take if we
17 decide to -- you know, we'll go and get information
18 about contracting with another municipality.
19 Alternatively, I really can't tell you that
20 at the moment. Hopefully, relatively quickly. From
21 what I see in the statute, it doesn't take that long.
22 But Lenny, you might know more because you
23 went through this with Dunwoody.
24 ATTORNEY FELGIN: Well, Dunwoody just
25 basically added a provision to the Clark Patterson Lee

1 MR. COOLEY: Yeah, there are a number of
2 things, and that's why we just wanted to get y'all's
3 feedback and blessing to or say don't fool with this
4 or to move forward with it so we can --
5 COUNCILMEMBER PATRICK: A final question for
6 you guys is would this -- by Doraville offering its
7 own fire plan review, would that somehow affect our
8 ISO rating, our insurance rating, hopefully to the
9 benefit?
10 ATTORNEY McLENDON: Sure.
11 ATTORNEY FELGIN: I mean I doubt it's very
12 little because there's not really a proven track
13 record of how Doraville does its inspection.
14 DR. GILLEN: You're not increasing the
15 service levels. You're just changing out.
16 COUNCILMEMBER PATRICK: You're just changing
17 out. Okay.
18 COUNCILMEMBER ALEXANDER: And it's based on
19 a lot of statistics such as response time and --
20 COUNCILMEMBER PATRICK: Yes.
21 COUNCILMEMBER ALEXANDER: -- things of the
22 nature.
23 COUNCILMEMBER PATRICK: Yeah, sprinkling
24 COUNCILMEMBER FLEMING: Isn't the service
25 delivery contract up on December 31st?

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1 ATTORNEY FELGIN: No, it's not. It was just
2 negotiated a couple years ago, so it has a few years
3 on it. But every year, you have the opportunity if
4 the County or the cities want to negotiate some kind
5 of a revision, a mutual revision, that it's fine to do
6 that between two jurisdictions. But the agreement
7 itself doesn't come up for another full county-wide
8 renegotiation for . . . it's a seven-year agreement.
9 COUNCILMEMBER FLEMING: Yeah, but I thought
10 we got it yearly and it told us how much we were going
11 to be paying for such-and-such, and we've always found
12 out that Chamblee's was less than ours, and we
13 couldn't understand it. And so I thought it was --
14 COUNCILMEMBER ALEXANDER: That is true.
15 COUNCILMEMBER FLEMING: -- a yearly basis.
16 ATTORNEY McLENDON: It's renegotiation?
17 COUNCILMEMBER ALEXANDER: No.
18 COUNCILMEMBER FLEMING: No.
19 COUNCILMEMBER ALEXANDER: It was just the --
20 for some reason, they are charging us more than
21 Chamblee, and we have less services and Chamblee has
22 larger.
23 COUNCILMEMBER FLEMING: So I mean I thought
24 we were getting that yearly; were we not?
25 COUNCILMEMBER ALEXANDER: We -- we got the --

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1 - actually, we got the statistics because they were
2 published in the newspaper.
3 COUNCILMEMBER PATRICK: The Dunwoody Crier,
4 I think.
5 ATTORNEY McLENDON: They were different
6 sort of things when they're giving yearly statistics
7 on it versus the full agreement and the term of the
8 agreement.
9 But renegotiating that when that comes up
10 would be something we will want to be ready for well
11 in advance and have a strategy and know all those
12 things when we go into that. I don't think it's --
13 it's one that's a multi-year agreement, so I didn't
14 know the exact year it came up but I know it's a
15 multi-year agreement.
16 ATTORNEY FELGIN: 2010 is when the agreement
17 was -- the new agreement was finalized, so somewhere
18 around 2016, '17 is when the full renegotiation with
19 respect to --
20 ATTORNEY McLENDON: That'll be a big deal.
21 COUNCILMEMBER FLEMING: Okay. And the other
22 question I have for you, Joe, I did not see on the
23 fire inspection delay sheet Front Row Seafood
24 Restaurant, so I was curious as to what's being held
25 up on that --

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1 MR. COOLEY: To be quite --
2 COUNCILMEMBER FLEMING: -- or do you --
3 MR. COOLEY: -- honest with you --
4 COUNCILMEMBER FLEMING: -- have any idea?
5 MR. COOLEY: I have no idea at this point.
6 MAYOR PITTMAN: It's a State issue. I
7 believe it's a State issue that's going on with their
8 alcohol or something going on.
9 COUNCILMEMBER FLEMING: For Front Row?
10 MAYOR PITTMAN: Yes. For Front Row and the
11 other, crab boil, both.
12 DR. GILLEN: Talking two different things:
13 the alcohol license and fire inspection.
14 COUNCILMEMBER FLEMING: Right, because I was
15 just curious. It wasn't on here, and I wasn't sure
16 whether that was the holdup, and I asked him if he
17 knew why the restaurant had not opened yet.
18 MAYOR PITTMAN: That's . . .
19 MR. COOLEY: My guess is -- and if I'm not
20 mistaken, I thought Crab --
21 DR. GILLEN: They've got their alcohol
22 license, so --
23 COUNCILMEMBER FLEMING: They do?
24 MAYOR PITTMAN: They do.
25 COUNCILMEMBER ALEXANDER: From the City but

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1 not the State.
2 MAYOR PITTMAN: The State's. It's a --
3 COUNCILMEMBER FLEMING: Oh, okay. All
4 right.
5 MAYOR PITTMAN: -- State issue. Nothing to
6 do with us --
7 COUNCILMEMBER FLEMING: Okay.
8 MAYOR PITTMAN: -- or the County.
9 COUNCILMEMBER FLEMING: Thank you.
10 MAYOR PITTMAN: Okay. Other Business? Did
11 you have anything else?
12 Mr. Cooley, thank you very much.
13 MR. COOLEY: And I assume that y'all want me
14 to -- one of us to move forward with this.
15 COUNCILMEMBER FLEMING: Move forward --
16 COUNCILMEMBER PATRICK: Yes, yes.
17 COUNCILMEMBER FLEMING: -- please.
18 MR. COOLEY: Very good. Thank you.
19 COUNCILMEMBER ALEXANDER: I did have -- If
20 we can do Other Business, I did have a comment, and
21 ironically it's on the same subject.
22 Thank you, thank you, thank you. Having had
23 a home burned on English Oak for over a year before
24 any activity has taken place on it. Unfortunately, we
25 had a house fire on English Oak this week. In less

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1 than 24 hours, the house was already tagged as
2 condemned.
3 COUNCILMEMBER PATRICK: Great.
4 COUNCILMEMBER ALEXANDER: And that was
5 just -- I'm like wow. It took us over a year to get
6 something done with the other English Oak house.
7 So thank you to them for getting that taken
8 care of.
9 DR. GILLEN: They're doing a good job.
10 COUNCILMEMBER ALEXANDER: It's a huge public
11 safety issue.
12 MAYOR PITTMAN: Yeah. Absolutely.
13 Okay. Motion to adjourn?
14 COUNCILMEMBER ALEXANDER: So moved.
15 MAYOR PITTMAN: Second?
16 COUNCILMEMBER PACHUTA: Second.
17 MAYOR PITTMAN: Discussion?
18 (No response)
19 MAYOR PITTMAN: Call the roll, please.
20 CLERK BRYANT: Councilmember Alexander?
21 COUNCILMEMBER ALEXANDER: Yes.
22 CLERK BRYANT: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK BRYANT: Councilmember Pachuta?
25 COUNCILMEMBER PACHUTA: Yes.

1 CLERK BRYANT: Councilmember Patrick?
2 COUNCILMEMBER PATRICK: Yes.
3 MAYOR PITTMAN: Thank you. Good night.
4 (Meeting adjourned at 8:55 p.m.)
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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 26th day of November 2013.

Theresa Bretch, CCR
Permit No. B-755

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Attachment: NOV 18 minutes (1032 : November 18, 2013 Minutes)



City Council

Meeting: 01/06/14 06:30 PM Category:

Minutes

STATUS: SCHEDULED

Prepared By: IQM2 Admin

Initiator: IQM2 Admin

AGENDA ITEM (ID # 1028)

Approval of Minutes for Dec 2, 2013

- DEC 2 Minutes H (PDF)
- DEC 2 minutes (PDF)

In The Matter Of:*City of Doraville**State of Georgia*

*Administrative Hearing-5597 Buford Highway
December 2, 2013*

*American Court Reporting Company, Inc.
52 Executive Park South
Suite 5201
Atlanta, Georgia 30329-2217
(404) 892-1331 - (800) 445-2842*

Original File 66368-3.TXT

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

APPEAL OF ADMINISTRATIVE ZONING DETERMINATION

REGARDING PROPERTY AT 5597 BUFORD HIGHWAY,
DORAVILLE, GEORGIA

Transcript of the administrative appeal

held at Doraville City Hall, 3725 Park
Avenue, Doraville, Georgia, Mayor Donna
Pittman presiding, before Theresa Bretsch,
Certified Court Reporter, commencing at 7:37
p.m. on Monday, December 2, 2013.

* * *

1 PROCEEDINGS

2 MAYOR PITTMAN: Okay. Next on the agenda
3 as I said before, we had moved b) to a) and a) to b),
4 so it's going to be the Appeal of Administrative
5 Zoning Determination regarding property at 5597 Buford
6 Highway, Mr. Cooley.

7 MR. JOE COOLEY: Good evening, Mayor and
8 Council.

9 As you said, this is an appeal of a zoning
10 determination that was made by me as the Community
11 Development Director as to a classification of a
12 proposed use at the -- it's at 5597 Buford Highway
13 also known as Mercado Plaza, and you may know it best
14 as the former K-Mart site.

15 Back on October 16th of this year, a letter
16 of determination was sent to Mr. Furrow, who is the
17 representative of Mercado Plaza, LLC -- they are
18 proposing a new development of the existing building
19 -- and basically the letter was to inform Mr. Furrow
20 that the determination that based upon the proposed
21 development as has been advertised -- if developed as
22 advertised would be considered a flea market, and as
23 such, under the City of Doraville Code, would not be
24 an allowed use within the C-2 zoning district.

25 Flea markets are allowed in the M-1 by a

1 APPEARANCES:

2 Doraville City Council:

3 Mayor Donna Pittman
4 Councilmember Maria Alexander
5 Councilmember Pam Fleming
6 Councilmember Robert Patrick
7 Shawn Gillen, City Manager
8
9 Sandra Bryant, City Clerk

10 Cecil McLendon, Esquire, City Attorney

11 For Appellants in appeal of administrative zoning
12 determination regarding 5597 Buford Highway:

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15
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21
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1 conditional use permit, but not in the C-1 and C-2
2 zoning districts.

3 They were also notified that if it -- the --
4 any plans that were submitted would have to meet --
5 and this was more of an informational type of thing --
6 would have to meet all City building codes, safety
7 codes and things of that sort. Again, that was more
8 of an informational.

9 We've had -- City staff has had a number of
10 meetings with the owner and owner's representatives
11 numerous times, not just this, the latest, Mercado
12 Plaza, LLC, about the possible uses of the K-Mart
13 site.

14 Amongst others, the owners have explored
15 grocery market uses. In fact, the site was actually
16 under contract I believe at one point but negotiations
17 or something fell through on that, but it was as a
18 grocery store. There was consideration of a large
19 retail jewelry store with gold processing on premises
20 as a possibility, a combination of a grocery market/
21 ropes course/retail stores, and also there's been
22 discussion as an indoor flea market. Again, this has
23 been over a number of different people with the --
24 that come in with the owner to discuss the potential
25 uses.

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1 Many of the ideas that were explored were
2 obviously not allowed in the C-2 zoning, especially
3 the concept of the flea market. The concept of a
4 mercado, which you probably know is Spanish for
5 "market," was discussed. It was explained that retail
6 stores in an interior mall would be an allowed use.
7 And on August 12th, had a meeting with
8 Mr. Furrow. He was told that we had been receiving a
9 number of calls from applicants wanting to know when
10 the flea market was going to open, and I reiterated to
11 Mr. Furrow that flea markets are not an allowed use in
12 the C-2 zoning district and that any construction and
13 internal layout must meet all building/health safety
14 code requirements and only uses in the C-1 or the C-2
15 permitted uses would be allowed without a conditional
16 use permit.
17 Every business would be considered a
18 separate business. There had been discussion on point
19 about this being one large business and they would be
20 renting spaces out, but explained that each business
21 would be an individual business, would require an
22 individual occupational tax certificate, and have to
23 go through that process, part of which includes the
24 submittal of a business lease as part of the
25 occupational tax certificate requirement.

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1 And the fact that, you know, the business is
2 going to be temporary, that's why we have the request
3 for the lease in there. Occasional businesses should
4 be open full-time, and the sale of used and secondhand
5 goods were not allowed.
6 The letter of determination really only
7 concerns the proposed use of the property whether that
8 use is -- as determined is an allowed use within the
9 C-2 zoning district. Again it was noted that -- for
10 informal purposes, that all plans submitted will be
11 required to meet applicable current building and
12 health safety code.
13 And whether those code requirements are met,
14 we cannot determine that at this point. We do not
15 have a complete application for a building permit at
16 this point. It has been submitted. We've provided a
17 temporary number, which is part of the requirement now
18 with Dekalb County.
19 What happens is they have to come in to the
20 City. We provide them a permit number for processing
21 purposes because the Dekalb County Fire Marshal will
22 not accept their plans without it. We give that to
23 them. They take it to the Fire Marshall, they go
24 through that process redlining their plans, etc.,
25 getting up to the fire marshal's standards, at which

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1 point they come back with the approved plans from the
2 fire marshal to the City.
3 We accept that and any other information
4 that we need for the application to be complete. And
5 at that point, we process and we start doing our
6 review. So such matters right now are premature
7 because we really have nothing to review. We do not
8 have any copies of any plans at this point.
9 The concern over the type of use, I guess,
10 is multi-fold. First was, as I said, there were a lot
11 of discussions upon what the use would be, and a flea
12 market was considered. Now, the applicant said, No,
13 this is not going to be a flea market, so we were
14 going along with that and explained everything that
15 what they needed to comply with, etc.
16 And then a number of things came up: One,
17 we kept getting the calls requesting -- wanting to
18 know, from people that wanted to apply for
19 occupational tax certificates, when the flea market
20 would be open and then what do they do to apply.
21 We many times had to tell people there will
22 be no flea markets, they are not allowed; it's not a
23 permitted use in the C-2 at least at this site. If
24 there was one applied for in the M -- manufacturing
25 district, there's the possibility, but in this case,

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1 this would not be the situation.
2 We were told by a number of applicants,
3 people that were calling, that they were being told
4 that they could have flea market type of booths and
5 things of this sort, and we just reiterated time and
6 time again that that was not an allowed use.
7 The other thing that was a major concern is
8 first we were hearing that. And then also there was a
9 marketing advertisement put out saying all the
10 different uses, that this was coming. Noted that the
11 phone number on there was one of the people that was
12 actually on the sign that they got, which was for
13 leasing information. There were four phone numbers on
14 there. I believe it was Bo Lee's number was actually
15 handwritten across the bottom of it as part of it.
16 But specifically the flier -- and I'll refer
17 to it as "the flier" -- in part says in brief:
18 Mercado Plaza will have 377 spaces including booths,
19 kiosks, retail spaces, food court restaurants -- and
20 I'll go through some of the issues I had with each one
21 of these but I wanted to go through it first -- huge
22 gaming and playground area for kids of all ages,
23 conference/ party/concert space with amazing sound and
24 all that is necessary for a great celebration. More
25 than 600 parking spaces, a supermarket, and much, much

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1 more, and then going on to say that booths will be
2 rented first-come/first-serve basis. Buford Highway
3 area -- oh, excuse me -- Buford Highway Flea Market
4 tenants will have the exclusivity during the two weeks
5 in August, until August 25th, to choose a booth. From
6 there, you will be able to choose on what is available
7 at the moment. Reservations will be made upon
8 receiving security deposit.

9 And again, it had the contact number of
10 478-361-8213, which is the same number for Mr. Lee
11 that was actually on the sign that they have out front
12 advertising lease -- space for lease.

13 The flier also had a number of other uses,
14 again which are not allowed in the C-2 zoning
15 district. Specifically states that booths will be
16 part of the 377 provided spaces along with kiosk,
17 retail space and food court restaurants.

18 It further offers the booths to be rented,
19 not leased, which was a concern, exclusively, August
20 25th, to tenants of the Buford Highway Flea Market,
21 which is in another jurisdiction and is closing down.
22 As I'm sure you're aware, it's just a little bit down
23 Buford Highway.

24 The City code does not define booths as
25 such, but the Merriam-Webster Dictionary defines

1 concert space with amazing sound and all that is
2 necessary for a great celebration.

3 That's fine, but conference and convention
4 facilities not associated with hotels, motels or event
5 facilities are allowed only in the M-1 zoning district
6 buy a conditional use permit, not in the C-2 zoning
7 district. So again, another use that was being
8 proposed that does not -- is not allowed within the
9 C-2 zoning district, another red flag.

10 It also goes on to average -- advertise huge
11 gaming and playground area for kids of all ages.
12 Well, maybe this is a terminology situation, but
13 Section 11-10(3) makes it very clear the assembly for
14 purposes of gaming is prohibited, but their
15 terminology may have . . . but "gaming" as defined and
16 as used in the Zoning Code is not allowed.

17 One of the other things, too, that as you
18 all know, the Code of Ordinance is very specific in
19 the uses that are allowed, and to that end, just give
20 you an idea of some of the things, how specific it
21 gets.

22 And we were talking about retail spaces and
23 stores. We can go through the code on the C-1 and
24 C-2. But the art and school supply stores -- I'll
25 just pull some out real quickly -- bicycle store,

1 "booth" a as small and usually temporary area where
2 things are sold or displayed or services are provided.

3 Section 23-402 defines -- in our code,
4 defines "flea market" means an occasional and periodic
5 sales activity held within a building structure or
6 open area where groups or individual sellers offer
7 goods, new and used, for sale to the public but not to
8 include private garage sales.

9 The Merriam-Webster's definition of "booth"
10 comports with the City's definition of "flea market"
11 as both contemplating either occasional or periodic or
12 temporary sales activity. That was the concern that
13 was brought up with this aspect of it. It basically
14 seems to be defining a flea market approach to this.

15 I will note also that besides booth, it does
16 say booths, kiosks and retail spaces. Typically what
17 you see in any type of interior mall situation, you
18 will have retail spaces and you will have kiosks.
19 That's not unusual. There are standards; there's all
20 types of development standards for those. Booths is
21 not typically something that you see as part of a
22 shopping center. Doesn't go along with it in my
23 opinion.

24 It goes on to further -- the flier goes on
25 to further say that it advertises conference/party/

1 camera stores; candy, nut and confectionery stores
2 including on-premises production; cellular telephone
3 stores, children and infant product stores, clothing
4 and apparel/accessory stores selling new merchandise;
5 drug stores, ice cream shops, hobby stores. It goes
6 all the way through this.

7 And if you look at the definition again, we
8 do not define a store as such within the Code of
9 Ordinances, but again, if you go back to Webster's --
10 Merriam-Webster Dictionary, it defines a store as a
11 building or room where things are sold.

12 I see a very big differentiation between
13 what we're talking about as a building or a room, a
14 store, which are allowed uses within the code, versus
15 booths, which has a totally different connotation, and
16 again, as described earlier, was really talking more
17 of a temporary type use.

18 One of the other things, I guess, and this
19 is something I just noticed when received today was a
20 amendment to the appeal. Under Exhibit 15, I was
21 reading through their prototype lease that they have
22 set up for this, which actually is not a lease at all,
23 reading it. Basically it is a month-to-month license
24 and it is not a long-term or lease. Again, we do
25 require leases through -- with an occupation tax

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1 certificate. That's a situation, though, that really
2 will not be determined, but those are case-by-case
3 basis with an occupation tax certificate.
4 But the overall portrayal of what I was
5 seeing and hearing from people -- And even up till
6 last week we got a call about somebody wanting to know
7 more about when the flea market was coming in; they
8 had been talking to the marketers for this, and they
9 were told that flea markets. . .
10 Now, you know, one person tells you that --
11 We've had a lot of people come in and saying that, so
12 it raised the red flag, and there's concern.
13 So basically the -- the letter that we sent
14 out -- I sent out -- was saying that if you operate as
15 it is being portrayed on the flier and what we're
16 hearing, these uses would not be allowable under the
17 C-2 zoning code. So it was kind of an informational --
18 you know, if this is what you're planning on doing,
19 those would not be consistent in my determination that
20 those would be allowed uses within it.
21 But that's what it comes down to. So you
22 know, what was advertised, what was seen, that was the
23 basis. The primary basis, the discussion with the
24 applicant prior, and the owner, not this applicant but
25 the owner previously about all the different uses and

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1 the fact that flea markets kept coming up and up and
2 up, and then having this additional information come
3 on top of that where it's being portrayed as that,
4 and these were fliers that went out to the general
5 public and were out, you know, out and around. We got
6 a copy of it I believe on the -- I've got the date
7 somewhere but it's not really important.
8 So again, you know, it goes back to it was
9 my determination that based upon the uses portrayed in
10 the development advertisement, and it was being
11 conveyed to prospective tenants, that such uses would
12 be contrary to the C-2 zoning and, as such, would be
13 considered a flea market which would not be allowed.
14 Once the other uses that they were talking about, such
15 as the exhibits and the -- the gaming, the conference/
16 party/concert space, all those will be of concern and
17 not be an allowed use.
18 We -- as you see on your package, there were
19 several permits taken out. Again those are not real
20 relevant to this determination, but just FYI, I
21 included that in there. There was a sign permit that
22 was allowed, and as you know, we don't control
23 content, but that was for vacant space which was
24 advertised. There was a demolition permit for 7,500
25 square feet that was taken out and a permit was

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1 issued.
2 And there was a electrical permit for -- got
3 a list of them. It was for -- let's see. It's
4 interesting because it was residential; it was a
5 combination of arranging it, water heater, clothes
6 dryer, dish washer and disposal unit. That was
7 submitted for on 9/12, and the permit was issued.
8 And only thing else I'd like to note in this
9 process, electrical permits do not require review and
10 approval by the Dekalb County Fire Marshal.
11 Demolition permits do not require Dekalb County Fire
12 Marshal.
13 We also have an application in that we
14 issued a number on so it could go to the Dekalb County
15 Fire Marshal for interior renovations. Again, we have
16 seen no detailed plans on this whatsoever. We have
17 not received any word back from the fire marshal
18 whether they have gotten any type of finalization on
19 those plans.
20 Once those plans are completed, the fire
21 marshal contacts the applicant that brought them the
22 plans. They go get them, they bring them back to the
23 City. Again, whatever additional information we need
24 or if it's complete at that point, we've got a
25 completed application, and we actually start our

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1 review for both the building -- all the details,
2 because at that point we have enough information to
3 start making decisions.
4 Again, this is really focused on what is
5 being advertised and the fact that this appears to
6 be -- from all indications and from the advertise-
7 ments, to be uses that would not be allowed in C-2.
8 So the letter notification was sent to -- deter-
9 mination was sent to the applicant making them so
10 aware. And I'll be happy to answer any questions that
11 you might have.
12 MAYOR PITTMAN: Ms. Alexander?
13 COUNCILMEMBER ALEXANDER: No, ma'am.
14 MAYOR PITTMAN: Mr. Bates?
15 COUNCILMEMBER BATES: No.
16 MAYOR PITTMAN: Ms. Fleming?
17 COUNCILMEMBER FLEMING: No, not at this
18 time.
19 MAYOR PITTMAN: Ms. Dean?
20 COUNCILMEMBER DEAN: What exactly is being
21 appealed?
22 MR. COOLEY: The appeal is the deter-
23 mination; the letter was the determination of those
24 uses, if developed as -- as being portrayed in that,
25 would not be allowed. It would be considered a flea

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1 market and would not be an allowed use. That's what
2 the appeal is.

3 COUNCILMEMBER DEAN: So you were just
4 stating -- you were just conveying information and
5 that conveyance is being appealed? I'm not sure what
6 the appeal is.

7 MR. COOLEY: Well, again, it was a deter-
8 mination that this is a flea market --

9 COUNCILMEMBER DEAN: Right.

10 MR. COOLEY: -- based upon --

11 COUNCILMEMBER DEAN: Right.

12 MR. COOLEY: -- the things that I've stated.
13 So that was the determination that we sent to them.

14 COUNCILMEMBER DEAN: Right.

15 MR. COOLEY: If it's developed like this,
16 this will be considered --

17 COUNCILMEMBER DEAN: Right.

18 MR. COOLEY: -- a flea market, and they are
19 appealing that determination that it would be
20 considered a flea market.

21 COUNCILMEMBER DEAN: So they do want to
22 conduct this business in this way; they don't want to
23 call it a flea market.

24 MR. COOLEY: I will have to leave that --

25 COUNCILMEMBER DEAN: Okay.

1 MR. COOLEY: -- to the Applicant to address
2 that.

3 COUNCILMEMBER DEAN: Okay.

4 MR. COOLEY: We're working off of our
5 discussions with them, the owner, about previous uses.

6 COUNCILMEMBER DEAN: Okay.

7 MR. COOLEY: And then all of a sudden this
8 kind of seemed to be flipping back to the flea market.

9 COUNCILMEMBER DEAN: Okay.

10 MAYOR PITTMAN: Okay. So I guess at this
11 time we will give you the opportunity to speak.

12 MR. DENNIS WEBB: Good evening. My name is
13 Den Webb. My office address is 1230 Peachtree Street,
14 Atlanta, Georgia 30309, and I'm here on behalf of two
15 parties tonight. The first is Buford Plaza, LLC.

16 Buford Plaza, LLC owns the property Joe just
17 discussed, 5597 Buford Highway that everyone knows as
18 an old K-Mart site. My second client is Mercado
19 Plaza, LLC. It leases that property and intends to
20 put a Latino discount mall on it.

21 Let me go back to sort of your point as to
22 why we're here. As Joe indicated, on October 16th,
23 2013, he issued a letter that made two determinations
24 and told us if we -- if we didn't agree with him, we
25 had an obligation to appeal, so that's what we did.

1 But the first determination was in fact that
2 this proposed discount mall was a flea market as that
3 term is defined under the City Code. The second
4 determination was that this new development would be
5 bound by a new ordinance, Section 580 of the develop-
6 ment code. So those are the two issues on this
7 appeal.

8 Let me discuss the flea market first and let
9 me cut through something right away. The letter
10 states that it's based on one piece of information and
11 one piece of information alone, and that is a flier,
12 and one word in that flier, the word "booth."

13 There is an issue here that Joe did not
14 touch on that we spent a good bit of time in our
15 appeal addressing, and it's -- it's a -- a position
16 that's not been refuted by anyone since we filed our
17 appeal: No one affiliated with the ownership of
18 Mercado Plaza had anything to do with that flier.
19 They didn't generate it; they had nothing to do with
20 it at all.

21 We've submitted three affidavits from all
22 three managers of Mercado Plaza, LLC, who have
23 testified under oath they didn't write the flier, they
24 didn't ask that it be written; they weren't aware it
25 was written; and when they found out, they located the

1 person who wrote it and told him to stop handing it
2 out, because the information in it was wrong.

3 There's an expression lawyers use. I was
4 looking forward to seeing Ms. Pachuta tonight because
5 I believe she's an attorney and I think she would
6 recognize this term: It's called garbage in, garbage
7 out, and it means that if the conclusion is based on
8 erroneous information, the conclusion is erroneous.

9 And that is what we have here in this
10 letter. It is based on a flier written by a third
11 party who doesn't know this project, who isn't
12 affiliated with the ownership, and that is the sole
13 basis for the determination that this is in fact a
14 flea market and the issuance of the letter on October
15 16 of 2013.

16 The fact is, though, that what my clients
17 are proposing isn't now and has never been a flea
18 market.

19 We don't have to rely on Webster's
20 Dictionary to figure out what the term "flea market"
21 means. That's actually a term defined in our code of
22 ordinances. It is defined as an occasional or
23 periodic sales activity held within a building,
24 structure or open area where groups or individual
25 sellers offer goods, new and used, for sale to the

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1 public.
2 So as I indicated in my appellant statement,
3 that definition has two operative phrases: Number
4 one, the sales activity has to be occasional or
5 periodic and, number two, the goods sold have to be
6 new and used. And if either one of those criteria is
7 met, there's no basis upon which the City can
8 determine that this particular use is a flea market,
9 and I think we submitted more than adequate evidence
10 to show that neither criteria is met in this instance.
11 First, the sales activity proposed in
12 Mercado Plaza is not occasional or periodic. This
13 mall, like all malls, would have regular business
14 hours: It's open five days per week, Saturday through
15 Monday, 10:00 a.m. to 9:00 p.m.; and Wednesday through
16 Friday, 11:00 a.m. to 8:00 p.m. And every tenant in
17 Mercado Plaza is required to be open when the mall is
18 open.
19 So based on that one issue, this Council
20 should find that this particular use is not a flea
21 market. But let me address the second criteria:
22 Mercado Plaza will not allow the sale of used goods.
23 Joe mentioned the tenant agreement which we
24 included as part of the record. If you've read it, as
25 he apparently has, you'll see that it expressly

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1 forbids any retailer from reselling merchandise or
2 selling secondhand goods.
3 So while we can talk about extraneous and
4 unidentified third parties, we can talk about fliers
5 and third parties and people not affiliated with my
6 clients generated, the information in the record are
7 the facts and they are sworn facts. And I think based
8 on those facts, there is simply no way that the City
9 can consider or determine this particular use a flea
10 market based on its own law.
11 Let me just touch briefly on the second
12 issue. It was raised in Mr. Cooley's letter, and it
13 relates to the new Development Ordinance, Section
14 580. As you are aware, that ordinance requires retail
15 spaces to be, among other things, a thousand square
16 feet and have four walls and a ceiling. That
17 ordinance was adopted on September 9th of 2013, and
18 that was months and months and months after this
19 project was underway. And as a result, it is our
20 position that the applicants or the Appellants are not
21 bound by it.
22 By the time that ordinance was adopted --and
23 as Mr. Cooley indicated, the ownership and the lessors
24 had had many, many meetings with the City. They had
25 been told on numerous occasions that they could

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1 proceed with this development. They were issued
2 permits to proceed. They had spent hundreds of
3 thousands of dollars. And just to be clear, they had
4 already applied for a business permit. I'm not sure
5 that that did come out clearly, but I don't think it's
6 disputed here.
7 So the fact is that both Mercado Plaza and
8 Buford Plaza are entitled to continue to operate under
9 the law as it existed prior to September 9th of 2013.
10 And let me just note this for the record: That's a
11 fact your the Community Development Director has
12 confirmed.
13 I sent an Opens Records Act request to the
14 City. It took a long time to get a response. The
15 first time, I got 123 pages of material, the second
16 time I got over 1,600 pages of material, and among
17 that material was an August 19, 2013 email from your
18 community development director that said if they apply
19 for building permits prior to any changes, the changes
20 will have no effect on them.
21 And that's exactly what happened. The
22 changes have no effect, and certainly any
23 determination to the contrary is wrong.
24 I'm happy to address any questions you would
25 like me to address. I think I'll stop there. I'm

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1 going to reserve my time, and I'm happy to take some
2 questions.
3 Actually, let me think. Let me go back to
4 one -- or points that I took down while Joe was
5 speaking.
6 Mr. Cooley mentioned tonight that he got
7 phone calls from people mentioning the fact that they
8 had heard a flea market was going in. I mean that's
9 the same type of evidence we have with the flier. Who
10 are these people? What was their interest? You know,
11 when did they call, what did they say? There's
12 certainly no mention of those phone calls in the
13 letter that we received from him.
14 I think that evidence is unverified,
15 uncorroborated and certainly not reliable in this
16 instance, and I think I'll stop there.
17 MAYOR PITTMAN: Okay. Ms. Alexander?
18 COUNCILMEMBER ALEXANDER: Some of the items
19 that you addressed talking about no used goods are
20 going to be sold, but I'm curious why in Mr. Furrow's
21 affidavit he mentioned discussing conditional permits
22 for items such as a pawn shop, because when a pawn is
23 not paid, the used goods are sold.
24 MR. WEBB: As I understand it, the point of
25 that affidavit was to identify that tenants are

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1 restricted from any use that would not be allowed
2 under the C-2 zoning ordinance absent a special use
3 permit. You can sell used goods in Doraville. I
4 think you can sell items on consignment, I think you
5 can have an antique shop, but I think sometimes
6 they're required conditional use permit. So to the
7 extent that that particular step was taken, they might
8 be allowed to sell, but as a general principle, there
9 will be no resale of secondhand goods.

10 COUNCILMEMBER ALEXANDER: Okay, because the
11 affidavit also says unless specifically allowed by
12 Mercado, so I interpreted that that they could make a
13 decision later on to allow the sale of used goods.

14 MR. WEBB: Well, tell me what paragraph
15 you're looking at, please.

16 COUNCILMEMBER ALEXANDER: Section 10 on the
17 affidavit by Mr. Furrow.

18 But just for the record, Council to my
19 knowledge does not have a copy of this lease agreement
20 that is supposed to be part of the record. So can you
21 please get that, a copy of that document, for our
22 information, please.

23 MR. COOLEY: Just FYI, I did receive that
24 this morning.

25 COUNCILMEMBER ALEXANDER: Okay. Well, we

1 the lease.

2 COUNCILMEMBER ALEXANDER: Your exhibi
3 permit sign, Mr. Lee's name and telephone number is or
4 this sign. There is no affidavit from Mr. Lee.

5 And what is his position with this
6 establishment?

7 MR. GARY T. FURROW: He's just a leasing
8 agent.

9 COUNCILMEMBER ALEXANDER: Okay. So th
10 leasing agent's name is on the flier that is
11 supposedly not authorized.

12 MR. WEBB: There's a handwritten notation on
13 the bottom of the flier.

14 COUNCILMEMBER ALEXANDER: That's why
15 thought --

16 MR. WEBB: Who knows where that came from?

17 COUNCILMEMBER ALEXANDER: I understand th
18 completely, but my point is I think it would be pretty
19 safe to deduce that Mr. Lee did receive phone calls
20 off of generated said flier.

21 Did he never question where they got the
22 information or anything to that nature?

23 MR. WEBB: As far as I can go on that point
24 there, I saw an email in the 1600 produced where Joe
25 Cooley said that he had gotten a phone call or two

1 have not received a copy of that.

2 MR. COOLEY: Right.

3 MR. WEBB: And just FYI, we found out last
4 Wednesday.

5 Well, I think that must be a typographical
6 error, because if you read the following sentence:
7 Mercado is aware that it must obtain conditional
8 permits from the City in order to allow any such uses
9 by its retailers. So it's a recognition that absent a

10 conditional use permit, those uses would not be
11 allowed. And it may be that Mercado itself would file
12 for a conditional use permit as opposed to the tenant.

13 COUNCILMEMBER ALEXANDER: But my point being
14 is it doesn't say that they are not going to do it.

15 It says they understand the process that they would
16 have to go through to allow the sale of used goods.

17 MR. WEBB: Well, and my point is the tenant
18 agreement specifically says you can't resell goods or
19 sell secondhand goods.

20 Now, to the extent the City would allow that
21 as, you know, an antique store or a consignment
22 furniture store or something of that nature, then
23 maybe there is some wiggle room. But certainly to the
24 extent that we're talking about general used
25 merchandise, I think that issue is clearly defined in

1 from folks saying they heard there's a flea market
2 coming.

3 He called Mr. Furrow.

4 Mr. Furrow said, Let me check this out.

5 He called his two leasing agents, which presumably
6 would include Mr. Lee, and reported back that that's
7 not what they're telling people; they tell me they are
8 not identifying this property as a flea market.

9 COUNCILMEMBER ALEXANDER: Okay. But w
10 don't know that Mr. Lee did not receive phone calls
11 generated from this flier that mentions flea market
12 because we don't have an affidavit from Mr. Lee.

13 MR. WEBB: We don't, and we don't know
14 whether he -- We don't know that either -- either way
15 And I'm not sure how that would be relevant, frankly.
16 The words "flea market" are --

17 COUNCILMEMBER ALEXANDER: Because you'r
18 claiming no knowledge of the document.

19 MR. WEBB: Well, I have put up affidavits of
20 the three managers, the principals of the company who
21 operate the business. They as a business are unaware
22 of anyone affiliated with their company that has
23 anything to with that flier.

24 COUNCILMEMBER ALEXANDER: Okay. Bu
25 Mr. Lee is affiliated with the company, because

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1 Mr. Furrow said he's one of the leasing agents.
2 MR. WEBB: He is a leasing agent --
3 COUNCILMEMBER ALEXANDER: Okay.
4 MR. WEBB: -- correct.
5 COUNCILMEMBER ALEXANDER: All right. Thank
6 you. Those are all the questions I had.
7 MAYOR PITTMAN: Mr. Bates?
8 COUNCILMEMBER BATES: Yeah. I want to focus
9 on the affidavits from Mr. Furrow and Ly Phillips.
10 Both of them stipulate in their affidavits
11 that the Mercado Plaza would be similar to Plaza
12 Fiesta.
13 MR. WEBB: Correct.
14 COUNCILMEMBER BATES: Okay. Just want to
15 make sure that's stipulated.
16 I went and looked and got information about
17 Plaza Fiesta because I'm a layman and legal
18 terminology kind of goes over my head. So I'm just
19 going to read from Yelp, which is reviews on Plaza
20 Fiesta, and then a Wikipedia Free Encyclopedia
21 statement regarding Plaza Fiesta.
22 So on Yelp, you have: The place is
23 fantastic. It's a little chaotic, as the inside is
24 set up more like a flea market mercado with booths
25 indoors instead of storefronts, but that's part of the

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1 experience.
2 Second review: Think of it as a huge indoor
3 flea market.
4 Third review: There are several little flea
5 market areas in addition to the regular shops in the
6 mall.
7 Fourth review: But for the adventurous
8 shopper, there are plenty of flea market booths in the
9 mall hocking hard-to-find goods.
10 The interesting part is that, you know, Yelp
11 has these intuitive search engines, and so it says
12 people viewed this after searching for flea market-
13 Atlanta.
14 Wikipedia says: Plaza Fiesta is a 350,000
15 square foot strip mall in Dekalb County, Georgia, on
16 the eastern border of the city of Brookhaven, on
17 Buford Highway and Clairmont Road. The mall contains
18 a large supermarket, farmers' market, several large
19 discount stores, and a large space filled with over
20 140 small vendors modeled on a Mexican mercado or flea
21 market.
22 So as a layman using my common-sense
23 deductive reasoning, if you're comparing what you want
24 to put in at the K-Mart to Plaza Fiesta, I'm doing an
25 apples-to-apples comparison, and that then becomes a

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1 flea market.
2 I appreciate the interest in wanting to
3 redevelop our city, but we are poised for
4 redevelopment in the city, and putting in 350 12 x 12
5 booths with roll-up doors in the middle of the Buford
6 Highway corridor doesn't fit within a developmental
7 standard that the City has. It doesn't fit in with
8 the LCI developments and studies that the City has
9 conducted and spent a lot of time making sure that our
10 Buford Highway corridor becomes a strong entrance into
11 the -- the community and entrance into our
12 neighborhoods and our city center.
13 So again, I'm not an attorney. I didn't
14 sleep at Holiday Inn Express last night.
15 I'm just using common-sense analysis to say
16 that what your own affidavits relate to becomes, to
17 me, a flea market, so --
18 MR. WEBB: Let me address that, because both
19 Yelp and Wikipedia are open-source information
20 sources.
21 COUNCILMEMBER BATES: Sure.
22 MR. WEBB: That means any third party can
23 come in and put information in it. Yep, they can use
24 whatever language they want. And it's irrelevant, and
25 you know why? Because Doraville defines what a flea

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1 market is.
2 The only thing that matters here is
3 Doraville's definition of "flea market," which is an
4 occasional or periodic sales activity held within a
5 building, structure or open area where groups or
6 individual sellers offer goods new and used for sale
7 to the public.
8 The only question for you is: Is what we're
9 proposing a flea market under that definition?
10 COUNCILMEMBER BATES: Thank you.
11 MAYOR PITTMAN: Mr. Patrick?
12 COUNCILMEMBER PATRICK: No comments.
13 MAYOR PITTMAN: Ms. Fleming?
14 COUNCILMEMBER FLEMING: Ms. Alexander
15 touched on my comments as well. I find it quite
16 unusual that Bo Lee did not have any type of
17 affidavit, particularly since his name is on the
18 leasing information.
19 The other gentlemen that you do have
20 affidavits for are listed on the leasing information
21 and construction information. So I was just curious
22 as to why he had not submitted an affidavit as well,
23 seeing that his name, even though it was hand printed
24 on the flier, his name does appear on the leasing
25 information.

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1 So with that said as well as what Mr. Bates
2 said, a flea market does not fit well in our LCI and
3 our Comp Plan.

4 MAYOR PITTMAN: Okay. Ms. Dean?

5 COUNCILMEMBER DEAN: Well, Mr. Bates touched
6 on what I was going to say.

7 I was going to ask you what you would call
8 Fiesta Plaza, how you would define it, but -- but
9 we've gone through that so that's not necessary.

10 The 1,000-square-foot minimum, I actually
11 suggested that because I want -- we want businesses to
12 come in, stable businesses to come in, and you're not
13 going to come in in a small room or a small both and
14 -- and -- and -- and stay, plan on staying and
15 developing in any sort of way. So the 1,000 square
16 foot would change not for this but for -- for general
17 purposes, number one.

18 Number two, has the City received any formal
19 documentation with plans stipulating the size of
20 booths or -- or -- or rooms or anything like that for
21 the proposed Mercado Plaza? Yes? No? Maybe?

22 MR. WEBB: Well, what I -- That depends
23 on -- on --

24 COUNCILMEMBER DEAN: Any formal plans. Have
25 you -- have you provided the City any formal plans --

1 here. So the fact that we changed this to 1,000
2 square foot, a minimum of 1,000 square foot really has
3 no relevance whatsoever to plans, because we don't
4 have a copy of those plans here; right?

5 MR. WEBB: Well, I'm not sure I understand
6 your point. You know, the fact is there's a 1600-page
7 email trail that shows exactly why 800 square feet and
8 then 1,000 square feet was chosen and it goes back
9 months and months and months. So we can --

10 COUNCILMEMBER DEAN: Well, you can also look
11 at the minutes of the meeting, because we had a
12 discussion, in fact two discussions on that.

13 So it's not -- I mean it's not complicated,
14 it's not curious. I mean it just makes sense for the
15 kind of development that we want to bring into the
16 city.

17 MR. WEBB: Well, I disagree as to the
18 motives. I think they're clear and I think they'll be
19 thoroughly examined at the next phase.

20 COUNCILMEMBER DEAN: So Oscar Sinisterra
21 have you talked to him? Have you said: Why are you
22 doing this? Why did you do this and why are you --
23 why are you -- why are you specifying what we are
24 going to do to this property? Why are you doing that?
25 Why are you passing out fliers with this information,

1 MR. WEBB: Yes, but --

2 COUNCILMEMBER DEAN: -- that sets out a
3 design on booth size or the room size or anything like
4 that?

5 MR. WEBB: Yes, we have.

6 COUNCILMEMBER DEAN: And we --

7 MR. WEBB: This -- this --

8 COUNCILMEMBER DEAN: -- weren't provided a
9 copy of it?

10 MR. WEBB: Well, let me clarify. We filed
11 for a building permit. We started the process.

12 What we were told was to take our plans
13 first to the Dekalb County Fire Marshal for review.
14 So we took our plans, and they are there. But that is
15 step one in the process, and, from our perspective, we
16 have started the building-permit process. You can
17 consider that in Doraville or not, but we did in fact
18 have them, we provided them and we started the
19 building-permit process here in the city.

20 COUNCILMEMBER DEAN: Okay, but we haven't --

21 MR. WEBB: Under the -- under --

22 MR. COOLEY: -- seen them here.

23 MR. WEBB: Under the direction we were given
24 by the City.

25 COUNCILMEMBER DEAN: But we don't have them

1 and under whose authority?

2 Have you asked him about that? because
3 that -- that's -- I don't understand why would this
4 guy say: Oh, well, I'm going to, you know, print out
5 these fliers and basically, you know, advertise for
6 free this property that has not yet been developed,
7 and -- and potentially causing you harm?

8 MR. WEBB: I didn't speak to him. My
9 understanding is that he is the manager of the Buford
10 Highway Flea Market.

11 COUNCILMEMBER DEAN: Uh-huh.

12 MR. WEBB: It was at that point going out of
13 business. It's not going out of business now, and I
14 think he may -- and I'm guessing here like we all are.
15 I think he may have been trying to help some of those
16 folks relocate.

17 But the fact is our folks --

18 COUNCILMEMBER DEAN: Uh-huh.

19 MR. WEBB: -- have clearly indicated they
20 didn't speak to him, they didn't direct him, they
21 didn't know what he was doing; and when he did it,
22 they told him to stop.

23 What his motives are are unknown.

24 COUNCILMEMBER DEAN: Okay.

25 MR. WEBB: But what our involvement in -- in

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1 that process is not.
2 COUNCILMEMBER DEAN: Okay. And the leases
3 and in Mr. Furrow's affidavit he talks about: We
4 leased approximately 70 retail spaces.
5 What were the terms of those leases? I mean
6 what was the -- what was the period for those leases,
7 and do you have copies of them? Could you provide us
8 copies of these leases?
9 MR. WEBB: I could. I can't now. We have
10 actually put into the record a standard copy of the
11 lease.
12 COUNCILMEMBER DEAN: Okay.
13 MR. WEBB: But in terms of all 70 individual
14 leases, we have not put those into the record.
15 COUNCILMEMBER DEAN: Approximate. I mean
16 like what -- what's the duration?
17 MR. WEBB: I don't know.
18 COUNCILMEMBER DEAN: You have no idea?
19 MR. WEBB: I mean I haven't seen a single
20 one of those leases. I've seen the standard term, and
21 it, you know --
22 COUNCILMEMBER DEAN: Does anyone in this
23 room have any idea how long the term of the lease
24 might be?
25 MR. FURROW: The licenses are month to

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1 month.
2 COUNCILMEMBER DEAN: Licenses. Okay, so --
3 Because here in this affidavit, it calls them a lease.
4 And a license and a lease are two totally different
5 things; correct? You understand that?
6 ---
7 (No audible response)
8 ---
9 COUNCILMEMBER DEAN: Okay. I'm good.
10 MAYOR PITTMAN: Sir, did you have anything
11 else you wanted to add?
12 MR. WEBB: No. I guess I just am not clear
13 on what the point of that last conversation of lease
14 versus license is. The fact is this is a mall. It is
15 a single standing structure with accommodation of
16 different retailers in it.
17 And you know, the lease terms or the license
18 terms for each tenant will be different. But the fact
19 is the mall is a single structure; it's open five days
20 a week during regular hours just like every regular
21 business is. And the fact that a tenant may come and
22 go is irrelevant. You know, if The Gap leaves Lenox
23 Square, it doesn't make it a flea market. The mall
24 itself is the primary focus here.
25 COUNCILMEMBER DEAN: I don't think we allow

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1 tents.
2 MR. WEBB: What's that?
3 COUNCILMEMBER DEAN: I don't think we allow
4 tents; right?
5 MR. WEBB: Well, there's nothing -- We're
6 not asking for tents.
7 COUNCILMEMBER DEAN: I know.
8 MR. WEBB: There's nothing to indicate
9 tents. Maybe that flier, that third-party flier that
10 was unauthorized might have referenced something like
11 that, but the evidence in front of you, the sworn
12 testimony doesn't say anything about tents.
13 COUNCILMEMBER DEAN: Well, you just said
14 tents may come and go but the businesses --
15 COUNCILMEMBER FLEMING: He said tenants.
16 MAYOR PITTMAN: He said tenants.
17 COUNCILMEMBER DEAN: Oh, okay, okay. All
18 right.
19 COUNCILMEMBER FLEMING: Because that's what
20 I thought he said too.
21 COUNCILMEMBER DEAN: Okay.
22 MAYOR PITTMAN: Okay. Thank you, sir.
23 Mr. Cooley, do you have anything?
24 MR. COOLEY: Just a couple quick items.
25 First off, the amended copy of the appeal I

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1 received this morning, it was actually delivered to
2 the front office at 3:10 Wednesday afternoon right
3 before Thanksgiving, so -- and Legal has not received
4 a copy, so I will present this to the recorder and to
5 the Clerk and for it to be part of the record.
6 And to answer your question, I believe
7 Mr. Furrow answered the one. One other -- a couple
8 things. One, there was the issue brought up about the
9 thousand square feet. This is something that has been
10 a issue since I've come here, and it's not solely to
11 this type -- this project or anything of that sort.
12 We've had a continuing problem of businesses
13 coming in inside of businesses, opening up; they crowd
14 the space, they fill up the parking lots. We've had
15 this probably in a number -- several sites with the
16 taxicabs. We've had the same situation where we've
17 had a lot of booths opening up in other uses where
18 they were not getting occupation tax certificates.
19 So this does predate this business
20 substantially. I've been here approximately two and a
21 half years, and that's one of the issues that I
22 recognized up front, which we did -- this Council did
23 address.
24 Another important item, I think: It was
25 identified that Mr. Lee was the leasing agent. I do

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1 have someone here tonight that will be willing to
2 testify, Mr. Joe Frank, actually, where those fliers
3 were on the table at the front of the K-Mart in the
4 lobby area with the two people that were doing the
5 leasing work, and he was given one by one, and these
6 are the fliers that was in question.

7 So I think it would probably be a good idea
8 for the record since this is quasi-judicial, that
9 Mr. Frank be allowed to give testimony to that fact.
10 And if that's the case and they are -- this person,
11 whether it be Mr. Lee or whoever the agent was on duty
12 at that time was giving it out as representation of
13 what they were doing, that ties it directly to the
14 proposed plan, at least in my opinion.

15 And again, this is a determination based
16 upon what I've learned and read and heard through a
17 number -- it's not solely on the flier, but the other
18 aspects also.

19 MAYOR PITTMAN: Mr. McLendon, is it proper
20 to have Mr. Franks?

21 ATTORNEY McLENDON: I don't know why not.
22 I mean Mr. Webb, any issue with that if
23 somebody wants to put something in factually? I mean
24 it's an issue of fact that has been raised by you.

25 MR. WEBB: Well, I think it's after the

1 ATTORNEY McLENDON: I think it would be
2 appropriate for us to, you know, give it what weight
3 you may. I think it would be appropriate to put it in
4 the record if he had something he wanted to add.

5 MR. WEBB: Well, I disagree, and I object to
6 taking evidence from the general public here like
7 this, certainly unannounced as well.

8 ATTORNEY McLENDON: Mayor, let me have five
9 minutes. Can I have a recess on that?

10 MAYOR PITTMAN: Certainly. We'll have a
11 five-minute recess.

12 - - -

13 (Brief recess)

14 - - -

15 MAYOR PITTMAN: Meeting come back to order
16 Mr. McLendon?

17 ATTORNEY McLENDON: All right, Mayor.
18 Giving the issue thought, to the extent that the
19 decision was made on the -- based upon the information
20 in front of him, what's happened is I think in this
21 hearing we've come in and we've questioned the basis
22 of part of the evidence, at least some aspect of the
23 evidence. It's been said: That was not done with our
24 authority or knowledge.

25 You know, I have somebody that's willing to

1 fact. I mean the point is there was a decision made
2 on October 16th based on information that was
3 available to Mr. Cooley, and that's my first response.
4 Second of all, do I get a chance to cross-examine
5 Mr. Frank?

6 ATTORNEY McLENDON: Why don't we do this:
7 What I would say is I don't know this is a cross-
8 examining situation, but what I would tell you is
9 since the issue has come up and the question of fact
10 has been raised by you, I think it becomes relevant.

11 I'd be happy for us to just stipulate that's
12 what Mr. Frank would testify to, that the flier was --
13 -- whatever Mr. Cooley said. I'm okay with that.

14 MR. WEBB: Well, I'm not stipulating to
15 that.

16 ATTORNEY McLENDON: Okay. And I don't think
17 this has a right to cross-examination. I think
18 Mr. Frank could come up and potentially put evidence
19 in if that has been is a question of fact that's
20 raised.

21 I mean you've raised the question of fact of
22 saying: This flier had nothing to do with my clients;
23 right?

24 MR. WEBB: Well, that's certainly the
25 position that I've taken.

1 come up and -- and says, you know, I had an
2 observation that's relevant to that. I think it's
3 appropriate to listen to it, but I think if -- if
4 that's allowed to be put in, Mr. Webb should be given
5 every right to ask him questions about that very
6 thoroughly.

7 So to the extent that -- that, you know, he
8 has information that may be relevant to that flier,
9 I'm going to say we should listen to it but Mr. Webb
10 should have the ability to fully ask him questions and
11 inquire as to whatever that opinion is.

12 MR. WEBB: Since we're creating a record, I
13 think I would just like to object to the process or
14 lack of process. I've actually already raised that
15 objection.

16 And one of the issues I have here is there
17 are absolutely no standards as to what determines the
18 appellate review, and I don't think it's appropriate
19 to take comment from the general public. So I
20 understand that the City Attorney has the ability to
21 direct the course of this proceeding the way he wants.
22 but I object.

23 ATTORNEY McLENDON: And I'll just note that
24 I don't think we're saying this is taking comment from
25 the general public. We've had a issue of fact raised,

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1 and I think we have someone who has stated they have
2 specific knowledge regarding that particular issue of
3 fact.
4 You're welcome to cross-examine him on it if
5 he's willing to -- to put that evidence in the record.
6 All right. So Mr. Harris, if you have
7 something to add to that, please feel free. And I'll
8 need you to --
9 COUNCILMEMBER ALEXANDER: Mr. Frank.
10 ATTORNEY McLENDON: Mr. Frank. I apologize.
11 Mr. Frank.
12 MAYOR PITTMAN: Mr. Frank, if you would
13 please -- Mr. Frank, if you'd please identify yourself
14 to -- for the court reporters please.
15 MR. JOE FRANK: Joe Frank.
16 MAYOR PITTMAN: Go ahead, sir.
17 MR. FRANK: Do you want me to just go ahead
18 and start?
19 Okay. Well, several months ago, it was
20 shortly af- -- I believe it was shortly after the flea
21 market sign came up over there, at least it was just a
22 few days after I saw it there for the first time, and
23 so I was just curious what's going on there and the
24 fact that we are putting up a flea market in the city,
25 because I was under the understanding that flea

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1 markets were -- were prohibited use in the city.
2 And I was even kind of curious because it
3 said something about a -- about a plaza. And of
4 course to me a plaza is something where you have a
5 series of stores on the sidewalk and each store is a
6 separate entity.
7 ATTORNEY McLENDON: Mr. Frank --
8 MR. FRANK: Okay.
9 ATTORNEY McLENDON: -- let me go ahead and
10 let's just -- we got to keep this process --
11 MR. FRANK: Oh. Okay. I'm sorry.
12 ATTORNEY McLENDON: We haven't said come in
13 and sort of testify to everything, so I'm going to ask
14 us --
15 THE WITNESS: Okay. Very good.
16 ATTORNEY McLENDON: -- to disregard what he
17 said before.
18 And just for the sake of let's make sure
19 we're -- everybody's aware, I'm going to go ahead and
20 ask you to -- swear you in regarding the testimony
21 you're about to give.
22 MR. FRANK: Okay.
23 ATTORNEY McLENDON: Is that okay?
24 MR. FRANK: That's quite all right.
25 Whereupon,

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1 JOE FRANK
2 was called to testify, and having been first duly
3 sworn, was examined and testified as follows:
4 DIRECT EXAMINATION
5 BY MR. McLENDON:
6 Q Very good, and if you could --
7 A Okay.
8 Q -- we had said there was --
9 A I'll keep it brief.
10 Q -- one issue was --
11 A I'll keep it brief.
12 Q -- was that flier and what your knowledge is
13 on that flier. Just address that.
14 A Okay. Well, so I went over there just to
15 see what was -- what they had going on over there,
16 and I walked in and kind of pretended to be a
17 potential tenant, and I was given kind of a -- I guess
18 a little bit of a sales pitch on the thing of how
19 beautiful everything is going to be and all of the --
20 and all of the booths that they were putting up there,
21 and they would have all these carts in the middle, and
22 there was going to be -- and they kind of gave me a
23 little rundown description of all the things that were
24 or at least some of the things, I guess.
25 And they wanted to know what I was going to

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1 put in there, and I said, I got a friend who's looking
2 for a space to put a -- to put a clothing, selling
3 clothing.
4 And anyway, we went on, and -- and then
5 towards the end of the conversation -- and there were
6 two Asian ladies over there, a gentleman, and a
7 Hispanic individual that was I guess tidying up some
8 flooring of the floor right there by the -- by the
9 entrance. It was actually right when you come in, a
10 little to the left, there were a couple of desks, and
11 there were the -- you know, there were those ladies
12 and people sitting behind the desk over there.
13 And then when I was leaving, on one of the
14 -- on one of the desks, there was a stack maybe -- I
15 don't know, but maybe so high (indicating), of fliers.
16 And the lady gave me one of those fliers and -- and
17 because we'd been kind of finishing, and she said if
18 you call this --
19 - - -
20 (Brief interruption)
21 - - -
22 THE WITNESS: But anyway, she -- she handed
23 me the flier or pamphlet, whatever you want to call
24 it, and they had that map on the back of it. And she
25 said that they were working on this for some time but

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1 that now they were getting the -- they had their
2 permit, so they were just getting their permits
3 approved or something to that effect, and -- and that
4 because now they are calling it a plaza versus a flea
5 market or something, something to that effect.

6 Anyway, she handed me the flier. To the
7 best of my recollection, she wrote the name under-
8 neath. There was the phone number on it, on that
9 flier.

10 And I left, and I said, I will tell my
11 friend about it and I would see her in the near future
12 about possibly renting a space over there.

13 And -- and she mentioned something about
14 that, you know, they were getting the people from the
15 other market over, and just kind -- it was all kind of
16 like a sales pitch kind of a thing. And that's it.

17 MAYOR PITTMAN: Okay, Mr. Frank, hold on
18 just a minute.

19 Mr. McLendon?

20 ATTORNEY McLENDON: Just so we know what
21 flier you're talking about, Mr. Frank, is that the
22 flier that you're talking about (presenting)?

23 THE WITNESS: Yeah, correct.

24 ATTORNEY McLENDON: All right. That's it.
25 All right?

1 it is.

2 Q -- is your recollection that the words "flea
3 market" were used on the sign that you saw?

4 A I'm sorry?

5 Q Is your recollection that the words "flea
6 market" were used on the sign?

7 A It was not used on the sign, and that's what
8 kind of caught -- caught my eye because Ly Phillips
9 used to own a flea market. And Ly Phillips is, I
10 believe, one of the owners of that -- of the property
11 over there, or Ly Phillips, she's (pronouncing) she's
12 called anyway. And she used to own a flea market up
13 in Gainesville at one time or was a part owner in a --
14 in a flea market. And I believe in fact -- I believe
15 she was one time somehow related to that other flea
16 market that you guys call Plaza Fiesta, so -- but that
17 is still a flea market. It was basically this guy's
18 flea market. That's -- that's the way I look at it.

19 Q Well, you mentioned that you heard from
20 conversations that this was a flea market.

21 A Yeah.

22 Q All right. Did you ever speak to the
23 owners? Did you ever hear that in conversation with
24 an owner of Mercado Plaza?

25 A No. That was out on the street.

1 THE WITNESS: Yes.

2 ATTORNEY McLENDON: Thank you.

3 MAYOR PITTMAN: Okay, sir, would you like to
4 cross-examine?

5 CROSS-EXAMINATION

6 BY MR. WEBB:

7 Q Mr. Frank, my name is Den Webb. We've
8 actually met before, but it's --

9 A Yes, we did.

10 Q -- been awhile.

11 A Yes.

12 Q You mentioned that you went over to the site
13 because saw the flea market sign; correct?

14 A Correct.

15 Q Is it your recollection that the words "flea
16 market" were on the sign in front of --

17 A Well --

18 Q -- the property?

19 A Well, I knew -- I -- I was already aware
20 from other conversation that they were applying to put
21 a flea market in there. So when I saw that, I
22 immediately identified that as being, you know, the flea
23 market coming in there --

24 Q Well --

25 A -- on the thing. That is practically what

1 Q Okay. That was just --

2 A That was hearsay.

3 Q -- hearsay.

4 A If that's what you want to call it.

5 Q When you went to the property, was there
6 work going on at the site?

7 A Yes, there was.

8 Q Okay. And so there were workmen walking
9 around and other people?

10 A Correct.

11 Q You said that --

12 A I believe the inside was already being
13 demolished and there was a -- a demolition permit on
14 the -- on the front door, on the front entrance.

15 Q You said you think you've seen the flier at
16 issue. Did you take a copy of it when you went to the
17 site?

18 A I'm sorry?

19 Q Did you pick up a copy when you went to the
20 property, of the flier?

21 A They -- they handed me a copy of that flier.

22 Q Okay. And do you still have a copy?

23 A Yes, I believe so.

24 Q Not in your possession.

25 Did you come --

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1 A No.
2 Q -- here to speak on this topic?
3 A I'm sorry?
4 Q Did you come tonight specifically to speak
5 on this topic?
6 A I -- I -- I didn't come to speak. I mean I
7 was called to speak.
8 Q Explain that to me.
9 A Well, we don't always get to speak in the
10 city hall unless we are called on to speak.
11 Q Okay. And who called on you to speak?
12 A I'm sorry?
13 Q Who called on you --
14 A Well, I just --
15 Q -- to speak?
16 A -- identified myself now because the issue
17 came up that -- that the flier was somehow -- the
18 owners did not know about the flier.
19 That statement, to me, appeared to be very
20 untrue because they had a stack of those fliers on the
21 very desk inside the flea market right where all of
22 these people were sitting, so it was sitting right
23 there on the table.
24 And for somebody to say that they are not
25 aware of it when it's sitting right there in front of

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1 their table and they hand it to me, that is -- well,
2 whatever you want to call it. I don't want to call it
3 in public what it is.
4 Q Well, so you came -- you came here to speak
5 on the flier issue; is that -- do I hear you
6 correctly?
7 A That is -- well, no, I didn't.
8 I came here to speak if I'm called on about
9 the flea market because a flea market is something
10 that does not fit into our city. The flea market is -
11 - that's it. It doesn't fit.
12 Q Okay.
13 A But anyway --
14 Q But my point is --
15 A But that's my point. I mean the City is the
16 one who makes those decisions.
17 Q You knew the flier was an issue when you
18 came here today.
19 A No, I did not.
20 Q Well, you -- you said that earlier. Did I
21 mishear you? You had --
22 A No.
23 Q -- no idea that the --
24 A I did not say the -- I did not say the flier
25 was an issue. I said that there was a statement made

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1 over here. I believe you are the one who made that --
2 who made the statement that the owners did not know
3 anything about the flier and that somehow some flier
4 was -- I don't recall your -- your exact words, but it
5 was something to the effect, the way I understood it,
6 that it was somebody made it or what, I don't know,
7 but that the owners were not aware of it.
8 Q Okay.
9 A Okay. And my point is: Yes, the owners
10 were aware of it or should have been aware because
11 they are the ones who had given it out. I mean it was
12 right there where the ladies were.
13 Q Well, you saw a flier. You could testify to
14 that.
15 A No. I saw a stack of flowers -- of fliers.
16 Q Where?
17 A She gave me a flier, but --
18 Q And you still have a copy of that flier
19 somewhere; correct?
20 A I probably do.
21 Q All right, but you didn't bring it tonight.
22 A No, I did not.
23 Q All right. And you mentioned that you think
24 that the flier that was handed to you by Mr. McLendon
25 was the flier that you saw; right?

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1 A By -- by whichever lady was speaking to me.
2 Q All right. Now --
3 A But -- you know.
4 Q -- you said you saw a map on the back of the
5 flier that you saw; correct?
6 Show me where the map is on the back of that
7 flier.
8 A I didn't say I saw a map on the back.
9 Q Yes, you did, sir.
10 A No, I didn't.
11 Q Okay. Well, if you said that, then you were
12 wrong; correct?
13 A I -- I don't remember seeing a map of a
14 flier on the back. No, I did not.
15 Q I'm sorry.
16 A I don't recall.
17 Q A map on the back of the flier is what you
18 testified to earlier.
19 A I do not recall saying it.
20 Q Okay. Well, do you see a map on the back of
21 that flier I just handed you?
22 A Like I say, I do not recall saying anything
23 about a map.
24 Q Okay. Well, my question is, Do you see a
25 map on the back of that flier in your hand right now?

1 A No, I don't.
2 Q You're -- you're a competitor of sorts of
3 Mercado Plaza; correct?
4 A No, I'm not.
5 Q You own commercial property in the city of
6 Doraville, do you not?
7 A I own one small property.
8 Q Okay, that you lease to tenants.
9 A Couple small properties. That's about it.
10 Q I'm sorry. How many do you own?
11 A Couple small properties.
12 Q So it's not just one. You own more than
13 one; correct?
14 A Two.
15 Q All right. And you lease those --
16 A Two.
17 Q -- to commercial tenants; correct?
18 A Yeah. But it -- it isn't -- it isn't a
19 competition to me.
20 Q Have you ever used fliers to advertise your
21 business?
22 A No, I didn't.
23 Q Okay. You own commercial properties;
24 correct? We just discussed that.
25 A Well, we didn't discuss other place.

1 Q But you've been in the city a long time;
2 right?
3 A Yes, I'm here awhile. Yes.
4 Q You know a lot of the folks that lease
5 property in the city; correct?
6 A Okay.
7 Q There's nothing unusual about using a flier
8 to lease property; right?
9 A There's nothing unusual about it except when
10 it -- or when the flier says that it's -- it actually
11 advertises to -- saying that it's a flea market and it
12 is being advertised to -- saying that the people in --
13 in the flea market that is down the street have first
14 right to rent the space, then it seems to me that
15 that's a flea market. I mean if you --
16 Q Sir, that flier --
17 A -- if you're going to solicit the tenants
18 from that flea market, then obviously you're running a
19 flea market. If you would be soliciting retail store
20 tenants from another shopping center, which is
21 commonly done, then you would be running a shopping
22 center plaza. But what they're soliciting are flea
23 market tenants.
24 Q I want to be clear on this. That flier does
25 not describe Mercado Plaza as a flea market; correct?

1 And take your time in reading it.
2 A It says here -- what it says is booths will
3 be rented first-come/first-served. Buford Highway
4 Flea Market tenants will have the exclusive during two
5 weeks until August 25 to choose a booth. From there
6 on you will be able to choose on what is available at
7 the moment. Reservations will be made upon receiving
8 security deposit.
9 Okay. To me, they are apparently handing
10 this out or going to the booths in the Buford Highway
11 Flea Market and giving the tenants at the Buford
12 Highway Flea Market the first choice to go from there
13 to over here.
14 Q Well, my question is a simple one: That
15 flier does not specifically describe Mercado Plaza as
16 a flea market; correct?
17 A Okay.
18 Q I'm asking the question, sir. Does it say
19 Mercado --
20 A Well --
21 Q -- Plaza is a flea market? I know what your
22 opinion is and I know why you're here.
23 A Well, you got a picture over here.
24 Q Sir, my question's a simple one.
25 COUNCILMEMBER ALEXANDER: Excuse me, please

1 THE WITNESS: You --
2 COUNCILMEMBER ALEXANDER: Could we --
3 THE WITNESS: You --
4 COUNCILMEMBER ALEXANDER: -- simplify the
5 scope for him to say where he got the flier.
6 We do not want his interpretation of what
7 the flier said. I thought the purpose of this man
8 testifying, so to speak, was to distinctly say where
9 he got the flier.
10 ATTORNEY McLENDON: I think that is a fair
11 point, and if we would like to maybe narrow the
12 conversation, we can basically limit the evidence to
13 that issue alone is to how we'll consider it.
14 Q Let me -- I have no more questions for you.
15 MR. WEBB: But I would like to raise one
16 issue before I sit down, and I want to make sure one
17 point is -- is clear and understood.
18 MAYOR PITTMAN: (To the witness) You can
19 sit down. Thank you.
20 MR. FRANK: Oh, okay.
21 MR. WEBB: You know, I almost didn't want to
22 even ask Mr. Frank questions because it put undue
23 emphasis on the flier, and I don't think we tried to
24 do that in our appellate statement.
25 The fact is we didn't write it, we didn't

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1 have anything to do with it. Mr. Frank has his own
2 opinion and he has his own recollection, and I think
3 there's some -- some issues with that. But it's not
4 the be-all end-all; it's not dispositive.
5 As I got -- as I stated earlier, we don't
6 have to guess what a flea market is. It doesn't
7 matter what Yelp says or Wikipedia or Joe Frank or
8 anybody else says, because you have defined that term.
9 Doraville has a law that says what a flea market is,
10 and if it's not that, then it's not a flea market.
11 And we've certainly provided enough evidence on that
12 issue to demonstrate we don't fall within the
13 parameters of -- of that definition. So I think, you
14 know, this flier issue is a little bit of a side
15 circus and I -- I regret getting too far into it
16 because I think it puts undue emphasis on an issue
17 that's not dispositive.
18 If you don't believe the issue of the flier,
19 which doesn't use the words "flea market," then let's
20 focus on the definition, because you're not going to
21 be able to support the determinations based on that
22 definition.
23 MAYOR PITTMAN: Mr. McLendon, do you have
24 anything?
25 ATTORNEY McLENDON: No, I have nothing

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1 further.
2 MAYOR PITTMAN: Anything, sir?
3 MR. COOLEY: I just did want to give a copy
4 of the Clerk's and . . .
5 MAYOR PITTMAN: So Mr. McLendon, at this
6 point --
7 ATTORNEY McLENDON: At this point, I think
8 the evidence close is closed, and take it up to the
9 Mayor and Council.
10 MAYOR PITTMAN: Okay. Councilmembers, did
11 you have anything else you wanted to add?
12 COUNCILMEMBER FLEMING: I wanted to ask
13 Mr. Cooley a question.
14 MR. COOLEY: Yes, ma'am.
15 COUNCILMEMBER FLEMING: Correct me if I'm
16 wrong, but on November the 4th, was that --
17 MR. COOLEY: Excuse me just one second.
18 I'm sorry. Go ahead.
19 COUNCILMEMBER FLEMING: Was that the agenda
20 that -- that this particular item was on the second
21 time?
22 MR. COOLEY: It was on --
23 COUNCILMEMBER FLEMING: Could you please --
24 MR. COOLEY: It was on twice. I don't
25 recall the dates. It was the meeting that was held

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1 over at the Civic Center.
2 COUNCILMEMBER DEAN: The day before the
3 elections; that was the 4th.
4 MR. COOLEY: Correct.
5 COUNCILMEMBER FLEMING: But we had a second
6 meeting in here the following week, I believe,
7 giving --
8 MR. COOLEY: The meeting --
9 COUNCILMEMBER FLEMING: Yes, we had --
10 MR. COOLEY: The meeting was --
11 COUNCILMEMBER FLEMING: -- a second meeting
12 to allow -- if I'm not mistaken. Correct me I'm
13 wrong. We had a second meeting after the initial
14 meeting on November the 4th. That was when the
15 gentleman was ill, and we gave him enough time to come
16 to us again.
17 COUNCILMEMBER ALEXANDER: That was a
18 different issue.
19 MR. COOLEY: That was a different case.
20 COUNCILMEMBER BATES: That was Moon
21 Lingerie.
22 COUNCILMEMBER FLEMING: My apologies. Thank
23 you very much.
24 MR. COOLEY: Certainly.
25 COUNCILMEMBER FLEMING: My apologies.

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1 MAYOR PITTMAN: If there's no further
2 comments from the Council, does anyone wish to
3 entertain a motion?
4 COUNCILMEMBER BATES: Based upon the
5 information presented by both the City and the
6 applicant and the information that was discussed, I'm
7 going to make a motion to deny the appeal on the
8 administrative zoning determination for 5597 Buford
9 Highway.
10 COUNCILMEMBER DEAN: Second.
11 MAYOR PITTMAN: Discussion?
12 - - -
13 (No response)
14 - - -
15 MAYOR PITTMAN: Call the roll, please.
16 CLERK BRYANT: Councilmember Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK BRYANT: Councilmember Bates?
19 COUNCILMEMBER BATES: Yes.
20 CLERK BRYANT: Councilmember Dean?
21 COUNCILMEMBER DEAN: Yes.
22 CLERK BRYANT: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK BRYANT: Councilmember Patrick?
25 COUNCILMEMBER PATRICK: Yes.

Attachment: DEC 2 Minutes H (1028 : Minutes of Dec 2, 2013)

1 COUNCILMEMBER ALEXANDER: ^{Mayor, may we have}
2 another break, please?.

3 MAYOR PITTMAN: Yes, we're going to take a
4 break.

5 We also really need to know -- it's almost 9
6 o'clock, we have at least one more item and then we
7 have an Executive Session. I need a motion to extend
8 it past 9:00, please, if you wish to do so.

9 COUNCILMEMBER ALEXANDER: So moved.

10 MAYOR PITTMAN: Second?

11 COUNCILMEMBER PATRICK: Second.

12 MAYOR PITTMAN: Discussion?

13 - - -

14 (No response)

15 - - -

16 MAYOR PITTMAN: Call the roll, please.

17 CLERK BRYANT: Councilmember Alexander?

18 COUNCILMEMBER ALEXANDER: Yes.

19 CLERK BRYANT: Councilmember Bates?

20 COUNCILMEMBER BATES: No.

21 CLERK BRYANT: Councilmember Dean?

22 COUNCILMEMBER DEAN: No.

23 CLERK BRYANT: Councilmember Fleming?

24 COUNCILMEMBER FLEMING: Yes.

25 CLERK BRYANT: Councilmember Patrick?

1 COUNCILMEMBER PATRICK: Yes.

2 MAYOR PITTMAN: Okay. We will take a five-
3 minute break, come back at 9 o'clock.

4 (Proceedings concluded at 8:57 p.m.)

5 -o0o-

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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 12th day of December 2013.

Theresa Bretch, CCR

Permit No. B-755

[SEAL]

Attachment: DEC 2 Minutes H (1028 : Minutes of Dec 2, 2013)

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Attachment: DEC 2 Minutes H (1028 : Minutes of Dec 2, 2013)

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Attachment: DEC 2 Minutes H (1028 : Minutes of Dec 2, 2013)

In The Matter Of:*City of Doraville**State of Georgia*

*City Council Meeting**December 2, 2013*

*American Court Reporting Company, Inc.**52 Executive Park South**Suite 5201**Atlanta, Georgia 30329-2217**(404) 892-1331 - (800) 445-2842*

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Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

Transcript of the meeting of the

Doraville City Council held at Doraville

City Hall, 3725 Park Avenue, Doraville,

Georgia, Mayor Donna Pittman presiding,

before Theresa Bretch, Certified Court

Reporter, commencing at 6:30 p.m. on Monday,

December 2, 2013.

* * *

PROCEEDINGS

MAYOR PITTMAN: Meeting come to order.

Ms. Dean is caught up in traffic, and

Ms. Pachuta is not feeling well tonight and will not
be here.

Could you call the roll, please.

CLERK BRYANT: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BRYANT: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK BRYANT: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK BRYANT: Councilmember Pachuta?

I'm sorry.

MAYOR PITTMAN: Councilmember Patrick?

COUNCILMEMBER PATRICK: Here.

MAYOR PITTMAN: Thank you.

Welcome to everyone. I'm glad you came out
for the meeting. If we could please rise for the
Pledge.

(Pledge of Allegiance)

MAYOR PITTMAN: Thank you.

I believe there are no minutes to approve

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1 APPEARANCES:

2 Doraville City Council:

3 Mayor Donna Pittman

4 Councilmember Maria Alexander

5 Councilmember Pam Fleming

6 Councilmember Robert Patrick

7 Shawn Gillen, City Manager

8 Sandra Bryant, City Clerk

9 Cecil McLendon, Esquire, City Attorney

10
11
12 For Appellants in appeal of administrative zoning
13 determination regarding 5597 Buford Highway:

14 Dennis John Webb, Jr., Esquire

15 Robert Griest, Esquire

16 Smith, Gambrell & Russell, LLP
17 1230 Peachtree Street, N.E.
18 Atlanta, Georgia 30309
19 (404) 815-3500
20
21
22
23
24
25

1 tonight. Is that correct, Sandra?

2 CLERK BRYANT: Yes.

3 MAYOR PITTMAN: And before we approve the
4 meeting agenda, I believe we have one amendment here.
5 We want to move a) to b) and b) to a).

6 COUNCILMEMBER BATES: Under 11.

7 MAYOR PITTMAN: Under 11, New Business

8 COUNCILMEMBER ALEXANDER: So moved

9 MAYOR PITTMAN: Second?

10 COUNCILMEMBER BATES: Second.

11 MAYOR PITTMAN: Discussion?

12 ---

13 (No response)

14 ---

15 MAYOR PITTMAN: Call the roll, please.

16 CLERK BRYANT: Councilmember Alexander?

17 COUNCILMEMBER ALEXANDER: Yes.

18 CLERK BRYANT: Councilmember Bates?

19 COUNCILMEMBER BATES: Yes.

20 CLERK BRYANT: Councilmember Fleming?

21 COUNCILMEMBER FLEMING: Yes.

22 CLERK BRYANT: Councilmember Patrick?

23 COUNCILMEMBER PATRICK: Yes.

24 MAYOR PITTMAN: Okay. Thank you.

25 Next is going to be public comment. If you

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1 wish to speak, please come to the podium and state
2 your name for the court clerk. You have three
3 minutes; anyone wishing to speak.
4 MS. CAROL GILMAN: Mayor, Council. Carol
5 Gilman, Chestnut Woods Circle in Doraville.
6 My comment relates to the Ethics Board,
7 three-person Ethics Board. One did exist. I don't
8 know if it still exists.
9 I do know that when Mrs. Crawford was
10 appointed to the Planning Commission she gave up that
11 seat on the Ethics Board, when Mrs. O'Connor qualified
12 to run for Council she had to give up her seat on the
13 Ethics Board, and I hope that the City is taking steps
14 to recruit new members to the Ethics Board.
15 At any time, a municipality or a corporation
16 certainly needs a governance unit or an ethics board
17 as part of their organizational structure. I think
18 it's relevant, important, and I believe it's priority,
19 and I'm wondering if at some point during the evening,
20 the Mayor could comment on the status of the Ethics
21 Board.
22 And really, the article in the AJC did not
23 escape my attention. I've always been interested in
24 the Ethics Board, and that article caught my eye about
25 the alleged bribery case that involves a business here

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1 in Doraville and the involvement of employees here in
2 Doraville.
3 Having said that, I would appreciate -- and
4 probably others, too -- if we could have a status
5 report on where we're going with our Ethics Board.
6 Thank you. That's my comment.
7 MAYOR PITTMAN: Thank you, Ms. Gilman.
8 We do have one person that is still on the
9 Ethics Board, and I believe Dr. Gillen and I will talk
10 and see about -- I know we were looking into several
11 different things about the Ethics Board, so --
12 Thank you.
13 MS. SUSAN FRAYSSE: Susan Fraysse, Oakcliff
14 Estates.
15 This is minor in the scheme of things but
16 it's important to the people who live on that street.
17 I'm interested in the resurfacing discussion and the
18 priorities. And the map that was included in the
19 packet online shows the street behind me, Scarlet Oak
20 Court, is sort of dark black but not distinctively
21 red, but it should be, because it is -- by ranking,
22 it's the second, third or fourth because several
23 streets are tied with a very bad ranking of 34. So I
24 just want to be sure that Scarlet Oak Court gets
25 consideration. It has really bad potholes and things,

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1 so I hope we can take care of that.
2 MAYOR PITTMAN: Okay. Thank you.
3 MS. FRAYSSE: Thanks.
4 MR. BEN CRAWFORD: Ben Crawford, Oakcliff
5 Estates.
6 One thing I'd like City Council and the
7 Mayor to entertain with the City Manager is parking
8 that's on the streets. I mean I think if you go
9 through any neighborhood, you can see if somebody's
10 having a cardiac arrest or a fire, hey, tough luck.
11 They either have a heart attack and die or the house
12 burns down.
13 I mean, you know, it's not just the holiday
14 season. I can see during the holiday seasons and
15 stuff, but when you've got, no exaggeration, 25 cars
16 parked on both sides of the street and you got barely
17 enough room for a car to get through, what happens
18 when you've got to get a fire engine through or an
19 ambulance through?
20 So this is something I think that needs to
21 be addressed. It's something that we've -- it's been
22 kind of the red herring in the community for a whole
23 bunch of years, and there's been no logical approach
24 to it, but I think it's time that the City does take
25 some kind of logical approach to it and find ways to

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1 work this out for all the neighborhoods in the city.
2 Thank you.
3 MR. JOHN MALONEY: John Maloney,
4 3522 Stewart Road.
5 I'd like to speak against agenda item no.
6 11(a), the annexation. As I've said before, I'm
7 against any annexation no matter how large or how
8 small until we get what -- until we get our city
9 cleaned up and fixed up, I don't see why we want to
10 take on any more problems, so I'd like to go on the
11 record as being against it.
12 Thank you.
13 MAYOR PITTMAN: Thank you.
14 Anyone else wishing to speak?
15 - - -
16 (No response)
17 - - -
18 MAYOR PITTMAN: Okay. We're going to close
19 the public comment portion.
20 There is no consent agenda tonight and
21 there's no organizational and procedural items.
22 We're going to move into Reports and
23 Presentations and Dr. Gillen.
24 DR. SHAWN GILLEN: Thank you, Mayor and
25 Council. I'll be very brief because I think you-all

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 want to hear from Rip and from Steven tonight a lot
2 more than what you hear by me.

3 But I wanted to talk about one specific item
4 that we had coming today is the RFPs for the finance
5 software was to be in today, and I think the last
6 count I had 8, 8 proposals. So we'll be evaluating
7 those and we'll be bringing back recommendations on
8 those evaluations -- on those proposals in January for
9 you to consider.

10 So that's all I have for tonight without
11 boring you to death with lots of stuff, but I'll let
12 you move on to Rip and Steven.

13 MAYOR PITTMAN: Rip?

14 MR. RIP ROBERTSON: Good evening, Mayor,
15 Councilmembers. I just have a just a quick page that
16 I'll let y'all pass. It's just some notes that I want
17 to kind of go over on this quick update for the
18 department.

19 As I think everybody knows, we just
20 completed our annual 5K race and the annual tree
21 lighting on Saturday, and we actually increased -- we
22 more than doubled our participants in the 5K race, so
23 I thought that was very good.

24 And the crowd at the Mayor's Christmas Tree
25 Lighting was, I thought, pretty exceptional. We

1 several projects, the biggest one being here at City
2 Hall. As I'm sure everybody that has been in and out
3 of City Hall has recognized some of the changes that
4 we made here to accommodate, you know, the movement of
5 some city employees so we could house everybody here
6 at City Hall, and I think they were productive
7 changes.

8 And then we just finished a air conditioning
9 -- heating and air conditioning project over at the
10 P.D. for the new I.T. server room. We were having
11 some problems with that room overheating, and the
12 existing system just was not big enough to cool that
13 system down and -- and we were in danger of having our
14 system shut down, which could have been catastrophic
15 So just completed that.

16 Probably the biggest thing we've done this
17 year is implemented our new work order system,
18 Facility Dude, and what I'm going to do is I'm
19 actually going to log in and just give a very brief
20 demonstration of how this works. It's actually --

21 My apologies. Okay. There we go.

22 What this system does is it enables us to
23 track the productivity of what we do on a daily basis.
24 Our Public Works department is very busy and they work
25 very hard, and it was difficult to track what these

1 increased the -- just the kids' photos by more than 60
2 percent, so almost doubled the number of kids that we
3 had come and see Santa. And I'm sure anybody that was
4 here had a good time that night, and I appreciate
5 everybody coming out and supporting that -- that
6 event.

7 - - -

8 (Councilmember Dean arrives.)

9 - - -

10 MR. ROBERTSON: Just under regular or
11 recreation programs, our karate program has more than
12 doubled over the last few months. We went from
13 hosting about three classes a week to eight classes a
14 week, so it's a very growing and very popular activity
15 there at the gym.

16 I think many people know that we started a
17 Zumba class probably four or five months ago, and it's
18 going very well. The instructor is actually a -- a
19 Doraville citizen, and she has done a -- a very good
20 job of attracting class participation in that.

21 We just completed the youth football season,
22 and getting started with basketball practices. We'll
23 start tomorrow night. We have first game beginning
24 December 14th, so two weeks from last Saturday.

25 Over the last few months we've completed

1 guys do on a daily basis. So with the assistance of
2 our new City Manager, went out and found a -- a system
3 that we could utilize very quickly and be able to
4 track and project costs for material, equipment and
5 employees.

6 So it's a very good system, very simple. We
7 were able to implement it in just a matter of weeks,
8 and all of the guys in Public Works now carry a small
9 Galaxy tablet that they can receive work orders
10 throughout the day and not have to wait for somebody
11 to call them to tell them what to do and where to go
12 and that -- that kind of thing.

13 But it's as simple as going in, logging in,
14 and then most of the work is done -- I apologize; I'm
15 not used to this.

16 We have entered every street -- boy, this
17 is not . . . If I had a mouse, it would ... Hm.
18 There we go -- every building, every park, and so it's
19 a matter of just going in and working through the
20 drop-down. Let's see. I'm going to enter a short...
21 And then you -- I'm able to enter a short description.
22 install -- and then it's assigned. I generally assign
23 -- anything that I enter and anything that comes
24 across my desk, I assign it to Joey, and he's able to
25 assign it directly to one of the technicians, and

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1 they're able to go out and do the work. And
2 that's ...that's what we do. It actually takes less
3 time than that when I have a little mouse.
4 But we also have -- this is work-order
5 generated by requesters, and then we also have a
6 preventive or a maintenance -- preventive maintenance
7 side where we have automatically-generated work that
8 we do over and over: changing the filters in the
9 HVAC, grass cutting, the first and third Monday with
10 the clam truck that goes around the city. Those are
11 generated, and they go directly to the responsible
12 individual so they know exactly what they're doing.
13 And they normally generate the day before, so when the
14 employees come in, they know exactly what they're doing
15 that day and so they're not waiting around for
16 somebody to come up and -- and, you know, assign them
17 work.
18 That's really, you know, what we've done,
19 you know. Any questions or comments?
20 COUNCILMEMBER BATES: What's the reporting
21 side look like?
22 MR. ROBERTSON: Actually, we're working on
23 that right now. I'm working with Facility Dude in
24 trying to generate cost reports, hourly reports,
25 equipment reporting. I'm just working through that

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1 right now.
2 MAYOR PITTMAN: Okay. Ms. Alexander?
3 MR. ROBERTSON: I'm actually scheduled to
4 attend Facility Dude University early next year.
5 MAYOR PITTMAN: Okay.
6 COUNCILMEMBER FLEMING: What about the
7 street sweeper for the leaves?
8 MR. ROBERTSON: That is also on there the
9 same as the clam truck. It --
10 COUNCILMEMBER FLEMING: I mean is it the
11 first and third? because I don't know what --
12 MR. ROBERTSON: It's on --
13 COUNCILMEMBER FLEMING: -- the schedule is.
14 MR. ROBERTSON: -- the second and fourth
15 Mondays.
16 COUNCILMEMBER FLEMING: Second and fourth.
17 MR. ROBERTSON: Yes, ma'am. Yes, ma'am.
18 MAYOR PITTMAN: Mr. Patrick, do you have
19 anything?
20 COUNCILMEMBER PATRICK: No questions.
21 MAYOR PITTMAN: Ms. Dean?
22 COUNCILMEMBER DEAN: I'm good.
23 MAYOR PITTMAN: Thank you very much. We
24 really appreciate your work.
25 COUNCILMEMBER BATES: Glad to have the work

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1 order system in place.
2 MR. ROBERTSON: Absolutely.
3 MAYOR PITTMAN: That's really good.
4 MAYOR PITTMAN: Okay. Mr. Strickland.
5 MR. STRICKLAND: Evening, Mayor and Council.
6 There's always been questions about our
7 stormwater inventory and what is it, what does it kind
8 of look like. And it is GIS-based, and you can really
9 kind of get into the -- the nuts and bolts. Winds up
10 in an Access program, which is bigger than Excel. It
11 has a lot of information in there -- depths, lengths.
12 We took stabs at the date it was installed, so on and
13 so forth, but for the most part, to simplify it.
14 And what people want to look at and what I
15 asked them to provide for us was the inventory on GIS
16 overlaid on aerial photos so you could see where it is
17 in relationship to the street, in relationship to the
18 houses, and it's -- it's very accurate now. GIS used
19 to be, you know, within 20 feet, and I think they're
20 now down to three feet if not even -- even more
21 accurate.
22 So when people ask about the inventory and
23 what does it look like, what they did was is we have
24 the -- the city in an overall map. And then by land
25 lot, when you get down to a land lot there's 11 maps

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1 that encompass the city. That does not include the
2 annexed areas that we did at a later date that are
3 kind of separate at this point but will eventually be
4 all put together when we have our own GIS system.
5 Now, once you have -- once the map comes up,
6 as you can see in looking at the entire city --
7 Where is that? Nope. Yeah, Rip's right.
8 This is a lot different than a -- than a mouse.
9 COUNCILMEMBER ALEXANDER: We had a mouse.
10 MR. STRICKLAND: But if you -- you're
11 looking at our stormwater infrastructure for the
12 entire city. And if you keep going down, it's -- it's
13 everything that you see in red and yellow and green,
14 it's all color-coded and it's also by symbol, and one
15 of these maps will have the -- and then when you get
16 to the bottom, you have the legend.
17 But I do believe this is a bit -- can be a
18 bit overwhelming to look at the city all at one time.
19 So if a citizen is asking about it, they're probably
20 going to ask about a particular street, or where is
21 the storm system closest to my house, or I want to
22 look at my neighborhood.
23 Oakcliff of course is broken up kind of
24 north and south. So I want to look at north Oakcliff,
25 I want to look at south Oakcliff, and then of course

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 what this should do -- and like on my computer, it's
2 actually a PDF. And what it does at the bottom is it
3 pulls up where you can zoom in and zoom out. So even
4 on this map, you could zoom in and zoom out, but
5 again, there's -- it's broken up into 11 maps.

6 So let's say somebody comes in and, you
7 know, I want to see my street and everything around
8 it. So somebody just pick a neighborhood or a street
9 that you would actually like to look at, and I'm going
10 to have to --

11 So any street or neighborhood --

12 COUNCILMEMBER DEAN: McClave?

13 MR. STRICKLAND: McClave?

14 COUNCILMEMBER DEAN: Uh-huh.

15 MR. STRICKLAND: Okay. Northwoods is Map 1.
16 And as you can see, McClave starts right here and
17 comes down, and the system that we've been -- we've
18 been looking at is right in here.

19 But if it doesn't -- I don't know if a right
20 click will bring up the -- down here at the bottom
21 where you can actually zoom in. It usually pops up
22 when you just put it -- put it on there. And if not,
23 you can always go up here. We're at 50 percent. And
24 if somebody can confirm that's the plus?

25 UNIDENTIFIED SPEAKER: Yes.

1 system from that point all the way -- all the way down
2 to the outfall which is again -- see, this is going
3 through front yards under the driveway; it finally
4 makes it to the side of the house, the back of the
5 house, and then it outfalls again back here at the
6 creek (indicating).

7 And so you could keep zooming in, you could
8 crop it however you want, and basically you're looking
9 at the part of the stormwater system that whoever it
10 is is interested in can come in and just look at.

11 So if you had a -- you know, this gentleman
12 here on the corner saying, Okay. I got a sink hole,
13 but I want to see the whole system. And we go back
14 and explain, Well, this is the system as it comes onto
15 your property, where it starts, where it stops, what
16 it's made up of, and you know, where does it
17 ultimately outfall. That's going to be helpful if we
18 ever have any type of spill.

19 It's one of the reasons for these
20 inventories is, Okay. We've had a spill at this
21 point. As you could see, the conveyances all have
22 arrows on them showing the direction. And so if we
23 had a spill somewhere and say, Okay. We need to go to
24 the nearest outfall so we can start containing it and
25 doing the cleanup, and what else is tying in, you

1 MR. STRICKLAND: Okay. So here you can
2 start zooming in, and then being that it's a -- that
3 it's a PDF, you have to come down here and actually
4 grab this and move over. But as you can see, that
5 part of McClave that we've been studying is right
6 there, and then you can zoom in some more, and then
7 from there, you could actually import this into a Word
8 document and print out exactly, you know.

9 And at this resolution, as you start zooming
10 in more and more, the pixels will start -- the pixels
11 for the aerial photos will start to blur, but what you
12 see as far as our inventory in the GIS, you can make
13 that as big or small as you want, and it's still going
14 to.

15 So you could start seeing the -- Of course
16 the road is in orange. You could start seeing the
17 houses. And with this with this particular system,
18 seeing how it actually starts behind the houses, comes
19 down here, starts going underneath the driveways,
20 makes it to the front of the house. It's still in the
21 front yards, comes down. This is now open, back into
22 a structure, and then it finally crosses the road.

23 Those two red dots right there are catch
24 basins. That's where it goes under the road. And
25 it's also -- if you could see that, it's a closed

1 know, where does the creek come in, where does --

2 As you could see on McClave right up here,
3 you have a whole 'nother system that comes in and ties
4 in together. So these two come together, where do
5 they come together, where is the -- you know, where is
6 the ultimate beginning of this system? You know,
7 here, this, you know -- to find out that we're
8 actually getting water here that's starting at the
9 MARTA station or starting on Shallowford Road or, you
10 know, are we getting water off of Buford Highway?
11 You can basically -- since you've got your entire
12 system, and you could look at whatever parts you want,
13 make it as big or small as you want.

14 And then ultimately when we have our own GIS
15 software, you start putting this stuff in with all the
16 other layers -- turn on, turn off, whatever -- you
17 know, you basically -- The good thing about it is it's
18 digital, so you get to look at whatever you want to
19 look at, whatever scale, whatever size; you can crop
20 it, blow it up, make it smaller, you know, and just --
21 as opposed to a paper map, it just makes it very kind
22 of versatile.

23 And that was basically just their -- like I
24 said, there have been questions as to what we have as
25 far as our inventory: What's it look like? How can

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1 we use it, you know, but what does it look like if we
2 overlay it onto an aerial photo to actually see it?
3 And in the same regard, somebody comes in
4 and says, Well, I live on Lambeth Circle. I want to
5 know, you know, where are the structures on Lambeth
6 Circle, and we can tell them, There are none. All of
7 your water is going to make it, you know, to another
8 street, go down the street, and then finally find, you
9 know, the nearest catch basin that's going to start
10 the stormwater system.
11 We have a lot of streets that they have
12 nothing on it; they just -- the water runs to the next
13 street.
14 So that's -- I just wanted to show that and
15 see if anyone had any questions or, you know, what
16 data do we actually have, because we have what's the
17 XY and the Z. We have the depths of the inverts to
18 tell us how deep these pipes are because, as you know,
19 replacing a pipe that's 5 feet in the ground is a lot
20 different than replacing a pipe that's 40 feet in the
21 ground.
22 MAYOR PITTMAN: Okay. Ms. Alexander, did
23 you have any questions?
24 COUNCILMEMBER ALEXANDER: No, ma'am. Thank
25 you.

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1 MAYOR PITTMAN: Mr. Bates?
2 COUNCILMEMBER BATES: (Shakes head)
3 MAYOR PITTMAN: Mr. Patrick?
4 COUNCILMEMBER PATRICK: Just I hope that we
5 could put that on the Web, City Web site --
6 MR. STRICKLAND: Okay.
7 COUNCILMEMBER PATRICK: -- so that's at
8 least accessible for the residents and they can have a
9 little knowledge in deciding --
10 MR. STRICKLAND: Yeah.
11 COUNCILMEMBER PATRICK: -- what's or
12 understanding what's in their community.
13 MR. STRICKLAND: Yeah. And keep in mind,
14 you know, any -- any resident that wants a copy of the
15 system, you know, again, I want my house or my street
16 or my part of the neighborhood, we can -- we can make
17 this any size that they want.
18 COUNCILMEMBER PATRICK: Great. Thank you.
19 MAYOR PITTMAN: Okay. Ms. Fleming?
20 COUNCILMEMBER FLEMING: No.
21 MAYOR PITTMAN: Ms. Dean?
22 COUNCILMEMBER DEAN: Oh, no. My comment was
23 exactly what Mr. Patrick said. Just I think it would
24 be great to have it online on the City Web site so
25 anyone who wants to can access it. And they might not

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1 have questions with their particular house but maybe,
2 Where is this coming from? Why do I constantly have
3 this problem? And I think that would save us a couple
4 of phone calls.
5 MAYOR PITTMAN: Okay, Mr. Strickland, thank
6 you very much.
7 MR. STRICKLAND: All right. Thank y'all.
8 COUNCILMEMBER PATRICK: Thank you.
9 MAYOR PITTMAN: I appreciate it.
10 Ms. Dean, welcome. And for the record, we
11 have moved -- under 11, New Business, we have moved b)
12 to a) and a) to b).
13 COUNCILMEMBER DEAN: Okay.
14 MAYOR PITTMAN: Okay. Next on the agenda is
15 unfinished business, Resurfacing 2014, Dr. Gillen.
16 DR. GILLEN: All right. Thank you, Mayor
17 and Council. My turn to mess around with the screen
18 here, so let's see; just going to pull this up.
19 Y'all had the inventory sent to you and the
20 list of streets that have been ranked by Dekalb County
21 as far as how bad they were, and we informed you last
22 week that the use of the LMIG funds doesn't require us
23 to follow that list in detail. That means we don't
24 have to go by their highest priorities. So these are
25 the streets that they listed as having deterioration

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1 to a certain level according to their -- their method
2 of analyzing the streets.
3 So we sent the information out to you and
4 requested that you send us back a couple of different
5 scenarios: if we had funding for a mile and a half
6 and we're saying about a hundred thousand dollars a
7 mile, or if we had funding for three miles, which
8 would be about 300,000, which were your priority
9 streets to fund under this.
10 I compiled the information. I had four
11 Councilmembers get their information back to me. I
12 know it was a short week with Thanksgiving and
13 everything. But the top vote getters were Green Oak
14 Drive and Peachtree Square. All four Councilmembers
15 that responded wanted those. And then there's a list
16 of streets that two Councilmembers of the four wish to
17 have: Stewart Road, Chicopee, Clay Drive, Glenda Way,
18 Autumn Drive, Clearwater Place, Doral Drive.
19 And as you can see over here, Winters Chapel
20 Road had two votes too. I set that one to the side
21 for one particular reason: It's a very big project,
22 it's four lanes, and it's going to be very expensive.
23 So we might want to consider that and having that in
24 its own year as we prioritize that, because we're
25 estimating about \$100,000 a mile. But if we did, that

1 wouldn't be the case with Winters Chapel; it would be
2 more expensive than that per mile simply because it's
3 a larger road.

4 The rest of ones that were prioritized, one
5 Councilmember voted for each of the rest.

6 So with that scenario up top, we've got
7 three miles' worth of streets that either had four or
8 two Councilmembers vote for or prioritize in their --
9 in the materials. It doesn't mean those are the ones
10 we have to do.

11 What we're going to have to do by the end of
12 the year is certify with GDOT which streets we're
13 going to use the LMIG money for, because we did that a
14 year ago, then we didn't do the projects. There was
15 some disagreement about which -- about the streets
16 that were listed and we didn't want to do them.

17 So we had the \$55,000 in LMIG money from
18 last year that wasn't spent and they're allowing us to
19 roll it over this one time. They don't like us to do
20 that; they want us to spend the money each year.

21 So we're going to have about \$67,000 coming
22 in the next year because of the annexation. So my
23 quick math, is that 122? \$122,000 that will be spent
24 with LMIG money alone. And what we're recommending is
25 we add to that with General Fund; there has to be a

1 COUNCILMEMBER DEAN: And this goes back to --
2 - back to last year's LMIG --

3 DR. GILLEN: Yes, ma'am.

4 COUNCILMEMBER DEAN: -- grant.

5 Okay. Now, I have a document dated January
6 29th, 2013, and it was for two specific roads. My
7 question is, Who authorized doing this for these two
8 roads? And here's -- here's -- And I have a big
9 issue; I have a huge issue with this.

10 Okay. This project totals \$113,000 -- one
11 hundred thousand thirteen/six hundred and fifty
12 dollars and seventy-five cents, and our grant amount
13 based on the formula, which is one third --

14 DR. GILLEN: Right.

15 COUNCILMEMBER DEAN: -- population, two
16 thirds roads or mileage, requires that we pay -- the
17 formula was \$55,251, so that's how much our grant was
18 last year. Because -- because this region did not
19 vote yes on the Transportation Investment Act; right?
20 we have to match -- we have to pay 30 percent of that.
21 which brings that amount to -- which brings our amount
22 to \$16,567.49. Okay. That gives us \$71,827.11,
23 leaving an additional amount of \$41,823.64 required to
24 complete the project that we submitted to GDOT. Now
25 that is a total cost to the City of \$58,391.13.

1 match. And we're recommending that we add to that
2 from the General Fund to the tune of either \$150,000
3 or \$300,000.

4 It's a jump-start on a lot of the streets.

5 Our streets are deteriorating; we need to get ahead of
6 the game here. So we're recommending that we could
7 afford up to \$300,000 we think in this first year to
8 do these streets -- that's adding on about \$178,000 to
9 the 122 that we have of LMIG dollars -- so we would
10 have the match in place and so we could do up to three
11 miles.

12 So what we would be recommending is instead
13 of turning those dollars over to Dekalb County to do
14 the contracting for us, that we would hire an
15 engineering firm, that we do a bid process and
16 contract the project ourselves and get the ball
17 rolling as soon as possible when construction season
18 begins.

19 So basically tonight we're looking for
20 guidance on if we could do up to three miles, which
21 roads would you want to do so we can get that
22 certified with GDOT.

23 COUNCILMEMBER DEAN: I need one thing
24 clarified first.

25 DR. GILLEN: Go ahead.

1 My question here is, Who authorized even
2 pursuing this?

3 DR. GILLEN: I don't know. That was prior
4 to my arrival, but it was --

5 COUNCILMEMBER DEAN: Does someone in this
6 room know?

7 DR. GILLEN: I don't know how the process
8 worked before.

9 COUNCILMEMBER DEAN: I know, but somebody in
10 this room might know --

11 DR. GILLEN: I know, but the other --

12 COUNCILMEMBER DEAN: -- so I'm just asking
13 to have my question answered.

14 MR. LUKE HOWE: Yes, ma'am. The way it was
15 done in the past was that you had to submit the worst-
16 rated roads. They've changed the rule since then.

17 So the way that Mayor Jenkins used to do it
18 is he would -- he would authorize it himself because
19 it didn't make any sense to make it a public matter,
20 because you had to go in order; you had to go from
21 worst, second worst, third worst.

22 COUNCILMEMBER DEAN: But this isn't --

23 MR. HOWE: So --

24 COUNCILMEMBER DEAN: -- free to the City

25 MR. HOWE: Right.

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1 COUNCILMEMBER DEAN: We have to pay
2 something, thousands and thousands of dollars, so that
3 my point is, by doing this, you are saying, Okay. We
4 are willing to spend in this case not just \$16,000,
5 16-plus thousand dollars, but \$58,391 of taxpayer
6 money.

7 MR. HOWE: Well, right or wrong, that's the
8 way he did it. I'm not defending it or advocating for
9 it but that's the way he did things.

10 When Dr. Gillen came along, we've brought it
11 before the Council, so --

12 DR. GILLEN: Right.

13 MR. HOWE: -- it doesn't make any difference
14 to --

15 COUNCILMEMBER DEAN: Well, this wasn't --
16 this wasn't Major Jenkins; this was Mayor Pittman who
17 signed off on this.

18 MR. HOWE: Right.

19 Well, yeah, I went to Mayor Pittman with
20 that, and I recommended it, and she signed it. So you
21 know, I --

22 COUNCILMEMBER DEAN: Without coming before
23 Council.

24 Well, here's -- My other question is that at
25 the end of the year, you have to send certification

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1 that the work is either in progress or has been
2 completed.

3 MR. HOWE: Well, we have a verifica- -- we
4 have it on record with GDOT saying, you know, it's
5 fine to roll over the allocation from 2013 to 2014 and
6 combine those.

7 COUNCILMEMBER DEAN: Well, then -- then my
8 other question is that there are many other possible
9 uses for this money.

10 MR. HOWE: Yes. You know, according to the
11 law and the new rules -- Under the old rules for LARP,
12 you had to spend it on resurfacing.

13 COUNCILMEMBER DEAN: Right. And that's not
14 the case I have in front of me here.

15 MR. HOWE: Right.

16 COUNCILMEMBER DEAN: You could do it for
17 construction supervision and inspection, utility
18 adjustments, patching, leveling and resurfacing;
19 grading drainage base and paving existing new roads;
20 replacing storm drain pipe or culverts; intersection
21 improvements, turn lanes, bridge repair or replace-
22 ment, sidewalk adjacent within right-of-way to a
23 public roadway or street, roadway signs, striping,
24 guard rail installation, signal installation or
25 improvement, aggregate surface course for dirt road

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1 maintenance.

2 Now, see, this is a lot more complex than,
3 Hey, you know, you guys choose a road that you want
4 repaved.

5 MR. HOWE: Yes, ma'am. The new rules for
6 LMIG are different. Anything --

7 COUNCILMEMBER DEAN: But this is -- I got
8 this today; in fact I spoke to GDOT today.

9 MR. HOWE: Correct.

10 COUNCILMEMBER DEAN: This says these are the
11 new rules.

12 MR. HOWE: Correct. Anything that can
13 legally -- you can legally spend with gas tax money
14 qualifies. But there are other grant programs that
15 you can use for sidewalks, for intersection
16 improvements. There's Stormwater money that you can
17 use for -- for curb-and-gutter and stormwater
18 infrastructure.

19 So there's really not a dedicated funding
20 source or a grant program for resurfacing, so I would
21 recommend that you continue to use this allocation for
22 resurfacing.

23 COUNCILMEMBER DEAN: Here's -- here's my
24 other: Who in the City is qualified to choose those
25 roads? because there are a lot of considerations. For

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1 example, we wouldn't want to repave a road that has a
2 storm drain under it that needs to be replaced, and we
3 are in the process of looking at these things now,
4 or -- or other considerations. I mean there are lots
5 of considerations when determining whether or not a
6 road is going to be repaved other than just this is
7 bumpy.

8 MR. HOWE: Well, we're just -- we're getting
9 in facts, ma'am, and that's -- that's what Dekalb
10 County does, that's what we -- that's what our
11 citizens paid them --

12 COUNCILMEMBER DEAN: Okay.

13 MR. HOWE: -- for, is they have the
14 equipment, they have the tools to -- to -- to rate
15 these roads, and there's not a lot of interpretation
16 involved. I mean it's a computerized process that --
17 that scores these roads and --

18 COUNCILMEMBER DEAN: That rates the roads --

19 MR. HOWE: -- and produces the reports.

20 COUNCILMEMBER DEAN: -- based on 12 factors.
21 I know. I saw the 12 factors upon which this rating
22 is based, but here is -- to bring it back, right, we
23 have this free money, only it's not really free,
24 because it's going to cost us 30 percent; right? at
25 least.

1 The other thing is with all of the things
2 that we have going on: The library. I strongly feel
3 that the library needs to at least become ADA-
4 compliant. And so when we're talking about these --
5 these -- these funds, I mean it's like, Oh, well, this
6 is what -- let's just take, you know, this money and
7 fix these roads because we need to fix these roads.
8 We have a lot of other things in the city
9 that could be fixed. And so again, I think that when
10 we say we have this grant, it's not free. It's 30
11 percent; it's a 30-percent match for the 55,000 or
12 whatever that is.
13 MR. HOWE: Well, before, if it -- the
14 advantage to using Dekalb County is that the law says
15 under the new LMIG and not the LARP regulations is
16 that the local governments' labor and equipment
17 mobilization cost can be used towards the match.
18 And that was the advantage of going with
19 Dekalb is that whatever it cost for them to get
20 material and supplies out there, and -- and the labor
21 involved couldn't be counted towards our match. So
22 that was our dilemma in previous years. We never had
23 a budget for resurfacing, so we had to be creative and
24 we had to use Dekalb's labor.
25 The problem with using Dekalb is it costs --

1 they're charging about \$55,000 just to do a third of a
2 mile. You know, no engineer that I've talked to
3 agrees with those numbers. So there's -- I don't want
4 to speculate but it appears to be some inflating. So
5 I think we could get more done --
6 DR. GILLEN: Uh-huh.
7 MR. HOWE: -- if we contract this out and go
8 with the lowest bidder. But the caveat is we have
9 to -- you know, we have to come up with the 30
10 percent.
11 COUNCILMEMBER DEAN: Well, here is -- and
12 here is -- and I'm glad you brought that up because
13 with a --
14 How did you come up with the 10 to 30 dollar
15 figure --
16 MR. HOWE: Ma'am --
17 COUNCILMEMBER DEAN: -- per linear foot?
18 MR. HOWE: -- that's a standard engineering
19 estimate. It could be anywhere from 10 to -- to 30
20 dollars per linear foot depending on, you know, if
21 potholes have to be filled or any patching has to be
22 done prior to, and that's for a standard 24-foot-wide
23 road.
24 COUNCILMEMBER DEAN: On Dekalb County --
25 Well, here you said the standard is 48 feet

1 for a two-lane road, and I thought that that was --
2 that was kind of wide.
3 MR. HOWE: No. It would be 12 -- 12 feet
4 for each lane, so this is just a 2-lane road --
5 COUNCILMEMBER DEAN: So a 2-lane --
6 MR. HOWE: -- is what that reflects.
7 COUNCILMEMBER DEAN: -- road is not 48 feet
8 it's more like 20 feet?
9 MR. HOWE: It's more.
10 DR. GILLEN: It's 24.
11 MR. HOWE: You know, a 40-foot -- 48-foot-
12 wide road would be -- would be about four lanes.
13 COUNCILMEMBER DEAN: Right here it says fo
14 a 2-lane, parentheses, 48-foot width street.
15 MR. HOWE: That's a typo. It's just --
16 COUNCILMEMBER DEAN: Okay. And then on
17 Dekalb County, for example -- and you raise this --
18 they said they estimate between \$300,000 to \$400,000
19 for a linear mile.
20 If there are 5,280 feet per mile, that would
21 make it \$56.82 to \$75.76 per linear foot, and that's a
22 huge difference, and that's why --
23 DR. GILLEN: And we won't know the actual
24 linear-foot cost until the bids go out and you get the
25 pricing back, and that'll fluctuate with the price of

1 oil, to be honest with you --
2 COUNCILMEMBER DEAN: Right.
3 DR. GILLEN: -- because it --
4 COUNCILMEMBER DEAN: Well, and then -- the
5 my concern is this: If we say yes, go ahead and do
6 this for \$150,000 or whatever that is and then you
7 come back and you say, Oh -- because this happens
8 quite frequently here -- Oh. Well, you know, it's
9 actually going to cost us \$50,000 more or \$100,000
10 more, and they've already started it. We'd really
11 recommend that you continue with this project even at
12 the great cost.
13 Then what --
14 DR. GILLEN: We wouldn't --
15 COUNCILMEMBER DEAN: -- what happens then?
16 DR. GILLEN: We wouldn't be starting a
17 project until we approved with the -- at the pricing
18 and the bid, number one.
19 Number two, we can't control the pricing
20 either, so we would have to either scale back the
21 project or add dollars to it if the pricing came in
22 higher than we expected.
23 COUNCILMEMBER DEAN: Oh.
24 DR. GILLEN: And what we're looking for
25 tonight is, Do you want to pave streets? If you want

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1 to pave them, the LMIG money can be used for that.
2 We recommend that you do use it for that
3 because there's very -- very little else you can use
4 it for. It's either -- looks like things within the
5 right-of-way is what they're talking about.
6 COUNCILMEMBER DEAN: No, but there are -- I
7 mean even like even the intersection improvements, I
8 mean, that's on Buford Highway. There are -- there
9 are accidents there all the time. I mean that's a
10 nightmare.
11 DR. GILLEN: I'm not sure we can use it on
12 Buford Highway because it's state -- a state road, I
13 would assume.
14 MR. HOWE: It's a state route, but you're
15 talking about an enormous cost and we have, you know,
16 a little -- not quite \$125,000 to work with.
17 So you know, we got a lot to do, there's --
18 there's no question. I -- I agree with you. But you
19 know, if it's been identified in our LCI, been
20 qualified for the LCI funding. There's also SRTA
21 programs, there's other GDOT grant programs that we
22 can use or leverage to pay for sidewalks, intersection
23 improvements, things of that nature. Anything storm-
24 water-related can come out of the Stormwater fund.
25 But you can't get a grant to resurface a

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1 road, not -- not a traditional grant program, so I
2 would recommend that we continue to use it for
3 resurfacing, and that's what most cities have
4 continued to do.
5 COUNCILMEMBER DEAN: Yeah, but like I said,
6 it really disturbs me that the way it used to be done
7 was done that way at all and in fact was carried over
8 all the way to 2013, and that -- and that's --
9 that's -- that's very disturbing to me, because how
10 many other projects like this have been done that way,
11 that thousands upon thousands of dollars of taxpayers'
12 money. I mean that's --
13 DR. GILLEN: And I can't --
14 COUNCILMEMBER DEAN: -- a problem.
15 DR. GILLEN: We can't speak to that. I -- I
16 wasn't even here.
17 But what I can --
18 COUNCILMEMBER DEAN: I know you --
19 DR. GILLEN: -- say to you now --
20 COUNCILMEMBER DEAN: -- weren't here, but
21 there are some people --
22 DR. GILLEN: -- is we want the --
23 COUNCILMEMBER DEAN: -- in the room who were
24 here. I understand you weren't here.
25 DR. GILLEN: We would like the Council's

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1 input on what streets get paved.
2 COUNCILMEMBER DEAN: Okay.
3 DR. GILLEN: I wouldn't --
4 COUNCILMEMBER DEAN: Well, see, I'm not --
5 DR. GILLEN: -- want to move forward with
6 that.
7 COUNCILMEMBER DEAN: -- in favor with that
8 at all, so there's another option there. I'm not in
9 favor until I know more about this; for example, what
10 qualifies these streets. Because I don't know who
11 here, who in the City says, Okay. This road needs to
12 be paved.
13 Based on what? I mean based on --
14 DR. GILLEN: Right.
15 COUNCILMEMBER DEAN: -- on the numbers that
16 we're not really paying attention to and what other
17 work has to be done, because if it's 10 to 30 dollars
18 just to repave a road, there is also other work that
19 has to be done before the repaving is done.
20 DR. GILLEN: Right.
21 COUNCILMEMBER DEAN: Is that correct?
22 DR. GILLEN: I agree. If for instance there
23 was a stormwater project that you guys picked the road
24 that the stormwater project is in our CIP, we would be
25 recommending that we move that CIP project to that

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1 same year and do it at the same time. But we won't
2 know that until we select the streets that we want to
3 do.
4 And so what we're recommending to you and as
5 we showed you in the CIP earlier, that we would like
6 to see, you know, us get ahead of the game here and
7 get -- because our streets -- we're getting behind the
8 8-ball on street repaving. We can't do it at \$55,000
9 or even \$67,000 a year and keep up. We have to put
10 some General Fund dollars into that, and that's our
11 recommendation in the CIP.
12 So we need to certify at least \$122,000
13 worth of streets which is a mile to a mile and a half.
14 So we need to go to GDOT and tell them, Here's what we
15 want to do next year, and then bring back the projects
16 and move forward with those projects, because,
17 otherwise, they're going to not let us do this again.
18 We've rolled it over one year, and they're not going
19 to let it happen again or we're going to lose
20 \$122,000.
21 COUNCILMEMBER DEAN: Uh-huh.
22 DR. GILLEN: So that's -- that's what we're
23 looking for tonight is your input on which streets
24 you'd like to see paved.
25 I'm not an engineer either.

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1 COUNCILMEMBER DEAN: Uh-huh.
2 DR. GILLEN: Dekalb has listed under their
3 analysis what's the worst streets by their numerical
4 system. You don't have to go by that, but it can be a
5 factor in your decision-making.
6 I don't think you're going to get it wrong
7 because we're going to do this again next year, come
8 back and do some more streets. So if you don't --
9 you're not going to mess up b not selecting the right
10 street or wrong street. There's no right or wrong,
11 really. It's --
12 COUNCILMEMBER DEAN: So what about -- what
13 about just going through the city and filling the pot
14 holes? Could we use --
15 DR. GILLEN: That in itself --
16 COUNCILMEMBER DEAN: -- this money for that?
17 DR. GILLEN: -- is a completely different
18 subject that we need to discuss when we think about
19 the SDS, the Service Delivery Strategy.
20 COUNCILMEMBER DEAN: Okay, but could --
21 DR. GILLEN: That is ongoing maintenance
22 work.
23 COUNCILMEMBER DEAN: All right. Could
24 this -- could this money help with that project?
25 DR. GILLEN: Right now, you've got a millage

1 roads', I guess, maintenance itself, are we going to
2 be considering or will they be milling the roads down
3 or simply top-coating the roads, or do we -- have we
4 gone that far in --
5 DR. GILLEN: The engineers would have to
6 determine that. If it's --
7 COUNCILMEMBER PATRICK: Okay.
8 DR. GILLEN: -- really bad alligating and
9 things like that, they're going to have to mill an
10 overlay, and that raises the -- that means that gets
11 the higher per-foot cost.
12 COUNCILMEMBER PATRICK: Okay.
13 DR. GILLEN: If it's not, then it's just an
14 overlay, then it's lower cost per linear foot.
15 COUNCILMEMBER PATRICK: And if there's any
16 stormwater facilities in the middle of the road?
17 DR. GILLEN: We would be working with an
18 engineering firm to time those projects to happen --
19 the stormwater projects to happen --
20 COUNCILMEMBER PATRICK: Okay.
21 DR. GILLEN: -- during the construction --
22 or before. It's just an overlay before overlay. We
23 want to come in and do the stormwater pipe --
24 COUNCILMEMBER PATRICK: Right.
25 DR. GILLEN: -- get that taken care of. You

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1 rate that goes to Dekalb County that's supposed to be
2 paying for that, so I wouldn't -- I would think we'd
3 want to deal with that issue separately --
4 COUNCILMEMBER DEAN: Well, but now --
5 DR. GILLEN: -- because it's a maintenance.
6 COUNCILMEMBER DEAN: -- it's not -- it's not
7 being dealt with at all even on City property. The
8 road down to the pool, there's a huge pothole that has
9 flattened at least one tire.
10 And so I'm just trying to look in practical
11 terms, something that -- We do have a lot of potholes;
12 we all know we have a lot of potholes.
13 DR. GILLEN: Yes, ma'am.
14 COUNCILMEMBER DEAN: If we take this money
15 and say, Okay. We're going to do something general
16 and just repair what we have, could we do that with
17 this money?
18 MR. HOWE: You can.
19 DR. GILLEN: I think so, yeah.
20 COUNCILMEMBER DEAN: Okay.
21 DR. GILLEN: But the best way to prevent pot
22 holes is to get a very aggressive paving project
23 underway and get a program that's recurring every year
24 so we don't let the streets deteriorate to this point.
25 COUNCILMEMBER PATRICK: On the topic of the

1 know, if it's an intake that's collapsed, we need to
2 get that fixed prior to paving.
3 Now, that will all be taken into
4 consideration once we've selected the streets. Then
5 we can get the engineering firm working on it and
6 getting the project -- a certain amount of project
7 design in congruence with the street project itself,
8 so --
9 COUNCILMEMBER PATRICK: So you would like to
10 have us talk about the streets to pick?
11 DR. GILLEN: Yep.
12 COUNCILMEMBER PATRICK: Okay.
13 DR. GILLEN: Because we have to certify by
14 the end of the year, so --
15 COUNCILMEMBER FLEMING: I had a couple o
16 comments if you don't mind.
17 I have a resident over in the North Carver
18 area that evidently had already been informed that
19 moneys had been received and had wanted to know why
20 the work hadn't been done and is expecting the work to
21 be done.
22 DR. GILLEN: Yes, ma'am.
23 COUNCILMEMBER FLEMING: And the person is
24 very vocal person, and so I mean that person knew
25 about us receiving funding before I did. So you know,

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1 North Carver and Drury were -- and Drury Court were on
2 2013's --

3 DR. GILLEN: Correct.

4 COUNCILMEMBER FLEMING: -- list, and I feel
5 personally, though we can roll those moneys over, if
6 we made a commitment to do that, though we may not
7 have signed a contract, I feel that those two streets,
8 regardless of whether we think they're bad enough or
9 not, I just feel that we made a commitment, the City
10 made a commitment to do those two streets for the 2013
11 moneys.

12 And secondly, you made a comment that you
13 pulled Winters Chapel out. And Winters Chapel, first
14 of all, I really believe that is a highway
15 transportation --

16 DR. GILLEN: Correct.

17 COUNCILMEMBER FLEMING: -- street. It's a
18 very heavy truck route.

19 DR. GILLEN: I agree.

20 COUNCILMEMBER FLEMING: We need to
21 determine. It is used now as a pass-through from PIB
22 down Oakcliff Road. We've got traffic all the time
23 going from PIB down Winters Chapel, Oakcliff Road to
24 85. They're bypassing everything else.

25 DR. GILLEN: Yes, ma'am.

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1 COUNCILMEMBER FLEMING: And it is heavily
2 used, and more so than New Peachtree Road, maybe not
3 as much as Buford Highway but definitely heavily used.

4 I don't necessarily want us to wait on New
5 Peachtree Road until we have all of the funding but I
6 do want us to look into other funding, because it
7 appears to me that some of the intermodal transpor-
8 tation that we have coming through our city, the tank
9 farm moneys or some other funding should help fund the
10 resurfacing of Winters Chapel Road.

11 DR. GILLEN: Okay.

12 COUNCILMEMBER FLEMING: And I would like us
13 to look into that, because that road, now that we have
14 annexed the worst part of the problem --

15 DR. GILLEN: Right.

16 COUNCILMEMBER FLEMING: -- because I live in
17 that district, it's never been resurfaced; it's been
18 pot-holed.

19 DR. GILLEN: Right. I agree with you
20 totally, and that's why I pulled it out: so we can
21 have that as a separate discussion. If we fit it into
22 the same year, it would be some other revenue source
23 that we're using or choosing.

24 And so I agree with you, yeah. But I think
25 that -- it's not taken out so we don't do it. It's

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1 taken out so we have a separate discussion on how it
2 gets funded.

3 COUNCILMEMBER FLEMING: Okay.

4 DR. GILLEN: So if you're wanting to commit
5 to the North Carver and the Drury projects, we could
6 change out a couple of the projects that are in that
7 top portion up there and put those in and still -- and
8 stay at the three-mile number if you're comfortable
9 with that, and do that, keeping the Winters Chapel
10 open for discussion in the CIP next month.

11 COUNCILMEMBER FLEMING: And I leave that up
12 to the balance of Council.

13 COUNCILMEMBER DEAN: What happened to the
14 one and a half mile option?

15 DR. GILLEN: We can do that as well. Again,
16 it's up to you. Like I said, if you're comfortable
17 with the three miles, we can do that; if it's one and
18 a half, then we put them into the one-and-a-half model
19 and pick one and a half miles.

20 COUNCILMEMBER FLEMING: Well, I'm concerned
21 that if there is a stormwater issue under a street
22 that we've chosen, that it may become even more costly
23 than what we're projecting, because now we've got the
24 stormwater cost and we may not have that -- that
25 moneys in our stormwater fund to cover that.

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1 DR. GILLEN: We do. We got over a million
2 dollars in fund balance in Stormwater, and we have to
3 start spending that because that's what we're taxing
4 people for. We went over that in the CIP. But that
5 CIP is, again, a dynamic document; it can change. If
6 we decide that a street project moves a stormwater
7 project up in priority because we want to do it before
8 we pave the street, then we move it up in the CIP
9 list.

10 COUNCILMEMBER FLEMING: Okay.

11 DR. GILLEN: So once -- once we decide
12 here's the streets we're going to do, staff will go
13 back and, Okay. Well, here's the stormwater projects
14 we need to do at the same time. We'll bring that back
15 and make those in the top, first tier of the -- of the
16 stormwater portion of the CIP.

17 COUNCILMEMBER FLEMING: Okay. Thank you.

18 DR. GILLEN: But it wouldn't raise the
19 paving portion. It would just -- we would have to put
20 stormwater money into fixing the stormwater portions
21 of that, so --

22 MAYOR PITTMAN: Ms. Alexander, did you have
23 anything?

24 COUNCILMEMBER ALEXANDER: Can you bring the
25 other chart back?

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 DR. GILLEN: Yes.
2 COUNCILMEMBER ALEXANDER: I mean do we just
3 want to renew some of the streets from the first chart
4 and add North Carver? I'm sorry that person was
5 informed that their street was getting paved before
6 Council approved it.
7 DR. GILLEN: All the streets on the list
8 need to be paved at some point, so whichever you
9 choose is fine with us, so --
10 MAYOR PITTMAN: Mr. Bates?
11 COUNCILMEMBER BATES: No comments.
12 MAYOR PITTMAN: Mr. Patrick?
13 COUNCILMEMBER PATRICK: No comment.
14 MAYOR PITTMAN: Ms. Dean, anything else?
15 COUNCILMEMBER DEAN: Let me --
16 MAYOR PITTMAN: Ms. Fleming, anything else?
17 COUNCILMEMBER DEAN: I want to just say one
18 more time, I think that we have more options on the
19 table than just choosing streets to repave, because I
20 don't think we have enough information or anyone
21 qualified right to do that. And even the contract --
22 even the Building Inspector, I think that he or she or
23 the contractor that we'll use might be able to better
24 direct us, because we don't know -- we don't know the
25 needs, we don't know what's required to repave these

1 streets. And for me, I can't base a decision on -- on
2 something like this without having more information.
3 DR. GILLEN: I mean I don't disagree with
4 you at all. I think -- and I talked to Luke about
5 this today -- we're doing an RFP for an engineering
6 firm once we decide on the streets. And what I think
7 we should do is discuss with that firm once it's
8 selected, Could you do a city-wide analysis for us,
9 you know, ranking --
10 COUNCILMEMBER DEAN: Right.
11 DR. GILLEN: -- to your approval, and it's
12 very Doraville-specific --
13 COUNCILMEMBER DEAN: Right.
14 DR. GILLEN: -- and get something down for
15 these subsequent years.
16 We don't have time to do that now --
17 COUNCILMEMBER DEAN: If we --
18 DR. GILLEN: -- for this next year.
19 COUNCILMEMBER DEAN: If we put down streets
20 and then had discussion later and changed it --
21 because when I spoke to the guy, Mr. Huff, I believe
22 his name was, at GDOT, he said that, Yes, you're
23 flexible. Once you're given the money, you're
24 flexible. You just need to let us know what you're
25 doing with it.

1 And if we could -- you know, if we put
2 streets down now without -- you know, without, you
3 know, saying, This is going to be a fact that this is
4 what we are going to do; and then have some analysis
5 done on the cost and what's underneath, you know, tha
6 might have to be changed, knowing that we have that
7 flexibility, I would certainly feel a lot better.
8 DR. GILLEN: I would too. I would hope that
9 they would be flexible with us because we never know
10 when the bids come back -- whenever you start diggin
11 in the ground, you never know what you're going to
12 find --
13 COUNCILMEMBER DEAN: Right.
14 DR. GILLEN: -- so I would be -- I would
15 agree with you that if we came back and needed to make
16 some changes, I think GDOT would work with us. But I
17 think we just need to get something certified by the
18 end of the year so they have it in their system so
19 their bureaucratic mechanisms can move forward would
20 be fine.
21 So what I'm looking for is direction from
22 you, how many miles and which -- which projects, unde
23 the assumptions that we have here, the length and the
24 streets, making sure those are correct, because we
25 could get this firm to come in and find out, Okay.

1 We're about -- you know, we're a tenth of a mile off
2 on this measurement, Dekalb's data was slightly was
3 slightly off or this or that, so --
4 MAYOR PITTMAN: So Dr. Gillen, are you
5 wanting this information emailed to you or how do you
6 want --
7 DR. GILLEN: That would be great, because we
8 have to -- I would hope we could get a decision
9 tonight if possible.
10 COUNCILMEMBER PATRICK: Why don't we -
11 COUNCILMEMBER DEAN: Are we meeting on th
12 18th?
13 COUNCILMEMBER PATRICK: I don't believe so
14 MAYOR PITTMAN: I thought we were.
15 COUNCILMEMBER BATES: No, we --
16 MAYOR PITTMAN: But we have two meetings
17 this month; right?
18 COUNCILMEMBER BATES: Nope.
19 COUNCILMEMBER ALEXANDER: We voted las
20 meeting not to have the work session.
21 COUNCILMEMBER PATRICK: What if we added
22 Drury Court and North Carver in on that list of three
23 miles and then we -- we go forward with that list tha
24 as it is, that you have on the top right there?
25 DR. GILLEN: Just add it in without taking

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1 anything else out?

2 COUNCILMEMBER FLEMING: Correct.

3 COUNCILMEMBER PATRICK: Just add it in

4 without taking anything out. We'll get the

5 engineering assessment back and -- and then that gives

6 the new Council a bit of stake in this as well.

7 DR. GILLEN: That works. That's fine. And

8 I think we would have flexibility to work with them,

9 and we got to make sure that we spend the money that

10 we tell them we're going to spend next year.

11 COUNCILMEMBER DEAN: Well, and these funds

12 will pay for the engineering, preliminary engineering.

13 DR. GILLEN: Yes. That's all part of the

14 project costs.

15 MAYOR PITTMAN: Okay.

16 DR. GILLEN: All right.

17 COUNCILMEMBER ALEXANDER: So is somebody

18 going to make a motion?

19 MAYOR PITTMAN: That's what I was going to

20 say.

21 Are you asking for a motion?

22 DR. GILLEN: You don't need one, but that

23 would be preferable is if we have a clear, distinct

24 vote.

25 COUNCILMEMBER FLEMING: I would like --

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1 First of all, I can't see it, you know, because of the

2 angle --

3 DR. GILLEN: Okay. I'll send it.

4 COUNCILMEMBER FLEMING: -- so I would

5 like --

6 COUNCILMEMBER FLEMING: Oh, no, no, no, no,

7 no, no. It's okay. Just need a copy of it.

8 DR. GILLEN: I'll send it out.

9 COUNCILMEMBER FLEMING: Thank you.

10 DR. GILLEN: No problem.

11 COUNCILMEMBER PATRICK: So I'd like to make

12 a motion to add Drury Court and Carver -- North Carver

13 to the list that's at the top here. That brings us in

14 just over three miles.

15 DR. GILLEN: Yeah. It would be about three

16 and a half miles total if I remember numbers correctly

17 because Drury is --

18 COUNCILMEMBER FLEMING: .09.

19 DR. GILLEN: -- .09, and the other one I

20 think was --

21 COUNCILMEMBER FLEMING: .2.

22 DR. GILLEN: -- .2, so just over 3.3 miles.

23 MAYOR PITTMAN: Okay. Do I get a second?

24 COUNCILMEMBER FLEMING: Second.

25 MAYOR PITTMAN: Discussion?

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1 COUNCILMEMBER DEAN: Don't we need to

2 stipulate that the flexibility with these votes?

3 DR. GILLEN: We certainly can.

4 COUNCILMEMBER ALEXANDER: And pursuant to

5 this -- Councilmember Dean's comment, we're going to

6 give them a list again.

7 DR. GILLEN: Uh-huh.

8 COUNCILMEMBER ALEXANDER: And when we start

9 getting our bids back, if we don't have enough money

10 budgeted to cover these streets, are they flexible

11 about -- about what streets we can complete?

12 DR. GILLEN: I would assume they'd have to

13 be, because these bid prices come in different all the

14 time, so every city now that's certifying their

15 streets is doing as best guess as they can as to what

16 the cost will be.

17 COUNCILMEMBER ALEXANDER: So we can't give

18 them a generic 3.25 miles; we have to specify exactly

19 which streets.

20 DR. GILLEN: I believe so, yes.

21 MAYOR PITTMAN: Okay.

22 COUNCILMEMBER FLEMING: And based on the

23 information that we received for the August agenda

24 item or that I just received recently, we received the

25 check within a month after we submitted a request.

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1 And so if we're receiving the moneys and we're iden-

2 tifying those streets --

3 DR. GILLEN: Correct.

4 COUNCILMEMBER FLEMING: -- either we amend

5 it early enough after we've received the engineering

6 reports or we find the moneys to repair them.

7 DR. GILLEN: I agree.

8 MAYOR PITTMAN: Okay.

9 DR. GILLEN: That's all I have. Thank you.

10 MAYOR PITTMAN: Call the roll, please.

11 CLERK BRYANT: Councilmember Alexander?

12 COUNCILMEMBER ALEXANDER: Yes.

13 CLERK BRYANT: Councilmember Bates?

14 COUNCILMEMBER BATES: No.

15 CLERK BRYANT: Councilmember Dean?

16 COUNCILMEMBER DEAN: No.

17 CLERK BRYANT: Councilmember Fleming?

18 COUNCILMEMBER FLEMING: Yes.

19 CLERK BRYANT: Councilmember Patrick?

20 COUNCILMEMBER PATRICK: Yes.

21 MAYOR PITTMAN: Okay. Thank you. We're

22 going to take a 3-minute break.

23 - - -

24 (Brief recess)

25 - - -

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 MAYOR PITTMAN: Okay. Next on the agenda,
2 as I said before, we had moved b) to a) and a) to b),
3 so it's going to be the Appeal of Administrative
4 Zoning Determination regarding property at 5597 Buford
5 Highway, Mr. Cooley.

6 MR. JOE COOLEY: Good evening, Mayor and
7 Council.

8 As you said, this is an appeal of a zoning
9 determination that was made by me as the Community
10 Development Director as to a classification of a
11 proposed use at the -- it's at 5597 Buford Highway
12 also known as Mercado Plaza, and you may know it best
13 as the former K-Mart site.

14 Back on October 16th of this year, a letter
15 of determination was sent to Mr. Furrow, who is the
16 representative of Mercado Plaza, LLC -- they are
17 proposing a new development of the existing building
18 -- and basically the letter was to inform Mr. Furrow
19 that the determination that based upon the proposed
20 development as has been advertised -- if developed as
21 advertised would be considered a flea market, and as
22 such, under the City of Doraville Code, would not be
23 an allowed use within the C-2 zoning district.

24 Flea markets are allowed in the M-1 by a
25 conditional use permit, but not in the C-1 and C-2

1 obviously not allowed in the C-2 zoning, especially
2 the concept of the flea market. The concept of a
3 mercado, which you probably know is Spanish for
4 "market," was discussed. It was explained that retail
5 stores in an interior mall would be an allowed use.

6 And on August 12th, had a meeting with
7 Mr. Furrow. He was told that we had been receiving a
8 number of calls from applicants wanting to know when
9 the flea market was going to open, and I reiterated to
10 Mr. Furrow that flea markets are not an allowed use in
11 the C-2 zoning district and that any construction and
12 internal layout must meet all building/health safety
13 code requirements and only uses in the C-1 or the C-2
14 permitted uses would be allowed without a conditional
15 use permit.

16 Every business would be considered a
17 separate business. There had been discussion on point
18 about this being one large business and they would be
19 renting spaces out, but explained that each business
20 would be an individual business, would require an
21 individual occupational tax certificate, and have to
22 go through that process, part of which includes the
23 submittal of a business lease as part of the
24 occupational tax certificate requirement.

25 And the fact that, you know, the business is

1 zoning districts.

2 They were also notified that if it -- the --
3 any plans that were submitted would have to meet --
4 and this was more of an informational type of thing --
5 would have to meet all City building codes, safety
6 codes and things of that sort. Again, that was more
7 of an informational.

8 We've had -- City staff has had a number of
9 meetings with the owner and owner's representatives
10 numerous times, not just this, the latest, Mercado
11 Plaza, LLC, about the possible uses of the K-Mart
12 site.

13 Amongst others, the owners have explored
14 grocery market uses. In fact, the site was actually
15 under contract I believe at one point but negotiations
16 or something fell through on that, but it was as a
17 grocery store. There was consideration of a large
18 retail jewelry store with gold processing on premises
19 as a possibility, a combination of a grocery market/
20 ropes course/retail stores, and also there's been
21 discussion as an indoor flea market. Again, this has
22 been over a number of different people with the --
23 that come in with the owner to discuss the potential
24 uses.

25 Many of the ideas that were explored were

1 going to be temporary, that's why we have the request
2 for the lease in there. Occasional businesses should
3 be open full-time, and the sale of used and secondhand
4 goods were not allowed.

5 The letter of determination really only
6 concerns the proposed use of the property whether that
7 use is -- as determined is an allowed use within the
8 C-2 zoning district. Again it was noted that -- for
9 informal purposes, that all plans submitted will be
10 required to meet applicable current building and
11 health safety code.

12 And whether those code requirements are met,
13 we cannot determine that at this point. We do not
14 have a complete application for a building permit at
15 this point. It has been submitted. We've provided a
16 temporary number, which is part of the requirement now
17 with Dekalb County.

18 What happens is they have to come in to the
19 City. We provide them a permit number for processing
20 purposes because the Dekalb County Fire Marshal will
21 not accept their plans without it. We give that to
22 them. They take it to the Fire Marshall, they go
23 through that process redlining their plans, etc.,
24 getting up to the fire marshal's standards, at which
25 point they come back with the approved plans from the

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1 fire marshal to the City.
2 We accept that and any other information
3 that we need for the application to be complete. And
4 at that point, we process and we start doing our
5 review. So such matters right now are premature
6 because we really have nothing to review. We do not
7 have any copies of any plans at this point.
8 The concern over the type of use, I guess,
9 is multi-fold. First was, as I said, there were a lot
10 of discussions upon what the use would be, and a flea
11 market was considered. Now, the applicant said, No,
12 this is not going to be a flea market, so we were
13 going along with that and explained everything that
14 what they needed to comply with, etc.
15 And then a number of things came up: One,
16 we kept getting the calls requesting -- wanting to
17 know, from people that wanted to apply for
18 occupational tax certificates, when the flea market
19 would be open and then what do they do to apply.
20 We many times had to tell people there will
21 be no flea markets, they are not allowed; it's not a
22 permitted use in the C-2 at least at this site. If
23 there was one applied for in the M -- manufacturing
24 district, there's the possibility, but in this case,
25 this would not be the situation.

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1 We were told by a number of applicants,
2 people that were calling, that they were being told
3 that they could have flea market type of booths and
4 things of this sort, and we just reiterated time and
5 time again that that was not an allowed use.
6 The other thing that was a major concern is
7 first we were hearing that. And then also there was a
8 marketing advertisement put out saying all the
9 different uses, that this was coming. Noted that the
10 phone number on there was one of the people that was
11 actually on the sign that they got, which was for
12 leasing information. There were four phone numbers on
13 there. I believe it was Bo Lee's number was actually
14 handwritten across the bottom of it as part of it.
15 But specifically the flier -- and I'll refer
16 to it as "the flier" -- in part says in brief:
17 Mercado Plaza will have 377 spaces including booths,
18 kiosks, retail spaces, food court restaurants -- and
19 I'll go through some of the issues I had with each one
20 of these but I wanted to go through it first -- huge
21 gaming and playground area for kids of all ages,
22 conference/ party/concert space with amazing sound and
23 all that is necessary for a great celebration. More
24 than 600 parking spaces, a supermarket, and much, much
25 more, and then going on to say that booths will be

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1 rented first-come/first-serve basis. Buford Highway
2 area -- oh, excuse me -- Buford Highway Flea Market
3 tenants will have the exclusivity during the two weeks
4 in August, until August 25th, to choose a booth. From
5 there, you will be able to choose on what is available
6 at the moment. Reservations will be made upon
7 receiving security deposit.
8 And again, it had the contact number of
9 478-361-8213, which is the same number for Mr. Lee
10 that was actually on the sign that they have out front
11 advertising lease -- space for lease.
12 The flier also had a number of other uses,
13 again which are not allowed in the C-2 zoning
14 district. Specifically states that booths will be
15 part of the 377 provided spaces along with kiosk,
16 retail space and food court restaurants.
17 It further offers the booths to be rented,
18 not leased, which was a concern, exclusively, August
19 25th, to tenants of the Buford Highway Flea Market,
20 which is in another jurisdiction and is closing down.
21 As I'm sure you're aware, it's just a little bit down
22 Buford Highway.
23 The City code does not define booths as
24 such, but the Merriam-Webster Dictionary defines
25 "booth" a as small and usually temporary area where

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1 things are sold or displayed or services are provided.
2 Section 23-402 defines -- in our code,
3 defines "flea market" means an occasional and periodic
4 sales activity held within a building structure or
5 open area where groups or individual sellers offer
6 goods, new and used, for sale to the public but not to
7 include private garage sales.
8 The Merriam-Webster's definition of "booth"
9 comports with the City's definition of "flea market"
10 as both contemplating either occasional or periodic or
11 temporary sales activity. That was the concern that
12 was brought up with this aspect of it. It basically
13 seems to be defining a flea market approach to this.
14 I will note also that besides booth, it does
15 say booths, kiosks and retail spaces. Typically what
16 you see in any type of interior mall situation, you
17 will have retail spaces and you will have kiosks.
18 That's not unusual. There are standards; there's all
19 types of development standards for those. Booths is
20 not typically something that you see as part of a
21 shopping center. Doesn't go along with it in my
22 opinion.
23 It goes on to further -- the flier goes on
24 to further say that it advertises conference/party/
25 concert space with amazing sound and all that is

1 necessary for a great celebration.

2 That's fine, but conference and convention
3 facilities not associated with hotels, motels or event
4 facilities are allowed only in the M-1 zoning district
5 buy a conditional use permit, not in the C-2 zoning
6 district. So again, another use that was being
7 proposed that does not -- is not allowed within the
8 C-2 zoning district, another red flag.

9 It also goes on to average -- advertise huge
10 gaming and playground area for kids of all ages.
11 Well, maybe this is a terminology situation, but
12 Section 11-10(3) makes it very clear the assembly for
13 purposes of gaming is prohibited, but their
14 terminology may have . . . but "gaming" as defined and
15 as used in the Zoning Code is not allowed.

16 One of the other things, too, that as you
17 all know, the Code of Ordinance is very specific in
18 the uses that are allowed, and to that end, just give
19 you an idea of some of the things, how specific it
20 gets.

21 And we were talking about retail spaces and
22 stores. We can go through the code on the C-1 and
23 C-2. But the art and school supply stores -- I'll
24 just pull some out real quickly -- bicycle store,
25 camera stores; candy, nut and confectionery stores

1 will not be determined, but those are case-by-case
2 basis with an occupation tax certificate.

3 But the overall portrayal of what I was
4 seeing and hearing from people -- And even up till
5 last week we got a call about somebody wanting to know
6 more about when the flea market was coming in; they
7 had been talking to the marketers for this, and they
8 were told that flea markets. . .

9 Now, you know, one person tells you that --
10 We've had a lot of people come in and saying that, so
11 it raised the red flag, and there's concern.

12 So basically the -- the letter that we sent
13 out -- I sent out -- was saying that if you operate as
14 it is being portrayed on the flier and what we're
15 hearing, these uses would not be allowable under the
16 C-2 zoning code. So it was kind of an informational --
17 you know, if this is what you're planning on doing,
18 those would not be consistent in my determination that
19 those would be allowed uses within it.

20 But that's what it comes down to. So you
21 know, what was advertised, what was seen, that was the
22 basis. The primary basis, the discussion with the
23 applicant prior, and the owner, not this applicant but
24 the owner previously about all the different uses and
25 the fact that flea markets kept coming up and up and

1 including on-premises production; cellular telephone
2 stores, children and infant product stores, clothing
3 and apparel/accessory stores selling new merchandise;
4 drug stores, ice cream shops, hobby stores. It goes
5 all the way through this.

6 And if you look at the definition again, we
7 do not define a store as such within the Code of
8 Ordinances, but again, if you go back to Webster's --
9 Merriam-Webster Dictionary, it defines a store as a
10 building or room where things are sold.

11 I see a very big differentiation between
12 what we're talking about as a building or a room, a
13 store, which are allowed uses within the code, versus
14 booths, which has a totally different connotation, and
15 again, as described earlier, was really talking more
16 of a temporary type use.

17 One of the other things, I guess, and this
18 is something I just noticed when received today was a
19 amendment to the appeal. Under Exhibit 15, I was
20 reading through their prototype lease that they have
21 set up for this, which actually is not a lease at all,
22 reading it. Basically it is a month-to-month license
23 and it is not a long-term or lease. Again, we do
24 require leases through -- with an occupation tax
25 certificate. That's a situation, though, that really

1 up, and then having this additional information come
2 on top of that where it's being portrayed as that,
3 and these were fliers that went out to the general
4 public and were out, you know, out and around. We go
5 a copy of it I believe on the -- I've got the date
6 somewhere but it's not really important.

7 So again, you know, it goes back to it was
8 my determination that based upon the uses portrayed in
9 the development advertisement, and it was being
10 conveyed to prospective tenants, that such uses would
11 be contrary to the C-2 zoning and, as such, would be
12 considered a flea market which would not be allowed.
13 Once the other uses that they were talking about, such
14 as the exhibits and the -- the gaming, the conference/
15 party/concert space, all those will be of concern and
16 not be an allowed use.

17 We -- as you see on your package, there were
18 several permits taken out. Again those are not real
19 relevant to this determination, but just FYI, I
20 included that in there. There was a sign permit that
21 was allowed, and as you know, we don't control
22 content, but that was for vacant space which was
23 advertised. There was a demolition permit for 7,500
24 square feet that was taken out and a permit was
25 issued.

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1 And there was a electrical permit for -- got
2 a list of them. It was for -- let's see. It's
3 interesting because it was residential; it was a
4 combination of arranging it, water heater, clothes
5 dryer, dish washer and disposal unit. That was
6 submitted for on 9/12, and the permit was issued.
7 And only thing else I'd like to note in this
8 process, electrical permits do not require review and
9 approval by the Dekalb County Fire Marshal.
10 Demolition permits do not require Dekalb County Fire
11 Marshal.
12 We also have an application in that we
13 issued a number on so it could go to the Dekalb County
14 Fire Marshal for interior renovations. Again, we have
15 seen no detailed plans on this whatsoever. We have
16 not received any word back from the fire marshal
17 whether they have gotten any type of finalization on
18 those plans.
19 Once those plans are completed, the fire
20 marshal contacts the applicant that brought them the
21 plans. They go get them, they bring them back to the
22 City. Again, whatever additional information we need
23 or if it's complete at that point, we've got a
24 completed application, and we actually start our
25 review for both the building -- all the details,

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1 because at that point we have enough information to
2 start making decisions.
3 Again, this is really focused on what is
4 being advertised and the fact that this appears to
5 be -- from all indications and from the advertise-
6 ments, to be uses that would not be allowed in C-2.
7 So the letter notification was sent to -- deter-
8 mination was sent to the applicant making them so
9 aware. And I'll be happy to answer any questions that
10 you might have.
11 MAYOR PITTMAN: Ms. Alexander?
12 COUNCILMEMBER ALEXANDER: No, ma'am.
13 MAYOR PITTMAN: Mr. Bates?
14 COUNCILMEMBER BATES: No.
15 MAYOR PITTMAN: Ms. Fleming?
16 COUNCILMEMBER FLEMING: No, not at this
17 time.
18 MAYOR PITTMAN: Ms. Dean?
19 COUNCILMEMBER DEAN: What exactly is being
20 appealed?
21 MR. COOLEY: The appeal is the deter-
22 mination; the letter was the determination of those
23 uses, if developed as -- as being portrayed in that,
24 would not be allowed. It would be considered a flea
25 market and would not be an allowed use. That's what

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1 the appeal is.
2 COUNCILMEMBER DEAN: So you were just
3 stating -- you were just conveying information and
4 that conveyance is being appealed? I'm not sure what
5 the appeal is.
6 MR. COOLEY: Well, again, it was a deter-
7 mination that this is a flea market --
8 COUNCILMEMBER DEAN: Right.
9 MR. COOLEY: -- based upon --
10 COUNCILMEMBER DEAN: Right.
11 MR. COOLEY: -- the things that I've stated.
12 So that was the determination that we sent to them.
13 COUNCILMEMBER DEAN: Right.
14 MR. COOLEY: If it's developed like this,
15 this will be considered --
16 COUNCILMEMBER DEAN: Right.
17 MR. COOLEY: -- a flea market, and they are
18 appealing that determination that it would be
19 considered a flea market.
20 COUNCILMEMBER DEAN: So they do want to
21 conduct this business in this way; they don't want to
22 call it a flea market.
23 MR. COOLEY: I will have to leave that --
24 COUNCILMEMBER DEAN: Okay.
25 MR. COOLEY: -- to the Applicant to address

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1 that.
2 COUNCILMEMBER DEAN: Okay.
3 MR. COOLEY: We're working off of our
4 discussions with them, the owner, about previous uses.
5 COUNCILMEMBER DEAN: Okay.
6 MR. COOLEY: And then all of a sudden this
7 kind of seemed to be flipping back to the flea market.
8 COUNCILMEMBER DEAN: Okay.
9 MAYOR PITTMAN: Okay. So I guess at this
10 time we will give you the opportunity to speak.
11 MR. DENNIS WEBB: Good evening. My name is
12 Den Webb. My office address is 1230 Peachtree Street,
13 Atlanta, Georgia 30309, and I'm here on behalf of two
14 parties tonight. The first is Buford Plaza, LLC.
15 Buford Plaza, LLC owns the property Joe just
16 discussed, 5597 Buford Highway that everyone knows as
17 an old K-Mart site. My second client is Mercado
18 Plaza, LLC. It leases that property and intends to
19 put a Latino discount mall on it.
20 Let me go back to sort of your point as to
21 why we're here. As Joe indicated, on October 16th,
22 2013, he issued a letter that made two determinations
23 and told us if we -- if we didn't agree with him, we
24 had an obligation to appeal, so that's what we did.
25 But the first determination was in fact that

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 this proposed discount mall was a flea market as that
2 term is defined under the City Code. The second
3 determination was that this new development would be
4 bound by a new ordinance, Section 580 of the develop-
5 ment code. So those are the two issues on this
6 appeal.

7 Let me discuss the flea market first and let
8 me cut through something right away. The letter
9 states that it's based on one piece of information and
10 one piece of information alone, and that is a flier,
11 and one word in that flier, the word "booth."

12 There is an issue here that Joe did not
13 touch on that we spent a good bit of time in our
14 appeal addressing, and it's -- it's a -- a position
15 that's not been refuted by anyone since we filed our
16 appeal: No one affiliated with the ownership of
17 Mercado Plaza had anything to do with that flier.
18 They didn't generate it; they had nothing to do with
19 it at all.

20 We've submitted three affidavits from all
21 three managers of Mercado Plaza, LLC, who have
22 testified under oath they didn't write the flier, they
23 didn't ask that it be written; they weren't aware it
24 was written; and when they found out, they located the
25 person who wrote it and told him to stop handing it

1 So as I indicated in my appellant statement,
2 that definition has two operative phrases: Number
3 one, the sales activity has to be occasional or
4 periodic and, number two, the goods sold have to be
5 new and used. And if either one of those criteria is
6 met, there's no basis upon which the City can
7 determine that this particular use is a flea market,
8 and I think we submitted more than adequate evidence
9 to show that neither criteria is met in this instance.

10 First, the sales activity proposed in
11 Mercado Plaza is not occasional or periodic. This
12 mall, like all malls, would have regular business
13 hours: It's open five days per week, Saturday through
14 Monday, 10:00 a.m. to 9:00 p.m.; and Wednesday through
15 Friday, 11:00 a.m. to 8:00 p.m. And every tenant in
16 Mercado Plaza is required to be open when the mall is
17 open.

18 So based on that one issue, this Council
19 should find that this particular use is not a flea
20 market. But let me address the second criteria:
21 Mercado Plaza will not allow the sale of used goods.

22 Joe mentioned the tenant agreement which we
23 included as part of the record. If you've read it, as
24 he apparently has, you'll see that it expressly
25 forbids any retailer from reselling merchandise or

1 out, because the information in it was wrong.

2 There's an expression lawyers use. I was
3 looking forward to seeing Ms. Pachuta tonight because
4 I believe she's an attorney and I think she would
5 recognize this term: It's called garbage in, garbage
6 out, and it means that if the conclusion is based on
7 erroneous information, the conclusion is erroneous.

8 And that is what we have here in this
9 letter. It is based on a flier written by a third
10 party who doesn't know this project, who isn't
11 affiliated with the ownership, and that is the sole
12 basis for the determination that this is in fact a
13 flea market and the issuance of the letter on October
14 16 of 2013.

15 The fact is, though, that what my clients
16 are proposing isn't now and has never been a flea
17 market.

18 We don't have to rely on Webster's
19 Dictionary to figure out what the term "flea market"
20 means. That's actually a term defined in our code of
21 ordinances. It is defined as an occasional or
22 periodic sales activity held within a building,
23 structure or open area where groups or individual
24 sellers offer goods, new and used, for sale to the
25 public.

1 selling secondhand goods.

2 So while we can talk about extraneous and
3 unidentified third parties, we can talk about fliers
4 and third parties and people not affiliated with my
5 clients generated, the information in the record are
6 the facts and they are sworn facts. And I think based
7 on those facts, there is simply no way that the City
8 can consider or determine this particular use a flea
9 market based on its own law.

10 Let me just touch briefly on the second
11 issue. It was raised in Mr. Cooley's letter, and it
12 relates to the new Development Ordinance, Section
13 580. As you are aware, that ordinance requires retail
14 spaces to be, among other things, a thousand square
15 feet and have four walls and a ceiling. That
16 ordinance was adopted on September 9th of 2013, and
17 that was months and months and months after this
18 project was underway. And as a result, it is our
19 position that the applicants or the Appellants are not
20 bound by it.

21 By the time that ordinance was adopted --and
22 as Mr. Cooley indicated, the ownership and the lessors
23 had had many, many meetings with the City. They had
24 been told on numerous occasions that they could
25 proceed with this development. They were issued

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1 permits to proceed. They had spent hundreds of
2 thousands of dollars. And just to be clear, they had
3 already applied for a business permit. I'm not sure
4 that that did come out clearly, but I don't think it's
5 disputed here.

6 So the fact is that both Mercado Plaza and
7 Buford Plaza are entitled to continue to operate under
8 the law as it existed prior to September 9th of 2013.
9 And let me just note this for the record: That's a
10 fact your the Community Development Director has
11 confirmed.

12 I sent an Opens Records Act request to the
13 City. It took a long time to get a response. The
14 first time, I got 123 pages of material, the second
15 time I got over 1,600 pages of material, and among
16 that material was an August 19, 2013 email from your
17 community development director that said if they apply
18 for building permits prior to any changes, the changes
19 will have no effect on them.

20 And that's exactly what happened. The
21 changes have no effect, and certainly any
22 determination to the contrary is wrong.

23 I'm happy to address any questions you would
24 like me to address. I think I'll stop there. I'm
25 going to reserve my time, and I'm happy to take some

1 under the C-2 zoning ordinance absent a special use
2 permit. You can sell used goods in Doraville. I
3 think you can sell items on consignment, I think you
4 can have an antique shop, but I think sometimes
5 they're required conditional use permit. So to the
6 extent that that particular step was taken, they might
7 be allowed to sell, but as a general principle, there
8 will be no resale of secondhand goods.

9 COUNCILMEMBER ALEXANDER: Okay, because the
10 affidavit also says unless specifically allowed by
11 Mercado, so I interpreted that that they could make a
12 decision later on to allow the sale of used goods.

13 MR. WEBB: Well, tell me what paragraph
14 you're looking at, please.

15 COUNCILMEMBER ALEXANDER: Section 10 on the
16 affidavit by Mr. Furrow.

17 But just for the record, Council to my
18 knowledge does not have a copy of this lease agreement
19 that is supposed to be part of the record. So can you
20 please get that, a copy of that document, for our
21 information, please.

22 MR. COOLEY: Just FYI, I did receive that
23 this morning.

24 COUNCILMEMBER ALEXANDER: Okay. Well, we
25 have not received a copy of that.

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1 questions.

2 Actually, let me think. Let me go back to
3 one -- or points that I took down while Joe was
4 speaking.

5 Mr. Cooley mentioned tonight that he got
6 phone calls from people mentioning the fact that they
7 had heard a flea market was going in. I mean that's
8 the same type of evidence we have with the flier. Who
9 are these people? What was their interest? You know,
10 when did they call, what did they say? There's
11 certainly no mention of those phone calls in the
12 letter that we received from him.

13 I think that evidence is unverified,
14 uncorroborated and certainly not reliable in this
15 instance, and I think I'll stop there.

16 MAYOR PITTMAN: Okay. Ms. Alexander?

17 COUNCILMEMBER ALEXANDER: Some of the items
18 that you addressed talking about no used goods are
19 going to be sold, but I'm curious why in Mr. Furrow's
20 affidavit he mentioned discussing conditional permits
21 for items such as a pawn shop, because when a pawn is
22 not paid, the used goods are sold.

23 MR. WEBB: As I understand it, the point of
24 that affidavit was to identify that tenants are
25 restricted from any use that would not be allowed

1 MR. COOLEY: Right.

2 MR. WEBB: And just FYI, we found out last
3 Wednesday.

4 Well, I think that must be a typographical
5 error, because if you read the following sentence:
6 Mercado is aware that it must obtain conditional
7 permits from the City in order to allow any such uses
8 by its retailers. So it's a recognition that absent a
9 conditional use permit, those uses would not be
10 allowed. And it may be that Mercado itself would file
11 for a conditional use permit as opposed to the tenant.

12 COUNCILMEMBER ALEXANDER: But my point being
13 is it doesn't say that they are not going to do it.
14 It says they understand the process that they would
15 have to go through to allow the sale of used goods.

16 MR. WEBB: Well, and my point is the tenant
17 agreement specifically says you can't resell goods or
18 sell secondhand goods.

19 Now, to the extent the City would allow that
20 as, you know, an antique store or a consignment
21 furniture store or something of that nature, then
22 maybe there is some wiggle room. But certainly to the
23 extent that we're talking about general used
24 merchandise, I think that issue is clearly defined in
25 the lease.

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1 COUNCILMEMBER ALEXANDER: Your exhibit
2 permit sign, Mr. Lee's name and telephone number is on
3 this sign. There is no affidavit from Mr. Lee.
4 And what is his position with this
5 establishment?
6 MR. GARY T. FURROW: He's just a leasing
7 agent.
8 COUNCILMEMBER ALEXANDER: Okay. So the
9 leasing agent's name is on the flier that is
10 supposedly not authorized.
11 MR. WEBB: There's a handwritten notation on
12 the bottom of the flier.
13 COUNCILMEMBER ALEXANDER: That's why I
14 thought --
15 MR. WEBB: Who knows where that came from?
16 COUNCILMEMBER ALEXANDER: I understand that
17 completely, but my point is I think it would be pretty
18 safe to deduce that Mr. Lee did receive phone calls
19 off of generated said flier.
20 Did he never question where they got the
21 information or anything to that nature?
22 MR. WEBB: As far as I can go on that point
23 there, I saw an email in the 1600 produced where Joe
24 Cooley said that he had gotten a phone call or two
25 from folks saying they heard there's a flea market

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1 coming.
2 He called Mr. Furrow.
3 Mr. Furrow said, Let me check this out.
4 He called his two leasing agents, which presumably
5 would include Mr. Lee, and reported back that that's
6 not what they're telling people; they tell me they are
7 not identifying this property as a flea market.
8 COUNCILMEMBER ALEXANDER: Okay. But we
9 don't know that Mr. Lee did not receive phone calls
10 generated from this flier that mentions flea market
11 because we don't have an affidavit from Mr. Lee.
12 MR. WEBB: We don't, and we don't know
13 whether he -- We don't know that either -- either way.
14 And I'm not sure how that would be relevant, frankly.
15 The words "flea market" are --
16 COUNCILMEMBER ALEXANDER: Because you're
17 claiming no knowledge of the document.
18 MR. WEBB: Well, I have put up affidavits of
19 the three managers, the principals of the company who
20 operate the business. They as a business are unaware
21 of anyone affiliated with their company that has
22 anything to with that flier.
23 COUNCILMEMBER ALEXANDER: Okay. But
24 Mr. Lee is affiliated with the company, because
25 Mr. Furrow said he's one of the leasing agents.

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1 MR. WEBB: He is a leasing agent --
2 COUNCILMEMBER ALEXANDER: Okay.
3 MR. WEBB: -- correct.
4 COUNCILMEMBER ALEXANDER: All right. Than
5 you. Those are all the questions I had.
6 MAYOR PITTMAN: Mr. Bates?
7 COUNCILMEMBER BATES: Yeah. I want to focus
8 on the affidavits from Mr. Furrow and Ly Phillips.
9 Both of them stipulate in their affidavits
10 that the Mercado Plaza would be similar to Plaza
11 Fiesta.
12 MR. WEBB: Correct.
13 COUNCILMEMBER BATES: Okay. Just want to
14 make sure that's stipulated.
15 I went and looked and got information about
16 Plaza Fiesta because I'm a layman and legal
17 terminology kind of goes over my head. So I'm just
18 going to read from Yelp, which is reviews on Plaza
19 Fiesta, and then a Wikipedia Free Encyclopedia
20 statement regarding Plaza Fiesta.
21 So on Yelp, you have: The place is
22 fantastic. It's a little chaotic, as the inside is
23 set up more like a flea market mercado with booths
24 indoors instead of storefronts, but that's part of the
25 experience.

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1 Second review: Think of it as a huge indoor
2 flea market.
3 Third review: There are several little flea
4 market areas in addition to the regular shops in the
5 mall.
6 Fourth review: But for the adventurous
7 shopper, there are plenty of flea market booths in the
8 mall hocking hard-to-find goods.
9 The interesting part is that, you know, Yelp
10 has these intuitive search engines, and so it says
11 people viewed this after searching for flea market-
12 Atlanta.
13 Wikipedia says: Plaza Fiesta is a 350,000
14 square foot strip mall in Dekalb County, Georgia, on
15 the eastern border of the city of Brookhaven, on
16 Buford Highway and Clairmont Road. The mall contains
17 a large supermarket, farmers' market, several large
18 discount stores, and a large space filled with over
19 140 small vendors modeled on a Mexican mercado or flea
20 market.
21 So as a layman using my common-sense
22 deductive reasoning, if you're comparing what you want
23 to put in at the K-Mart to Plaza Fiesta, I'm doing an
24 apples-to-apples comparison, and that then becomes a
25 flea market.

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

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1 I appreciate the interest in wanting to
2 redevelop our city, but we are poised for
3 redevelopment in the city, and putting in 350 12 x 12
4 booths with roll-up doors in the middle of the Buford
5 Highway corridor doesn't fit within a developmental
6 standard that the City has. It doesn't fit in with
7 the LCI developments and studies that the City has
8 conducted and spent a lot of time making sure that our
9 Buford Highway corridor becomes a strong entrance into
10 the -- the community and entrance into our
11 neighborhoods and our city center.
12 So again, I'm not an attorney. I didn't
13 sleep at Holiday Inn Express last night.
14 I'm just using common-sense analysis to say
15 that what your own affidavits relate to becomes, to
16 me, a flea market, so --
17 MR. WEBB: Let me address that, because both
18 Yelp and Wikipedia are open-source information
19 sources.
20 COUNCILMEMBER BATES: Sure.
21 MR. WEBB: That means any third party can
22 come in and put information in it. Yep, they can use
23 whatever language they want. And it's irrelevant, and
24 you know why? Because Doraville defines what a flea
25 market is.

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1 The only thing that matters here is
2 Doraville's definition of "flea market," which is an
3 occasional or periodic sales activity held within a
4 building, structure or open area where groups or
5 individual sellers offer goods new and used for sale
6 to the public.
7 The only question for you is: Is what we're
8 proposing a flea market under that definition?
9 COUNCILMEMBER BATES: Thank you.
10 MAYOR PITTMAN: Mr. Patrick?
11 COUNCILMEMBER PATRICK: No comments.
12 MAYOR PITTMAN: Ms. Fleming?
13 COUNCILMEMBER FLEMING: Ms. Alexander
14 touched on my comments as well. I find it quite
15 unusual that Bo Lee did not have any type of
16 affidavit, particularly since his name is on the
17 leasing information.
18 The other gentlemen that you do have
19 affidavits for are listed on the leasing information
20 and construction information. So I was just curious
21 as to why he had not submitted an affidavit as well,
22 seeing that his name, even though it was hand printed
23 on the flier, his name does appear on the leasing
24 information.
25 So with that said as well as what Mr. Bates

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1 said, a flea market does not fit well in our LCI and
2 our Comp Plan.
3 MAYOR PITTMAN: Okay. Ms. Dean?
4 COUNCILMEMBER DEAN: Well, Mr. Bates touched
5 on what I was going to say.
6 I was going to ask you what you would call
7 Fiesta Plaza, how you would define it, but -- but
8 we've gone through that so that's not necessary.
9 The 1,000-square-foot minimum, I actually
10 suggested that because I want -- we want businesses to
11 come in, stable businesses to come in, and you're not
12 going to come in in a small room or a small both and
13 -- and -- and -- and stay, plan on staying and
14 developing in any sort of way. So the 1,000 square
15 foot would change not for this but for -- for general
16 purposes, number one.
17 Number two, has the City received any formal
18 documentation with plans stipulating the size of
19 booths or -- or -- or rooms or anything like that for
20 the proposed Mercado Plaza? Yes? No? Maybe?
21 MR. WEBB: Well, what I -- That depends
22 on -- on --
23 COUNCILMEMBER DEAN: Any formal plans. Have
24 you -- have you provided the City any formal plans --
25 MR. WEBB: Yes, but --

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1 COUNCILMEMBER DEAN: -- that sets out a
2 design on booth size or the room size or anything like
3 that?
4 MR. WEBB: Yes, we have.
5 COUNCILMEMBER DEAN: And we --
6 MR. WEBB: This -- this --
7 COUNCILMEMBER DEAN: -- weren't provided a
8 copy of it?
9 MR. WEBB: Well, let me clarify. We filed
10 for a building permit. We started the process.
11 What we were told was to take our plans
12 first to the Dekalb County Fire Marshal for review.
13 So we took our plans, and they are there. But that is
14 step one in the process, and, from our perspective, we
15 have started the building-permit process. You can
16 consider that in Doraville or not, but we did in fact
17 have them, we provided them and we started the
18 building-permit process here in the city.
19 COUNCILMEMBER DEAN: Okay, but we haven't --
20 MR. WEBB: Under the -- under --
21 MR. COOLEY: -- seen them here.
22 MR. WEBB: Under the direction we were given
23 by the City.
24 COUNCILMEMBER DEAN: But we don't have them
25 here. So the fact that we changed this to 1,000

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1 square foot, a minimum of 1,000 square foot really has
2 no relevance whatsoever to plans, because we don't
3 have a copy of those plans here; right?

4 MR. WEBB: Well, I'm not sure I understand
5 your point. You know, the fact is there's a 1600-page
6 email trail that shows exactly why 800 square feet and
7 then 1,000 square feet was chosen and it goes back
8 months and months and months. So we can --

9 COUNCILMEMBER DEAN: Well, you can also look
10 at the minutes of the meeting, because we had a
11 discussion, in fact two discussions on that.

12 So it's not -- I mean it's not complicated,
13 it's not curious. I mean it just makes sense for the
14 kind of development that we want to bring into the
15 city.

16 MR. WEBB: Well, I disagree as to the
17 motives. I think they're clear and I think they'll be
18 thoroughly examined at the next phase.

19 COUNCILMEMBER DEAN: So Oscar Sinisterra,
20 have you talked to him? Have you said: Why are you
21 doing this? Why did you do this and why are you --
22 why are you -- why are you specifying what we are
23 going to do to this property? Why are you doing that?
24 Why are you passing out fliers with this information,
25 and under whose authority?

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1 Have you asked him about that? because
2 that -- that's -- I don't understand why would this
3 guy say: Oh, well, I'm going to, you know, print out
4 these fliers and basically, you know, advertise for
5 free this property that has not yet been developed,
6 and -- and potentially causing you harm?

7 MR. WEBB: I didn't speak to him. My
8 understanding is that he is the manager of the Buford
9 Highway Flea Market.

10 COUNCILMEMBER DEAN: Uh-huh.

11 MR. WEBB: It was at that point going out of
12 business. It's not going out of business now, and I
13 think he may -- and I'm guessing here like we all are.
14 I think he may have been trying to help some of those
15 folks relocate.

16 But the fact is our folks --

17 COUNCILMEMBER DEAN: Uh-huh.

18 MR. WEBB: -- have clearly indicated they
19 didn't speak to him, they didn't direct him, they
20 didn't know what he was doing; and when he did it,
21 they told him to stop.

22 What his motives are are unknown.

23 COUNCILMEMBER DEAN: Okay.

24 MR. WEBB: But what our involvement in -- in
25 that process is not.

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1 COUNCILMEMBER DEAN: Okay. And the lease:
2 and in Mr. Furrow's affidavit he talks about: We
3 leased approximately 70 retail spaces.

4 What were the terms of those leases? I mean
5 what was the -- what was the period for those leases
6 and do you have copies of them? Could you provide us
7 copies of these leases?

8 MR. WEBB: I could. I can't now. We have
9 actually put into the record a standard copy of the
10 lease.

11 COUNCILMEMBER DEAN: Okay.

12 MR. WEBB: But in terms of all 70 individual
13 leases, we have not put those into the record.

14 COUNCILMEMBER DEAN: Approximate. I mean
15 like what -- what's the duration?

16 MR. WEBB: I don't know.

17 COUNCILMEMBER DEAN: You have no idea?

18 MR. WEBB: I mean I haven't seen a single
19 one of those leases. I've seen the standard term, and
20 it, you know --

21 COUNCILMEMBER DEAN: Does anyone in this
22 room have any idea how long the term of the lease
23 might be?

24 MR. FURROW: The licenses are month to
25 month.

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1 COUNCILMEMBER DEAN: Licenses. Okay, so --
2 Because here in this affidavit, it calls them a lease.
3 And a license and a lease are two totally different
4 things; correct? You understand that?

5 ---

6 (No audible response)

7 ---

8 COUNCILMEMBER DEAN: Okay. I'm good

9 MAYOR PITTMAN: Sir, did you have anything
10 else you wanted to add?

11 MR. WEBB: No. I guess I just am not clear
12 on what the point of that last conversation of lease
13 versus license is. The fact is this is a mall. It is
14 a single standing structure with accommodation of
15 different retailers in it.

16 And you know, the lease terms or the license
17 terms for each tenant will be different. But the fact
18 is the mall is a single structure; it's open five days
19 a week during regular hours just like every regular
20 business is. And the fact that a tenant may come and
21 go is irrelevant. You know, if The Gap leaves Lenox
22 Square, it doesn't make it a flea market. The mall
23 itself is the primary focus here.

24 COUNCILMEMBER DEAN: I don't think we allow
25 tents.

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1 MR. WEBB: What's that?
2 COUNCILMEMBER DEAN: I don't think we allow
3 tents; right?
4 MR. WEBB: Well, there's nothing -- We're
5 not asking for tents.
6 COUNCILMEMBER DEAN: I know.
7 MR. WEBB: There's nothing to indicate
8 tents. Maybe that flier, that third-party flier that
9 was unauthorized might have referenced something like
10 that, but the evidence in front of you, the sworn
11 testimony doesn't say anything about tents.
12 COUNCILMEMBER DEAN: Well, you just said
13 tents may come and go but the businesses --
14 COUNCILMEMBER FLEMING: He said tenants.
15 MAYOR PITTMAN: He said tenants.
16 COUNCILMEMBER DEAN: Oh, okay, okay. All
17 right.
18 COUNCILMEMBER FLEMING: Because that's what
19 I thought he said too.
20 COUNCILMEMBER DEAN: Okay.
21 MAYOR PITTMAN: Okay. Thank you, sir.
22 Mr. Cooley, do you have anything?
23 MR. COOLEY: Just a couple quick items.
24 First off, the amended copy of the appeal I
25 received this morning, it was actually delivered to

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1 the front office at 3:10 Wednesday afternoon right
2 before Thanksgiving, so -- and Legal has not received
3 a copy, so I will present this to the recorder and to
4 the Clerk and for it to be part of the record.
5 And to answer your question, I believe
6 Mr. Furrow answered the one. One other -- a couple
7 things. One, there was the issue brought up about the
8 thousand square feet. This is something that has been
9 a issue since I've come here, and it's not solely to
10 this type -- this project or anything of that sort.
11 We've had a continuing problem of businesses
12 coming in inside of businesses, opening up; they crowd
13 the space, they fill up the parking lots. We've had
14 this probably in a number -- several sites with the
15 taxicabs. We've had the same situation where we've
16 had a lot of booths opening up in other uses where
17 they were not getting occupation tax certificates.
18 So this does predate this business
19 substantially. I've been here approximately two and a
20 half years, and that's one of the issues that I
21 recognized up front, which we did -- this Council did
22 address.
23 Another important item, I think: It was
24 identified that Mr. Lee was the leasing agent. I do
25 have someone here tonight that will be willing to

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1 testify, Mr. Joe Frank, actually, where those fliers
2 were on the table at the front of the K-Mart in the
3 lobby area with the two people that were doing the
4 leasing work, and he was given one by one, and these
5 are the fliers that was in question.
6 So I think it would probably be a good idea
7 for the record since this is quasi-judicial, that
8 Mr. Frank be allowed to give testimony to that fact.
9 And if that's the case and they are -- this person,
10 whether it be Mr. Lee or whoever the agent was on duty
11 at that time was giving it out as representation of
12 what they were doing, that ties it directly to the
13 proposed plan, at least in my opinion.
14 And again, this is a determination based
15 upon what I've learned and read and heard through a
16 number -- it's not solely on the flier, but the other
17 aspects also.
18 MAYOR PITTMAN: Mr. McLendon, is it proper
19 to have Mr. Franks?
20 ATTORNEY McLENDON: I don't know why not.
21 I mean Mr. Webb, any issue with that if
22 somebody wants to put something in factually? I mean
23 it's an issue of fact that has been raised by you.
24 MR. WEBB: Well, I think it's after the
25 fact. I mean the point is there was a decision made

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1 on October 16th based on information that was
2 available to Mr. Cooley, and that's my first response.
3 Second of all, do I get a chance to cross-examine
4 Mr. Frank?
5 ATTORNEY McLENDON: Why don't we do this:
6 What I would say is I don't know this is a cross-
7 examining situation, but what I would tell you is
8 since the issue has come up and the question of fact
9 has been raised by you, I think it becomes relevant.
10 I'd be happy for us to just stipulate that's
11 what Mr. Frank would testify to, that the flier was --
12 -- whatever Mr. Cooley said. I'm okay with that.
13 MR. WEBB: Well, I'm not stipulating to
14 that.
15 ATTORNEY McLENDON: Okay. And I don't think
16 this has a right to cross-examination. I think
17 Mr. Frank could come up and potentially put evidence
18 in if that has been is a question of fact that's
19 raised.
20 I mean you've raised the question of fact of
21 saying: This flier had nothing to do with my clients;
22 right?
23 MR. WEBB: Well, that's certainly the
24 position that I've taken.
25 ATTORNEY McLENDON: I think it would be

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1 appropriate for us to, you know, give it what weight
2 you may. I think it would be appropriate to put it in
3 the record if he had something he wanted to add.

4 MR. WEBB: Well, I disagree, and I object to
5 taking evidence from the general public here like
6 this, certainly unannounced as well.

7 ATTORNEY McLENDON: Mayor, let me have five
8 minutes. Can I have a recess on that?

9 MAYOR PITTMAN: Certainly. We'll have a
10 five-minute recess.

11 - - -

12 (Brief recess)

13 - - -

14 MAYOR PITTMAN: Meeting come back to order.
15 Mr. McLendon?

16 ATTORNEY McLENDON: All right, Mayor.
17 Giving the issue thought, to the extent that the
18 decision was made on the -- based upon the information
19 in front of him, what's happened is I think in this
20 hearing we've come in and we've questioned the basis
21 of part of the evidence, at least some aspect of the
22 evidence. It's been said: That was not done with our
23 authority or knowledge.

24 You know, I have somebody that's willing to
25 come up and -- and says, you know, I had an

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1 observation that's relevant to that. I think it's
2 appropriate to listen to it, but I think if -- if
3 that's allowed to be put in, Mr. Webb should be given
4 every right to ask him questions about that very
5 thoroughly.

6 So to the extent that -- that, you know, he
7 has information that may be relevant to that flier,
8 I'm going to say we should listen to it but Mr. Webb
9 should have the ability to fully ask him questions and
10 inquire as to whatever that opinion is.

11 MR. WEBB: Since we're creating a record, I
12 think I would just like to object to the process or
13 lack of process. I've actually already raised that
14 objection.

15 And one of the issues I have here is there
16 are absolutely no standards as to what determines the
17 appellate review, and I don't think it's appropriate
18 to take comment from the general public. So I
19 understand that the City Attorney has the ability to
20 direct the course of this proceeding the way he wants,
21 but I object.

22 ATTORNEY McLENDON: And I'll just note that
23 I don't think we're saying this is taking comment from
24 the general public. We've had a issue of fact raised,
25 and I think we have someone who has stated they have

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1 specific knowledge regarding that particular issue of
2 fact.

3 You're welcome to cross-examine him on it if
4 he's willing to -- to put that evidence in the record.

5 All right. So Mr. Harris, if you have
6 something to add to that, please feel free. And I'll
7 need you to --

8 COUNCILMEMBER ALEXANDER: Mr. Frank

9 ATTORNEY McLENDON: Mr. Frank. I apologize
10 Mr. Frank.

11 MAYOR PITTMAN: Mr. Frank, if you would
12 please -- Mr. Frank, if you'd please identify yourself
13 to -- for the court reporters please.

14 MR. JOE FRANK: Joe Frank.

15 MAYOR PITTMAN: Go ahead, sir.

16 MR. FRANK: Do you want me to just go ahead
17 and start?

18 Okay. Well, several months ago, it was
19 shortly af- -- I believe it was shortly after the flea
20 market sign came up over there, at least it was just a
21 few days after I saw it there for the first time, and
22 so I was just curious what's going on there and the
23 fact that we are putting up a flea market in the city,
24 because I was under the understanding that flea
25 markets were -- were prohibited use in the city.

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1 And I was even kind of curious because it
2 said something about a -- about a plaza. And of
3 course to me a plaza is something where you have a
4 series of stores on the sidewalk and each store is a
5 separate entity.

6 ATTORNEY McLENDON: Mr. Frank --

7 MR. FRANK: Okay.

8 ATTORNEY McLENDON: -- let me go ahead and
9 let's just -- we got to keep this process --

10 MR. FRANK: Oh. Okay. I'm sorry.

11 ATTORNEY McLENDON: We haven't said come in
12 and sort of testify to everything, so I'm going to ask
13 us --

14 THE WITNESS: Okay. Very good.

15 ATTORNEY McLENDON: -- to disregard what he
16 said before.

17 And just for the sake of let's make sure
18 we're -- everybody's aware, I'm going to go ahead and
19 ask you to -- swear you in regarding the testimony
20 you're about to give.

21 MR. FRANK: Okay.

22 ATTORNEY McLENDON: Is that okay?

23 MR. FRANK: That's quite all right.

24 Whereupon,

25 JOE FRANK

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1 was called to testify, and having been first duly
2 sworn, was examined and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. McLENDON:

5 Q Very good, and if you could --

6 A Okay.

7 Q -- we had said there was --

8 A I'll keep it brief.

9 Q -- one issue was --

10 A I'll keep it brief.

11 Q -- was that flier and what your knowledge is
12 on that flier. Just address that.

13 A Okay. Well, so I went over there just to
14 see what was -- what they had going on over there,
15 and I walked in and kind of pretended to be a
16 potential tenant, and I was given kind of a -- I guess
17 a little bit of a sales pitch on the thing of how
18 beautiful everything is going to be and all of the --
19 and all of the booths that they were putting up there,
20 and they would have all these carts in the middle, and
21 there was going to be -- and they kind of gave me a
22 little rundown description of all the things that were
23 or at least some of the things, I guess.

24 And they wanted to know what I was going to
25 put in there, and I said, I got a friend who's looking

1 permit, so they were just getting their permits
2 approved or something to that effect, and -- and that
3 because now they are calling it a plaza versus a flea
4 market or something, something to that effect.

5 Anyway, she handed me the flier. To the
6 best of my recollection, she wrote the name under-
7 neath. There was the phone number on it, on that
8 flier.

9 And I left, and I said, I will tell my
10 friend about it and I would see her in the near future
11 about possibly renting a space over there.

12 And -- and she mentioned something about
13 that, you know, they were getting the people from the
14 other market over, and just kind -- it was all kind of
15 like a sales pitch kind of a thing. And that's it.

16 MAYOR PITTMAN: Okay, Mr. Frank, hold on
17 just a minute.

18 Mr. McLendon?

19 ATTORNEY McLENDON: Just so we know what
20 flier you're talking about, Mr. Frank, is that the
21 flier that you're talking about (presenting)?

22 THE WITNESS: Yeah, correct.

23 ATTORNEY McLENDON: All right. That's it.
24 All right?

25 THE WITNESS: Yes.

1 for a space to put a -- to put a clothing, selling
2 clothing.

3 And anyway, we went on, and -- and then
4 towards the end of the conversation -- and there were
5 two Asian ladies over there, a gentleman, and a
6 Hispanic individual that was I guess tidying up some
7 flooring of the floor right there by the -- by the
8 entrance. It was actually right when you come in, a
9 little to the left, there were a couple of desks, and
10 there were the -- you know, there were those ladies
11 and people sitting behind the desk over there.

12 And then when I was leaving, on one of the
13 -- on one of the desks, there was a stack maybe -- I
14 don't know, but maybe so high (indicating), of fliers.
15 And the lady gave me one of those fliers and -- and
16 because we'd been kind of finishing, and she said if
17 you call this --

18 - - -

19 (Brief interruption)

20 - - -

21 THE WITNESS: But anyway, she -- she handed
22 me the flier or pamphlet, whatever you want to call
23 it, and they had that map on the back of it. And she
24 said that they were working on this for some time but
25 that now they were getting the -- they had their

1 ATTORNEY McLENDON: Thank you.

2 MAYOR PITTMAN: Okay, sir, would you like to
3 cross-examine?

4 CROSS-EXAMINATION

5 BY MR. WEBB:

6 Q Mr. Frank, my name is Den Webb. We've
7 actually met before, but it's --

8 A Yes, we did.

9 Q -- been awhile.

10 A Yes.

11 Q You mentioned that you went over to the site
12 because saw the flea market sign; correct?

13 A Correct.

14 Q Is it your recollection that the words "flea
15 market" were on the sign in front of --

16 A Well --

17 Q -- the property?

18 A Well, I knew -- I -- I was already aware
19 from other conversation that they were applying to put
20 a flea market in there. So when I saw that, I
21 immediately identified that as being, you know, the flea
22 market coming in there --

23 Q Well --

24 A -- on the thing. That is practically what
25 it is.

1 Q -- is your recollection that the words "flea
2 market" were used on the sign that you saw?
3 A I'm sorry?
4 Q Is your recollection that the words "flea
5 market" were used on the sign?
6 A It was not used on the sign, and that's what
7 kind of caught -- caught my eye because Ly Phillips
8 used to own a flea market. And Ly Phillips is, I
9 believe, one of the owners of that -- of the property
10 over there, or Ly Phillips, she's (pronouncing) she's
11 called anyway. And she used to own a flea market up
12 in Gainesville at one time or was a part owner in a --
13 in a flea market. And I believe in fact -- I believe
14 she was one time somehow related to that other flea
15 market that you guys call Plaza Fiesta, so -- but that
16 is still a flea market. It was basically this guy's
17 flea market. That's -- that's the way I look at it.
18 Q Well, you mentioned that you heard from
19 conversations that this was a flea market.
20 A Yeah.
21 Q All right. Did you ever speak to the
22 owners? Did you ever hear that in conversation with
23 an owner of Mercado Plaza?
24 A No. That was out on the street.
25 Q Okay. That was just --

1 A That was hearsay.
2 Q -- hearsay.
3 A If that's what you want to call it.
4 Q When you went to the property, was there
5 work going on at the site?
6 A Yes, there was.
7 Q Okay. And so there were workmen walking
8 around and other people?
9 A Correct.
10 Q You said that --
11 A I believe the inside was already being
12 demolished and there was a -- a demolition permit on
13 the -- on the front door, on the front entrance.
14 Q You said you think you've seen the flier at
15 issue. Did you take a copy of it when you went to the
16 site?
17 A I'm sorry?
18 Q Did you pick up a copy when you went to the
19 property, of the flier?
20 A They -- they handed me a copy of that flier.
21 Q Okay. And do you still have a copy?
22 A Yes, I believe so.
23 Q Not in your possession.
24 Did you come --
25 A No.

1 Q -- here to speak on this topic?
2 A I'm sorry?
3 Q Did you come tonight specifically to speak
4 on this topic?
5 A I -- I -- I didn't come to speak. I mean I
6 was called to speak.
7 Q Explain that to me.
8 A Well, we don't always get to speak in the
9 city hall unless we are called on to speak.
10 Q Okay. And who called on you to speak?
11 A I'm sorry?
12 Q Who called on you --
13 A Well, I just --
14 Q -- to speak?
15 A -- identified myself now because the issue
16 came up that -- that the flier was somehow -- the
17 owners did not know about the flier.
18 That statement, to me, appeared to be very
19 untrue because they had a stack of those fliers on the
20 very desk inside the flea market right where all of
21 these people were sitting, so it was sitting right
22 there on the table.
23 And for somebody to say that they are not
24 aware of it when it's sitting right there in front of
25 their table and they hand it to me, that is -- well,

1 whatever you want to call it. I don't want to call it
2 in public what it is.
3 Q Well, so you came -- you came here to speak
4 on the flier issue; is that -- do I hear you
5 correctly?
6 A That is -- well, no, I didn't.
7 I came here to speak if I'm called on about
8 the flea market because a flea market is something
9 that does not fit into our city. The flea market is -
10 - that's it. It doesn't fit.
11 Q Okay.
12 A But anyway --
13 Q But my point is --
14 A But that's my point. I mean the City is the
15 one who makes those decisions.
16 Q You knew the flier was an issue when you
17 came here today.
18 A No, I did not.
19 Q Well, you -- you said that earlier. Did I
20 mishear you? You had --
21 A No.
22 Q -- no idea that the --
23 A I did not say the -- I did not say the flier
24 was an issue. I said that there was a statement made
25 over here. I believe you are the one who made that --

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1 who made the statement that the owners did not know
2 anything about the flier and that somehow some flier
3 was -- I don't recall your -- your exact words, but it
4 was something to the effect, the way I understood it,
5 that it was somebody made it or what, I don't know,
6 but that the owners were not aware of it.
7 Q Okay.
8 A Okay. And my point is: Yes, the owners
9 were aware of it or should have been aware because
10 they are the ones who had given it out. I mean it was
11 right there where the ladies were.
12 Q Well, you saw a flier. You could testify to
13 that.
14 A No. I saw a stack of flowers -- of fliers.
15 Q Where?
16 A She gave me a flier, but --
17 Q And you still have a copy of that flier
18 somewhere; correct?
19 A I probably do.
20 Q All right, but you didn't bring it tonight.
21 A No, I did not.
22 Q All right. And you mentioned that you think
23 that the flier that was handed to you by Mr. McLendon
24 was the flier that you saw; right?
25 A By -- by whichever lady was speaking to me.

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1 Q All right. Now --
2 A But -- you know.
3 Q -- you said you saw a map on the back of the
4 flier that you saw; correct?
5 Show me where the map is on the back of that
6 flier.
7 A I didn't say I saw a map on the back.
8 Q Yes, you did, sir.
9 A No, I didn't.
10 Q Okay. Well, if you said that, then you were
11 wrong; correct?
12 A I -- I don't remember seeing a map of a
13 flier on the back. No, I did not.
14 Q I'm sorry.
15 A I don't recall.
16 Q A map on the back of the flier is what you
17 testified to earlier.
18 A I do not recall saying it.
19 Q Okay. Well, do you see a map on the back of
20 that flier I just handed you?
21 A Like I say, I do not recall saying anything
22 about a map.
23 Q Okay. Well, my question is, Do you see a
24 map on the back of that flier in your hand right now?
25 A No, I don't.

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1 Q You're -- you're a competitor of sorts of
2 Mercado Plaza; correct?
3 A No, I'm not.
4 Q You own commercial property in the city of
5 Doraville, do you not?
6 A I own one small property.
7 Q Okay, that you lease to tenants.
8 A Couple small properties. That's about it.
9 Q I'm sorry. How many do you own?
10 A Couple small properties.
11 Q So it's not just one. You own more than
12 one; correct?
13 A Two.
14 Q All right. And you lease those --
15 A Two.
16 Q -- to commercial tenants; correct?
17 A Yeah. But it -- it isn't -- it isn't a
18 competition to me.
19 Q Have you ever used fliers to advertise your
20 business?
21 A No, I didn't.
22 Q Okay. You own commercial properties;
23 correct? We just discussed that.
24 A Well, we didn't discuss other place.
25 Q But you've been in the city a long time;

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1 right?
2 A Yes, I'm here awhile. Yes.
3 Q You know a lot of the folks that lease
4 property in the city; correct?
5 A Okay.
6 Q There's nothing unusual about using a flier
7 to lease property; right?
8 A There's nothing unusual about it except when
9 it -- or when the flier says that it's -- it actually
10 advertises to -- saying that it's a flea market and it
11 is being advertised to -- saying that the people in --
12 in the flea market that is down the street have first
13 right to rent the space, then it seems to me that
14 that's a flea market. I mean if you --
15 Q Sir, that flier --
16 A -- if you're going to solicit the tenants
17 from that flea market, then obviously you're running a
18 flea market. If you would be soliciting retail store
19 tenants from another shopping center, which is
20 commonly done, then you would be running a shopping
21 center plaza. But what they're soliciting are flea
22 market tenants.
23 Q I want to be clear on this. That flier does
24 not describe Mercado Plaza as a flea market; correct?
25 And take your time in reading it.

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 A It says here -- what it says is booths will
2 be rented first-come/first-served. Buford Highway
3 Flea Market tenants will have the exclusive during two
4 weeks until August 25 to choose a booth. From there
5 on you will be able to choose on what is available at
6 the moment. Reservations will be made upon receiving
7 security deposit.

8 Okay. To me, they are apparently handing
9 this out or going to the booths in the Buford Highway
10 Flea Market and giving the tenants at the Buford
11 Highway Flea Market the first choice to go from there
12 to over here.

13 Q Well, my question is a simple one: That
14 flier does not specifically describe Mercado Plaza as
15 a flea market; correct?

16 A Okay.

17 Q I'm asking the question, sir. Does it say
18 Mercado --

19 A Well --

20 Q -- Plaza is a flea market? I know what your
21 opinion is and I know why you're here.

22 A Well, you got a picture over here.

23 Q Sir, my question's a simple one.

24 COUNCILMEMBER ALEXANDER: Excuse me, please.

25 THE WITNESS: You --

1 COUNCILMEMBER ALEXANDER: Could we --
2 THE WITNESS: You --

3 COUNCILMEMBER ALEXANDER: -- simplify the
4 scope for him to say where he got the flier.

5 We do not want his interpretation of what
6 the flier said. I thought the purpose of this man
7 testifying, so to speak, was to distinctly say where
8 he got the flier.

9 ATTORNEY McLENDON: I think that is a fair
10 point, and if we would like to maybe narrow the
11 conversation, we can basically limit the evidence to
12 that issue alone is to how we'll consider it.

13 Q Let me -- I have no more questions for you.

14 MR. WEBB: But I would like to raise one
15 issue before I sit down, and I want to make sure one
16 point is -- is clear and understood.

17 MAYOR PITTMAN: (To the witness) You can
18 sit down. Thank you.

19 MR. FRANK: Oh, okay.

20 MR. WEBB: You know, I almost didn't want to
21 even ask Mr. Frank questions because it put undue
22 emphasis on the flier, and I don't think we tried to
23 do that in our appellate statement.

24 The fact is we didn't write it, we didn't
25 have anything to do with it. Mr. Frank has his own

1 opinion and he has his own recollection, and I think
2 there's some -- some issues with that. But it's not
3 the be-all end-all; it's not dispositive.

4 As I got -- as I stated earlier, we don't
5 have to guess what a flea market is. It doesn't
6 matter what Yelp says or Wikipedia or Joe Frank or
7 anybody else says, because you have defined that term.
8 Doraville has a law that says what a flea market is,
9 and if it's not that, then it's not a flea market.
10 And we've certainly provided enough evidence on tha
11 issue to demonstrate we don't fall within the
12 parameters of -- of that definition. So I think, you
13 know, this flier issue is a little bit of a side
14 circus and I -- I regret getting too far into it
15 because I think it puts undue emphasis on an issue
16 that's not dispositive.

17 If you don't believe the issue of the flier,
18 which doesn't use the words "flea market," then let's
19 focus on the definition, because you're not going to
20 be able to support the determinations based on that
21 definition.

22 MAYOR PITTMAN: Mr. McLendon, do you have
23 anything?

24 ATTORNEY McLENDON: No, I have nothing
25 further.

1 MAYOR PITTMAN: Anything, sir?

2 MR. COOLEY: I just did want to give a copy
3 of the Clerk's and . . .

4 MAYOR PITTMAN: So Mr. McLendon, at thi
5 point --

6 ATTORNEY McLENDON: At this point, I thin
7 the evidence close is closed, and take it up to the
8 Mayor and Council.

9 MAYOR PITTMAN: Okay. Councilmembers, dic
10 you have anything else you wanted to add?

11 COUNCILMEMBER FLEMING: I wanted to asl
12 Mr. Cooley a question.

13 MR. COOLEY: Yes, ma'am.

14 COUNCILMEMBER FLEMING: Correct me if I'r
15 wrong, but on November the 4th, was that --

16 MR. COOLEY: Excuse me just one second.
17 I'm sorry. Go ahead.

18 COUNCILMEMBER FLEMING: Was that the agend
19 that -- that this particular item was on the second
20 time?

21 MR. COOLEY: It was on --

22 COUNCILMEMBER FLEMING: Could you please .

23 MR. COOLEY: It was on twice. I don't
24 recall the dates. It was the meeting that was held
25 over at the Civic Center.

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1 COUNCILMEMBER DEAN: The day before the
2 elections; that was the 4th.
3 MR. COOLEY: Correct.
4 COUNCILMEMBER FLEMING: But we had a second
5 meeting in here the following week, I believe,
6 giving --
7 MR. COOLEY: The meeting --
8 COUNCILMEMBER FLEMING: Yes, we had --
9 MR. COOLEY: The meeting was --
10 COUNCILMEMBER FLEMING: -- a second meeting
11 to allow -- if I'm not mistaken. Correct me I'm
12 wrong. We had a second meeting after the initial
13 meeting on November the 4th. That was when the
14 gentleman was ill, and we gave him enough time to come
15 to us again.
16 COUNCILMEMBER ALEXANDER: That was a
17 different issue.
18 MR. COOLEY: That was a different case.
19 COUNCILMEMBER BATES: That was Moon
20 Lingerie.
21 COUNCILMEMBER FLEMING: My apologies. Thank
22 you very much.
23 MR. COOLEY: Certainly.
24 COUNCILMEMBER FLEMING: My apologies.
25 MAYOR PITTMAN: If there's no further

1 another break, please?.
2 MAYOR PITTMAN: Yes, we're going to take a
3 break.
4 We also really need to know -- it's almost 9
5 o'clock, we have at least one more item and then we
6 have an Executive Session. I need a motion to extend
7 it past 9:00, please, if you wish to do so.
8 COUNCILMEMBER ALEXANDER: So moved.
9 MAYOR PITTMAN: Second?
10 COUNCILMEMBER PATRICK: Second.
11 MAYOR PITTMAN: Discussion?
12 -- --
13 (No response)
14 -- --
15 MAYOR PITTMAN: Call the roll, please.
16 CLERK BRYANT: Councilmember Alexander?
17 COUNCILMEMBER ALEXANDER: Yes.
18 CLERK BRYANT: Councilmember Bates?
19 COUNCILMEMBER BATES: No.
20 CLERK BRYANT: Councilmember Dean?
21 COUNCILMEMBER DEAN: No.
22 CLERK BRYANT: Councilmember Fleming?
23 COUNCILMEMBER FLEMING: Yes.
24 CLERK BRYANT: Councilmember Patrick?
25 COUNCILMEMBER PATRICK: Yes.

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1 comments from the Council, does anyone wish to
2 entertain a motion?
3 COUNCILMEMBER BATES: Based upon the
4 information presented by both the City and the
5 applicant and the information that was discussed, I'm
6 going to make a motion to deny the appeal on the
7 administrative zoning determination for 5597 Buford
8 Highway.
9 COUNCILMEMBER DEAN: Second.
10 MAYOR PITTMAN: Discussion?
11 -- --
12 (No response)
13 -- --
14 MAYOR PITTMAN: Call the roll, please.
15 CLERK BRYANT: Councilmember Alexander?
16 COUNCILMEMBER ALEXANDER: Yes.
17 CLERK BRYANT: Councilmember Bates?
18 COUNCILMEMBER BATES: Yes.
19 CLERK BRYANT: Councilmember Dean?
20 COUNCILMEMBER DEAN: Yes.
21 CLERK BRYANT: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Yes.
23 CLERK BRYANT: Councilmember Patrick?
24 COUNCILMEMBER PATRICK: Yes.
25 COUNCILMEMBER ALEXANDER: Mayor, may we have

1 MAYOR PITTMAN: Okay. We will take a five-
2 minute break, come back at 9 o'clock.
3 -- --
4 (Brief recess)
5 -- --
6 MAYOR PITTMAN: Meeting come back to order.
7 All right. And next on the agenda is the
8 Resolution for Annexation, Ms. Alexander.
9 COUNCILMEMBER ALEXANDER: Thank you, Mayor.
10 This is not just a single Councilperson's
11 agenda item. Multiple Council people support this
12 item.
13 As you can see up here, there are three
14 proposed new cities that one or all or some
15 combination of these will probably head to the state
16 legislature at the 2014 session.
17 As we have learned from experience, Georgia
18 Title Code 36-36-4 prohibits creation of
19 unincorporated islands by annexation but it does not
20 prohibit creation of unincorporated islands by
21 incorporation.
22 The majority of these cities will border the
23 other side of I-85 or they may even come over to our
24 side of I-85. One of the ones that's proposed that
25 concerns me most is the city of Tucker, which they're

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

1 not going to just stop at I-85; they're actually
2 trying to come over and take Oakcliff.
3 As you know, based on our 2006 annexation
4 map, that was one of our goals was to get all of
5 Oakcliff into the city of Doraville because we have
6 split jurisdiction not just in the Oakcliff Estate
7 subdivision but in various other subdivisions
8 including in Northwoods where you have half the
9 street's unincorporated Dekalb, half is the city of
10 Doraville, and basically they wanted to come through
11 and put everything on our borders in our jurisdiction.
12 You'll notice that the City of Tucker map,
13 this is Proposal II. The City of Tucker map Proposal
14 I did not cross I-85. I'm not quite sure why they
15 decided to come over into our area, but the state
16 legislature, specifically Representative Holcomb, has
17 been told that no thank you, we do not want that.
18 Another issue that we have, as you know, the
19 City of Chamblee had a huge annexation that was passed
20 by referendum. So what that has done, that has
21 brought the Chamblee borders to the right-of-way of
22 Chamblee-Tucker. So now, geographically, all of this
23 area right in here (indicating) is an island because
24 there is no street access from 85 to get back into --
25 The Northwoods subdivision's over there

1 across from Sequoyah Middle School, Santa Fe Trail,
2 all that area. For Dekalb County to get into those
3 areas, they have to exit I-85, literally go through
4 the city of Chamblee, to come down to turn by the old
5 Quick Trip to get to that area; or if they come from
6 the other end, they have to go into our city.
7 I did argue unsuccessfully with the state
8 legislature that by drawing that boundary line on
9 Chamblee on what I call our side of Chamblee-Tucker,
10 that they technically did create an island by
11 annexation. But they said, Oh, no. Dekalb still
12 borders it by 85.
13 I'm like, Well, what are they going to do?
14 Get a helicopter? because you can't drive there. But
15 anyway, I lost that battle. Just so you know, we do
16 fight behind the scenes. You guys don't know every-
17 thing that we do.
18 So technically, in my opinion, this is an
19 island that Dekalb has no access to this neighborhood.
20 As we've always said, we have always wanted
21 to try to get Oakcliff into our jurisdiction. So
22 basically what this does -- and we have spoken to
23 Representative Taylor, Senator Miller, Representative
24 Holcomb. We've also spoken to Representative Pedro
25 Marin from the Lilburn area. And this is what we want

1 to do: We want to even up our borders. We definitely
2 have to. The legislature's going to sort out this
3 over here, but I made it clear to Representative
4 Holcomb, and I think the rest of Council agrees, we do
5 not want Tucker coming into Oakcliff.
6 I'm sorry, Tucker. No offense to you. But
7 we want to work with you, not start off the bat. Part
8 of the problems we have in Oakcliff is split
9 jurisdiction, and we don't want split jurisdiction
10 again with a new city. I think that would create even
11 more problems than we experience now with Dekalb
12 County.
13 So what this resolution does is it informs
14 the state legislature -- and we wanted to get this
15 prefiled before the session starts in January -- that
16 we are interested in pursuing annexation of these
17 areas.
18 The only border at this time that is not
19 defined is I-85. At a minimum, we will stop on our
20 side of 85, "our side" being the southbound access
21 road.
22 The caveat is whichever one of these cities,
23 if they're approved, if they want to stop on their
24 side of 85, then we cannot leave 85 as an unincor-
25 porated island. So we've talked it over and we've

1 agreed that we will work with whomever the new city
2 is. If they want to take half of 85, if they want to
3 take all of it; if they want us to take all of 85,
4 we'll take it. And Dr. Gillen has spoken to Chief
5 King about that.
6 Another aspect of that is we have experience
7 handling 285, and these other cities don't have any
8 experience handling interstates.
9 So the resolution is to tell the state
10 legislature that we want to proceed with the
11 annexation of the areas east to 85 and south to
12 Chamblee-Tucker and north to the Gwinnett County line
13 So basically it's the same area in yellow on the
14 2006 map that is in the lower righthand corner.
15 MAYOR PITTMAN: Okay. Anyone have any
16 questions or comments?
17 COUNCILMEMBER BATES: Ms. Alexander, thanl
18 you for doing the research on this.
19 I think we all agree that leaving these
20 islands to Dekalb to clean up, address, deal with is
21 not going to happen, and especially now on the south
22 side where that section of Northwoods is really now an
23 island with Chamblee. And with any of the three
24 proposed maps, it will continue to create an island.
25 Dekalb is -- from a police standpoint, is pulling

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1 their officers out. The North Precinct is now
2 Dunwoody. The next closest precinct is --
3 Stone Mountain?
4 MAYOR PITTMAN: Central.
5 COUNCILMEMBER BATES: -- Central. So from a
6 911 access/safety/code enforcement, Dekalb County is
7 just not going to be able, so those areas will
8 continue to deteriorate. And I think anybody who
9 drives through any of those areas knows that they have
10 declined substantially in the last five, ten years;
11 they will continue to.

12 So this is an opportunity. While we still
13 have a lot of work to do to get our ducks in a row, I
14 think this will help to stem some of the decline
15 that's surrounding us and we're all impacted by. We
16 can't impact Gwinnett but we can certainly impact
17 what's to our east and our south, so thank you.

18 MAYOR PITTMAN: And I reiterate: Thank you,
19 Ms. Alexander, for putting that together.

20 Although it may be Dekalb County, it does
21 affect our quality of life because it borders ours and
22 it causes us to look bad, and we get the blame for a
23 lot of it anyway. So I think the best thing we can do
24 is to bring it in so we can control it and clean it up
25 and improve the quality of life of our city.

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1 COUNCILMEMBER PATRICK: When I campaigned
2 last year or in 2012, early 2012, annexation, squaring
3 up our boundaries was one of the things that I thought
4 would be absolutely important for our city to do.

5 And I just want to say thank you, Maria, for
6 doing that. That is definitely what we need. Thank
7 you.

8 MAYOR PITTMAN: Ms. Fleming?

9 COUNCILMEMBER FLEMING: Another source of
10 economic development is annexation, and we have been
11 using the funding sources that are available to us,
12 but annexation is one.

13 And the potential of the appraised value in
14 what we are proposing is going to be -- and this is
15 just the appraised value. It doesn't include the
16 deduction for any type of exemptions -- but about 300
17 million dollars. So I would think that that would be
18 quite an incentive for us to move forward with the
19 annexation as well as the public-safety issue. So I'm
20 looking forward to working with Maria on trying to
21 move this forward.

22 MAYOR PITTMAN: Ms. Dean?

23 COUNCILMEMBER DEAN: Do we know how this
24 would affect our budget in terms of revenues and
25 expenses?

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1 COUNCILMEMBER ALEXANDER: I think that's one
2 of the things for the -- on the agenda sheet is for
3 staff to start gathering that information.

4 DR. GILLEN: We're currently working on a
5 more detailed version of what Pam had mentioned. I
6 know Lisa mentioned that the -- I think the
7 occupational-tax license fees from the liquor store
8 alone were several hundred thousand dollars a year.

9 So we know we have the funding in place to
10 do the additional police officers we're going to need
11 and additional code enforcement that we want to have.
12 I think we want to ramp up code enforcement quickly,
13 more quickly than the police so we can get to the root
14 of the problem but also, you know, we've been
15 budgeting the police department for more officers than
16 we've been using, so we can -- we can get there
17 quickly but we wouldn't want to do it all at once.

18 So the revenue will be there to cover those
19 expenses, and we're going to get more detailed numbers
20 on those. She's working on tax parcel-by-parcel
21 information right now. She's been doing that for
22 several weeks in anticipation of that very question.
23 Thank you.

24 COUNCILMEMBER DEAN: Okay. All right. No,
25 and other than that, thank you for the work that you

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1 put into this.

2 COUNCILMEMBER BATES: And I just want to
3 remind everybody that while Ms. Alexander said that
4 the only way for Dekalb County to get into Santa Fe
5 and those areas back on the Northwoods side is to go
6 through Chamblee and Doraville, the only way for us to
7 get to Honeysuckle Park via a car is to go through
8 unincorporated Dekalb County, so we have a reverse
9 access issue that this will work to fix.

10 And that frustrates me beyond belief that if
11 you want to get from City Hall to Ms. Alexander's
12 house, you can't drive up Buford Highway and stay in
13 the city. You've got to go back roads all the way up
14 to English Oak and then down English Oak to Pin Oak
15 Circle, and it's just a real big issue. It's always
16 been an issue, and this is a way to start addressing
17 some of those issues, especially on Buford Highway and
18 the east side of Buford Highway that everybody
19 perceives to be Doraville but that isn't, so --

20 MAYOR PITTMAN: And I do want to say --
21 touch on what she said. A lot of you don't know
22 that Council and myself, we all do work behind the
23 scenes and fight battles sometimes some of you don't
24 ever hear about. Mr. Bates and I have fought the
25 battle of this Buford Highway clean-up area right here

1 to no avail with Dekalb County, so it would be
2 refreshing to be able to bring it in and clean it up,
3 hopefully, so --
4 COUNCILMEMBER ALEXANDER: I do want to
5 mention that when I spoke to Representative Holcomb
6 last week, Dr. Gillen, if the resolution passes, if
7 you can reach out to him, because he mentioned he
8 wanted to schedule a meeting with our city and the
9 three proposed cities and -- and try to get some of
10 the borders ironed out.
11 I believe the City of Lakeside has already
12 completed their feasibility study, I believe that
13 Tucker and Briarcliff is underway, and I'm assuming
14 that Tucker is doing theirs under this revised map
15 which includes part of the area that we want to annex.
16 DR. GILLEN: Yes. I've been working with
17 the DMA. They're meeting. They had an annexation
18 meeting last Monday about this very topic, and we met
19 with Dekalb County.
20 We have already kind of predetermined the
21 annexation area, so I didn't get into details about
22 what we were going to be doing as far as the time
23 schedule and everything. Lee May from Dekalb County
24 was there to listen to all the cities that want to do
25 annexation. There was about 12 cities there, and they

1 also talked about the new cities.
2 So there is a lot of this going on, and one
3 of the reasons I'm glad you brought you up now is if
4 there was ever a time for the legislature to do this,
5 now is the time.
6 COUNCILMEMBER BATES: Well, I make a motion
7 to adopt the resolution.
8 MAYOR PITTMAN: Second?
9 COUNCILMEMBER FLEMING: Second.
10 MAYOR PITTMAN: Discussion?
11 UNIDENTIFIED SPEAKER: Will you have any
12 public discussion?
13 MAYOR PITTMAN: No, sir.
14 COUNCILMEMBER ALEXANDER: And just as a side
15 note, I also discussed this with Councilmember
16 Pachuta, and she was in support of it also. Sorry
17 she's ill tonight.
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?

1 COUNCILMEMBER FLEMING: Yes.
2 CLERK BRYANT: Councilmember Patrick?
3 COUNCILMEMBER PATRICK: Yes.
4 MAYOR PITTMAN: Okay. Thank you.
5 All right. The next item I believe is going
6 to be the 2013 LWCF Grant Resolution, Mr. Howe.
7 COUNCILMEMBER DEAN: Could we postpone this?
8 I'm waiting for some information that I requested
9 earlier today. Would you mind?
10 MAYOR PITTMAN: Is there a deadline we're
11 trying to meet here?
12 MR. HOWE: Yes. Yes, ma'am. Yes, ma'am.
13 And it's --
14 MAYOR PITTMAN: What is the deadline?
15 MR. HOWE: The deadline was last week. We
16 submitted the preapplication last week, and DNR said
17 you know, we'll consider it if you adopt it Monday
18 night.
19 MAYOR PITTMAN: Okay. Go ahead.
20 MR. HOWE: I'll answer any questions about
21 the language in the application -- or I mean the
22 resolution, rather.
23 But the preapplication is something that I
24 prepared. It was very simple. They require a
25 preapplication and a resolution, and all they're

1 looking for is an affirmation that we will come up
2 with the \$25,000 match.
3 They'll score the -- the preapplication in a
4 quantitative manner. If it scores high enough,
5 they'll come back and ask for the City to submit a
6 formal application probably in February.
7 But any scope questions, any park or
8 planning questions, I'll defer to Mr. Robertson.
9 MAYOR PITTMAN: Okay. Ms. Alexander?
10 COUNCILMEMBER ALEXANDER: The only question
11 I had, I was printing out some large drawings for
12 Councilmember Fleming today, and I just wanted to
13 confirm: Have we completed Phase I completely based
14 on the drawings?
15 MR. ROBERTSON: Based on my knowledge of the
16 entire project, Phase I entailed the back part of that
17 -- of Halpern Park that involved the walking trail and
18 the additional picnic tables, the new swing, and a
19 climbing apparatus. And yes, that portion has been
20 completed.
21 The only thing that was not included in the
22 Phase I was the renovation of the existing pavilion,
23 and we did eliminate two picnic pads.
24 COUNCILMEMBER ALEXANDER: Okay. Thank you.
25 MAYOR PITTMAN: Mr. Bates?

1 COUNCILMEMBER BATES: What would Phase II
2 include or what would this -- this --

3 MR. ROBERTSON: Well, this -- the money
4 we're asking for will include the addition of a
5 tot/preteen playground area which would have the
6 slides and the swings and -- for smaller kids. What
7 we've got now is the climbing apparatus that is really
8 classified as a teen play area. So we're trying to
9 add the tot and preteen play area.

10 COUNCILMEMBER BATES: Thank you.

11 MAYOR PITTMAN: Mr. Patrick?

12 COUNCILMEMBER PATRICK: I'll wait for
13 Ms. Fleming to make her comments.

14 MAYOR PITTMAN: Ms. Fleming?

15 COUNCILMEMBER FLEMING: Am I next?

16 MAYOR PITTMAN: Yes.

17 COUNCILMEMBER FLEMING: Mr. Robertson, with
18 all due respect -- and I know you came in at the very
19 end of all of the work that had been done from 2007
20 and '8. I had a meeting with Dr. Gillen today, and he
21 assures me that you and I and he and Mr. Patrick will
22 sit down to discuss Phase I and what your plans are
23 for Phase II, because we, Mr. Patrick and I do indeed
24 feel that a scaled-down soccer field needs to remain,
25 because our district, District I, is using it as an

1 active park, and so it needs to be a scaled-down with
2 the fencing, with the chain link fencing up.

3 So I'm in favor of going forward with the
4 preliminary application for Phase II, but I would want
5 to see a complete detail. When we go to do the final
6 application, I would want to see the detail before we
7 even submit it, because as I explained to Dr. Gillen
8 today, Ms. Alexander and Mr. Spangler were extremely
9 hands-on in promoting English Oak Park, and that park
10 is just a showcase, I think. And you know, to me, it
11 was a community effort, it was a Council effort.

12 And I'm hoping that Mr. Patrick and I will
13 be able to work with you and Dr. Gillen to -- to see
14 all four phases complete at some point.

15 So I'm okay with moving forward with Phase
16 II, but I'm looking forward to our meeting in the next
17 couple weeks.

18 MR. ROBERTSON: Oh, absolutely. Yes, ma'am.

19 MAYOR PITTMAN: Okay. Mr. Patrick, do you
20 want to add to that?

21 COUNCILMEMBER PATRICK: Yes. Sounds good;
22 let's do it.

23 It would be nice to have this park finished
24 off. There are residents that I see that bring their
25 children about the same age as my kids from Avery

1 Park. It's a great little park. The residents that
2 are in this area, when I talk with them, they say, you
3 know, let's -- let's keep the improvements going.

4 So let's have that meeting and work out a
5 plan for this.

6 MAYOR PITTMAN: Okay. Ms. Dean?

7 COUNCILMEMBER DEAN: I asked for infor-
8 mation, the amount of money that we've spent on this
9 so far. And a reference was made at the last
10 meeting -- I was not in attendance but I watched the
11 DVD -- about a park master plan. And this is the
12 whole deal with the CIP plan, capital improvement plan
13 list, because I think this was done -- this was
14 implemented before I was actually on Council. And so
15 I would like to see, you know, a bigger picture so
16 that it can make sense to me, because I see, you know,
17 why would we put this much money, more than we had
18 intended to put in; because I know that it came before
19 Council, and I think 10 or 12 dollars more than we
20 discussed, and so it just seems to be more and more
21 and more.

22 So I just have -- I would like to see the
23 bigger picture of what the park master plan is before
24 I'm willing to say, Yeah, here's some more money, you
25 can do this, because I see there are a lot of areas in

1 the city, a lot of equipment, a lot of even the
2 curbside little parks in Northwoods that need a lot
3 attention. And people don't even go to these places
4 because, number one, it's on the side of the street
5 and it's not good. I mean it's just not good stuff.

6 So those are my comments.

7 COUNCILMEMBER BATES: And I just want to
8 jump in. I'm going to support the resolution because
9 I don't want to have a half-finished park.

10 However, that being said, Oakcliff has a
11 brand new beautiful park. You guys have a stream bank
12 restoration and a Phase I completed park along with a
13 new pavilion at Chicopee.

14 Northwoods has received a stream bank
15 restoration project. That is it. We have playground
16 equipment that is unsafe, that is broken. We don't
17 have walking trails. We have neglected Northwoods to
18 better Oakcliff and Winters Chapel, and I'm supporting
19 this because I want us to finish projects that we
20 start. But I want to make sure that Northwoods is on
21 the schedule because we've got two parks that are in
22 absolute utter disrepair.

23 I don't know the last time any of you have
24 been to the pavilion at Brook Park, but you've got
25 bricks that are falling apart, the pit is not working.

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1 You've got swings that are broken at Autumn Park.
2 We've got to put money back into all of our parks.
3 I'm supporting this, but I want it to be
4 very clear on the record that we've got to start
5 spreading -- spreading the goods around.
6 MAYOR PITTMAN: Do you have something else
7 you wanted to say?
8 MR. ROBERTSON: No. The only thing I'd add
9 to that is that in the CIP there is a city-wide park
10 master plan, and that helps prioritize a lot of the
11 work.
12 And yes, we do have a lot of work to do;
13 absolutely.
14 MAYOR PITTMAN: Okay. Thank you.
15 Does anyone wish to entertain a motion?
16 COUNCILMEMBER FLEMING: I'd like to make a
17 motion to move forward with the resolution for the LCW
18 grant of \$25,000 with a matching of \$25,000 from the
19 City.
20 MAYOR PITTMAN: Second?
21 COUNCILMEMBER PATRICK: Second.
22 MAYOR PITTMAN: Discussion?
23 - - -
24 (No response)
25 - - -

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1 MAYOR PITTMAN: Call the roll, please.
2 CLERK BRYANT: Councilmember Alexander?
3 COUNCILMEMBER ALEXANDER: Yes.
4 CLERK BRYANT: Councilmember Bates?
5 COUNCILMEMBER BATES: Yes.
6 CLERK BRYANT: Councilmember Dean?
7 COUNCILMEMBER DEAN: No.
8 CLERK BRYANT: Councilmember Fleming?
9 COUNCILMEMBER FLEMING: Yes.
10 CLERK BRYANT: And Councilmember Patrick?
11 COUNCILMEMBER PATRICK: Yes.
12 MAYOR PITTMAN: Okay. Motion carries.
13 Thank you very much.
14 So we are going into Council comments.
15 Ms. Alexander, did you have any Council
16 comments?
17 COUNCILMEMBER ALEXANDER: And we also have
18 an Executive Session.
19 I just wanted to thank everyone that
20 contributed to Toys for Tots. And as a reminder, we
21 still have our collection boxes in the lobby, and I
22 have until I believe the 19th to continue collecting
23 toys. So please stop at Dollar Tree or when you're
24 out Christmas shopping for your own family, please
25 bring new unwrapped toys and place them in the box at

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1 City Hall, and I'll deliver them to the marine.
2 I believe Councilman Bates helped bag the
3 toys, and I think we filled up a pickup truck Saturday
4 night, so that was good and pleasant.
5 And a special shout out to Church of the New
6 Covenant on Chestnut Drive who had a toy collection
7 site at their church and they also filled up a box for
8 it, so a shout out to them for helping, and Deborah
9 also.
10 MAYOR PITTMAN: It was very nice. I think
11 we had much more this year than we did last year, so
12 it was encouraging.
13 They're still below their -- their quota,
14 though. They're still lacking toys, so --
15 COUNCILMEMBER ALEXANDER: And I also want to
16 thank Councilman Bates for being my seat mate -- we
17 started serving I call it our sentence on November
18 19th of 2007 -- and a warning to have whoever sits
19 next to me, as several people will attest, sometimes
20 he and I got berated for giggling, but my stomach
21 constantly growls, and it isn't easy. And one of the
22 funniest times was when Mayor Jenkins was sitting in
23 it was so loud that he leaned over in the meeting and
24 looked at me. I could have died. But just so you
25 know, whoever sits there you're going to have to put

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1 up with it.
2 COUNCILMEMBER BATES: Mr. Bates?
3 COUNCILMEMBER BATES: I want to thank the
4 volunteers who came out to help work the road race.
5 Nancy Kelly and Jeff and Terry and Elliott from your
6 neck of the woods and another young lady whom I don't
7 know but who served as traffic control persons with
8 officers out there at the road race.
9 Thanks to all the volunteers who made this
10 Saturday great and to Rip and your crews -- you guys
11 did a great job in coordinating that -- and
12 Ms. Fleming for doing the beverages and being stuck
13 behind the masses, kids getting their picture taken.
14 And it's been an honor and pleasure to serve
15 the city, so thank you very much. I look forward to
16 this Council and the next council doing great things.
17 Welcome aboard, glad to have you, and we'll
18 see you around.
19 MAYOR PITTMAN: Thank you, Mr. Bates. And I
20 do want to say we thank you for your service and we
21 appreciate all the hard work you've done over the
22 years as well.
23 COUNCILMEMBER BATES: My pleasure.
24 MAYOR PITTMAN: Mr. Patrick?
25 COUNCILMEMBER PATRICK: I just want to say

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1 thank you to Brian and Karen. We have disagreed on a
2 lot of issues, but it has been a pleasure to work with
3 you. I look forward to Dawn and Sharon, working with
4 them next year, but good luck to you guys, and we will
5 -- we will talk again.
6 MAYOR PITTMAN: Ms. Fleming?
7 COUNCILMEMBER FLEMING: Ditto, ditto.
8 Ditto, ditto, ditto.
9 Brian, you've been more than just a
10 Councilperson. You've been a good friend, and I
11 really appreciate all that you've done for the city.
12 I know your passion is still with us, and I'll make
13 sure at some point that we get Winters Chapel in front
14 of your offices definitely paved. Okay?
15 COUNCILMEMBER BATES: Hey. It's liking
16 driving through a slalom course.
17 COUNCILMEMBER FLEMING: I know, I know.
18 MAYOR PITTMAN: And he is a good
19 entertainer. You don't know that.
20 COUNCILMEMBER BATES: That's right.
21 MAYOR PITTMAN: He keeps us giggling behind
22 the scene.
23 COUNCILMEMBER PATRICK: Yeah.
24 MAYOR PITTMAN: Ms. Dean?
25 COUNCILMEMBER DEAN: Yeah. Thank you to

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1 Councilmember Bates and Councilmember Pachuta.
2 I have your phone number and I will use it,
3 I am sure, a number of times, to talk to you about
4 things going on in the city. Thank you.
5 MAYOR PITTMAN: Thank you, Brian.
6 ---
7 (Applause)
8 ---
9 MAYOR PITTMAN: All right. I think at this
10 time that we need a motion to go into Executive
11 Session.
12 COUNCILMEMBER ALEXANDER: So moved.
13 MAYOR PITTMAN: Second?
14 COUNCILMEMBER DEAN: Second.
15 MAYOR PITTMAN: Discussion?
16 ---
17 (No response)
18 ---
19 MAYOR PITTMAN: Call the roll, please.
20 CLERK BRYANT: Councilmember Alexander?
21 COUNCILMEMBER ALEXANDER: Yes.
22 CLERK BRYANT: Councilmember Bates?
23 COUNCILMEMBER BATES: Yes.
24 CLERK BRYANT: Councilmember Dean?
25 COUNCILMEMBER DEAN: Yes.

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1 CLERK BRYANT: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BRYANT: Councilmember Patrick?
4 COUNCILMEMBER PATRICK: Yes.
5 ---
6 (Executive Session from 9:30 to 9:53 p.m.)
7 ---
8 MAYOR PITTMAN: Let's have a motion to come
9 out of Executive Session.
10 COUNCILMEMBER BATES: So moved.
11 MAYOR PITTMAN: Second?
12 COUNCILMEMBER ALEXANDER: Second.
13 MAYOR PITTMAN: Discussion?
14 ---
15 (No response)
16 ---
17 MAYOR PITTMAN: Call the roll, please.
18 CLERK BRYANT: Councilmember Alexander?
19 COUNCILMEMBER ALEXANDER: Yes.
20 CLERK BRYANT: Councilmember Bates?
21 COUNCILMEMBER BATES: Yes.
22 CLERK BRYANT: Councilmember Dean?
23 COUNCILMEMBER DEAN: Oh, yes.
24 COUNCILMEMBER FLEMING: Yes.
25 COUNCILMEMBER PATRICK: Yes.

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1 MAYOR PITTMAN: We need a motion to adjourn.
2 COUNCILMEMBER BATES: I would like to make a
3 motion to adjourn the meeting tonight.
4 MAYOR PITTMAN: Second?
5 COUNCILMEMBER ALEXANDER: Second.
6 MAYOR PITTMAN: Discussion?
7 ---
8 (No response)
9 ---
10 MAYOR PITTMAN: Call the roll, please.
11 CLERK BRYANT: Councilmember Alexander?
12 COUNCILMEMBER ALEXANDER: Yes.
13 CLERK BRYANT: Councilmember Bates?
14 COUNCILMEMBER BATES: Yes.
15 CLERK BRYANT: Councilmember Dean?
16 COUNCILMEMBER DEAN: Yes.
17 CLERK BRYANT: Councilmember Fleming?
18 COUNCILMEMBER FLEMING: Yes.
19 CLERK BRYANT: Councilmember Patrick?
20 COUNCILMEMBER PATRICK: Yes.
21 ---
22 (Meeting adjourned at 9:55 p.m.)
23 -o0o-
24
25

Attachment: DEC 2 minutes (1028 : Minutes of Dec 2, 2013)

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 11th day of December 2013.

16

17

18 Theresa Bretch, CCR

19 Permit No. B-755

20

21

[SEAL]

22

23

24

25

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77:22;110:11;116:15;
117:12
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21:17**Y**

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11:17;14:4;24:24;
25:12,14,18,20,22;26:7;
27:18;29:25;40:1,9,15,
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City Council

Meeting: 01/06/14 06:30 PM Category:

Policy

STATUS: SCHEDULED

Prepared By: Steven Strickland

Initiator: Steven Strickland

AGENDA ITEM (ID # 1021)

Stormwater Policy

SW Policy w/ easement agreements attached

- Stormwater Policy (DOCX)

City of Doraville

Stormwater Policy

Adopted by the Mayor and City Council

Goal

The goal of the stormwater policy is to improve the City's stormwater infrastructure to meet strong community standards. A long-term planning project is required in order to meet this goal. However, limited resources and staff require that such a policy must be established and implemented in phases through a systematic approach.

The first step in this process is to provide a policy to handle requests on a short-term basis. This policy is designed to serve that purpose until another system with additional funding is adopted. This policy will establish the division of responsibility for maintenance and establish categories of projects to prioritize City implementation.

City Responsibilities

There are two types of infrastructure:

- Infrastructure that is City responsibility, and
- Infrastructure that is not City responsibility.

Determination of City responsibility will be determined on a case-by-case basis and will include, but is not limited to, the following factors:

- Project located in or adjacent to City right-of-way,
- Project located in an easement dedicated to the City or previous governmental entity,
- Project located in drainage easement not specifically dedicated to the City or previous governmental entity,
- Drainage systems as approved on recorded plats, and
- Changes made to drainage systems.

The City Attorney will provide an opinion to determine the City's responsibility on a case-by-case basis. Provided, however, the City shall not be liable or responsible for anything that was not dedicated to and/or accepted by the City as City responsibility, specifically in circumstances of commercial development which included stormwater infrastructure built by the developer.

Emergency Maintenance

The City may conduct emergency maintenance operations within drainage easements in order to protect the common good. Emergency maintenance includes maintenance necessary to remedy a condition which is potentially damaging to life, property, or public roads. Such emergency maintenance, conducted for the common good, shall not be construed as constituting accepting a continuing maintenance obligation by the City, nor prevent the City from seeking reimbursement for expenses from the property owner(s) of the land that generated the condition.

Categorizing Project Requests

There are currently more projects than the City can address at one time. The order of response to these projects will be determined by the category of the request. Requests for projects will be categorized as:

- Category I: Posing an immediate danger or threat to public safety,
- Category II: Rapidly degrading to a dangerous condition, or
- Category III: Maintenance or cosmetic repair.

Projects in Category I will receive priority.

City Stormwater staff will review project requests and will perform the initial project categorization. Stormwater staff will periodically monitor the conditions at the project location, prior to repair/maintenance, and will modify the categorization when needed.

Funding Issues (Set Funding Allocated in Budget)

The Mayor and City Council may allocate funding for stormwater projects during each budget cycle. Projects will be recommended for implementation based on the determination of City responsibility, by Category, and by approved funding level.

Standard Document(s) attached hereto:

- Permanent Drainage Easement
- Permanent Access Easement

PERMANENT DRAINAGE EASEMENT

THIS AGREEMENT is entered into this _____ day of _____, 20__ between _____ herein referred to as the "Grantor", and the CITY OF DORAVILLE, GEORGIA, hereinafter called the "Grantee".

WHEREAS, the Grantee is desirous of obtaining a permanent drainage easement for the construction, maintenance, and future improvements or upgrades of drainage appurtenances as described in Exhibit "A" on or across the property of Grantor located at _____, Doraville, Georgia, more particularly described on the Final Plat as recorded in Plat Book ____, page ____, DeKalb County Records (hereinafter referred to as the "Property"), and incorporated herein by reference.

WHEREAS, Grantor desires to convey said permanent drainage easement and any and all stormwater infrastructure improvements located within said permanent drainage easement in the said described property as is further shown on the attached Exhibit "A", and incorporated herein by reference.

NOW, THEREFORE, for and in consideration of One dollar (\$1.00) and other valuable consideration in hand paid by each party to the other, it is HEREBY AGREED as follows:

1. The City of Doraville hereby agrees to maintain the City Stormwater Infrastructure as set forth in Exhibit "A" in a structurally sound condition so that it satisfies its stormwater management function to protect the public health, safety, and welfare.

2. The Grantor hereby agrees to provide prompt notice to the City of any maintenance issues regarding the functioning of the pond and/or stormwater infrastructure.

3. The Grantor hereby grants to the City of Doraville a Permanent Easement to enter upon the premises for purposes of inspection, maintenance, and improvements to the City Stormwater Infrastructure. Provided, however, that the City of Doraville shall provide 24 hour notice of the City's intention to enter upon the property. Except, however, no notice shall be required in the event of an emergency threatening loss of life or property, Doraville is hereby granted immediate access to the Easement Area to perform any required maintenance or improvements.

4. Owner is prohibited from: a) the importation of fill or debris into the Easement Area, b) any modification to any structure or any action which increases the volume of water entering into the City Stormwater Infrastructure without the City of Doraville's approval, c) constructing or maintaining any structure which would obstruct the City of Doraville's ability to maintain the City Stormwater Infrastructure, d) any action violating a state or federal law or local ordinance with respect to the City Stormwater Infrastructure. Owner understands and agrees that the City of Doraville has the right to remove any trees, vegetation or structures which obstruct access to the Easement Area.

5. The Owner agrees that the City can assign its rights and responsibilities under this agreement.

6. This agreement shall be binding upon and insure to the benefit of the parties hereto and their respective executors, administrators, heirs, successors and successors-in-title, whether voluntary by action of the parties or involuntary by operation of law. IT IS HEREBY STIPULATED AND AGREED that this Agreement constitutes a covenant running with the land herein described.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed under seal as of the date of acceptance by Owner.

OWNER:

_____	_____ (Seal)
Unofficial Witness	Grantor
_____	_____ (Seal)
Notary Public	Grantor
(Seal)	

CITY OF DORAVILLE:

_____	CITY OF DORAVILLE, GEORGIA _____
Notary Public	
	By: _____
	Mayor
Attest:	Approved as to Form:
_____	_____
City Clerk	Office of the City Attorney

Attachment: Stormwater Policy (1021 : Stormwater Policy)

PERMANENT ACCESS EASEMENT

STATE OF GEORGIA
DEKALB COUNTY

WHEREAS, THE CITY OF DORAVILLE (hereafter referred to as the "City) desires to access a storm drain appurtenance for perpetual maintenance and repairs on the lands owned by the undersigned located in Land Lot ____ of the ____th District of DeKalb County, Georgia, as shown and delineated on Exhibit "A" attached hereto, and made a part hereof;

NOW THEREFORE, I (We) the undersigned do(es) hereby grant to the City the right to maintain over and upon my land abutting on and adjacent to the right of way, any embankment or cuts needed in such manner as said City may deem proper to support or accommodate subject improvements as shown within the easement area on the attached Exhibit "A".

The work will be done with as little inconvenience to the property owner as is consistent with reasonable progress. The property will be dressed, grassed and left in good, clean condition upon completion of the work.

The City will clear any and all structures and vegetation in the easement area, and under no circumstances is the City obligated to re-construct any structures or re-landscape other than the replanting of grass within the easement area.

I (We) release the City from any and all past, present or future claims for damages or further compensation for the acquisition of the easement and rights herein conveyed, including any claims for consequential damages to the remainder of Grantor's property, arising out of or in any way connected with the proper, non-negligent construction of any backwater, changing of courses of streams, surface water or in any other manner.

IN WITNESS WHEREOF the Owner has hereunto set _____hand and seal this _____ day of _____, 2013.

Signed, sealed and delivered
in the presence of

Witness _____(L.S.)

_____(L.S.)

Attachment: Stormwater Policy (1021 : Stormwater Policy)

City Council
Meeting: 01/06/14 06:30 PM Category:
Amendment
STATUS: SCHEDULED

Prepared By: Joe Cooley
Initiator: Joe Cooley

AGENDA ITEM (ID # 1020)

Amendment to C-2 Zoning for New Auto Dealerships along PIB

Currently auto dealerships, for both new and used vehicles, are allowed only in the M-1 zoning district by Conditional Use Permit. In addition to the other regulations set out in the M-1 district is the requirement "that each lot or lot with accessory use garage shall be a minimum of six (6) acres in size, must have a minimum lot width of six hundred (600) feet on the frontage right-of-way line on an arterial street and any work done on vehicles exclusive of cleaning must be done in a wholly enclosed facility. Cleaning of vehicles shall be limited to exterior water cleaning only without the use of chemical agents. All automobile sales lots and automobile sales lots with accessory use garages and associated parking shall be on graded and paved surfaces."

Peachtree Industrial Blvd from the intersection of I-285 south towards Chamblee has developed as new car dealership business cluster. The Porsche and Lexus are within the city limits of Doraville. However, under the City of Doraville zoning regulations these two dealerships are legal non-conforming uses as they are in the C-2 zoning district. The Porsche dealership also does not meet the minimum acreage requirement.

It is believed the intent of the zoning change made restricting auto dealerships to M-1 and 6 acres was to restrict the spread of an overabundance of used auto lots, mostly on small lots, along Buford Highway and other C-2 areas. It appears that an unintended consequence is that it also has made the existing Porsche and Lexus dealerships non-conforming and precludes development of additional new dealerships providing manufacturer-authorized car franchise facilities along the new auto dealership cluster along Peachtree Industrial Blvd.

Parcels located at the intersection of Interstate I-285 and Peachtree Industrial Blvd. Are identified in the LCI plan as Highway Commercial land use. This is recognized in the proposed Livable Community Code (form based code) Framework Plan with this area designated Highway Commercial to remain as a C-2 zoning district. City Council directed this item to the Planning Commission for their review and recommendations.

Planning Commission Recommendation: The Planning Commission heard and reviewed the proposed amendment to the C-2 zoning district and recommended approval with the following conditions:

- There be a minimum lot size of two (2) acres;
- The use be restricted to the area shown in the LCI as C-2 at the area around the intersection of Peachtree Industrial Blvd. And Interstate I-285 to include both of the existing new auto dealerships at that intersection (Porsche and Lexus dealerships);
- The use be restricted to factory-authorized franchise dealerships selling new vehicles with used vehicle sells as a customary secondary ancillary use only.

Staff Recommendation: Staff recommends approval incorporating recommendations of the Planning Commission.

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2013-__

AN ORDINANCE TO AMEND THE CITY OF DORAVILLE, GEORGIA, ZONING ORDINANCE TO REVISE ARTICLE IX, DISTRICT REGULATIONS, TO ADD ADDITIONAL USE TO C2 COMMERCIAL ZONING DISTRICT; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Doraville are charged with preserving the health, safety and welfare of the citizens of the City; and

WHEREAS, Chapter 23, Zoning, currently allows automobile sales in the M1 and M2 Manufacturing districts, and only with a property that is at least 6 acres in size; and

WHEREAS, the Mayor and City Council believe that a certain area of the City, in a C2 Commercial district, is appropriate for the inclusion of certain manufacturer-backed automotive sales of new vehicles consummate with the character of the area as well as directly surrounding uses; and

WHEREAS, the Mayor and City Council, in order to allow said limited automotive sales uses in C2 desires to revise the Zoning Ordinance to that effect; and

WHEREAS, a properly advertised public hearing pursuant to the requirements of the Georgia Zoning Procedures Act has been held and the adoption of this Zoning Amendment is proper pursuant to the requirements of the ZPA.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

Chapter 23 (“Zoning”) of the Code of Ordinances, City of Doraville, is hereby amended by revising Article IX (“Schedule of District Regulations”), Section 23-910 (“C2 General Business District”), to include as a *permitted use* in said section the following:

“Manufacturer-authorized car franchise dealership with customary sales and service of primarily new automobiles as well as pre-owned automobiles as a secondary accessory use; having a minimum lot size of two (2) acres; and located within one thousand three-hundred (1,300) feet of the right-of-way of Peachtree Industrial Boulevard and within the area formed by the Interstate I-285 loop highway, said area also known as being inside of the I-285 Perimeter highway.”

Section 2

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this ____ day of _____, 2013.

CITY OF DORAVILLE, GEORGIA

Mayor

First Reading

Second Reading

ATTEST:

_____(SEAL)
Sandra Bryant, City Clerk

APPROVED AS TO FORM:

Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	<input type="checkbox"/>	<input type="checkbox"/>
Brian Bates	<input type="checkbox"/>	<input type="checkbox"/>
Pam Fleming	<input type="checkbox"/>	<input type="checkbox"/>
Karen Pachuta	<input type="checkbox"/>	<input type="checkbox"/>
Trudy Jones Dean	<input type="checkbox"/>	<input type="checkbox"/>
Robert Patrick	<input type="checkbox"/>	<input type="checkbox"/>

City Council
Meeting: 01/06/14 06:30 PM Category:
Amendment
STATUS: SCHEDULED

Prepared By: Joe Cooley
Initiator: Joe Cooley

AGENDA ITEM (ID # 1023)

Adoption of 2012 International Property Maintenance Code update

The City of Doraville previously adopted the 2006 edition of the International Property Maintenance Code (IPMC) with its amendments. The State has adopted the 2012 edition of the IPMC as its latest version and the City desires to adopt the 2012 Edition in order to stay current with state adoptions and provide best for the health, safety and welfare of the citizens of the City.

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2014-__

AN ORDINANCE TO ADOPT THE 2012 EDITION OF THE INTERNATIONAL PROPERTY MAINTENANCE CODE, AND AMENDMENTS THERETO, REGULATING AND GOVERNING THE CONDITIONS AND MAINTENANCE OF ALL PROPERTY, BUILDINGS AND STRUCTURES; BY PROVIDING THE STANDARD FOR SUPPLIED UTILITIES AND FACILITIES AND OTHER PHYSICAL THINGS AND CONDITIONS ESSENTIAL TO ENSURE THAT STRUCTURES ARE SAFE, SANITARY AND FIT FOR OCCUPATION AND USE; AND THE CONDEMNATION OF BUILDINGS AND STRUCTURES UNFIT FOR HUMAN OCCUPANCY AND USE AND THE DEMOLITION OF SUCH EXISTING STRUCTURES IN THE CITY OF DORAVILLE, GEORGIA; PROVIDING FOR THE ISSUANCE OF PERMITS AND COLLECTION OF FEES THEREFORE; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Doraville are charged with preserving the health, safety and welfare of the citizens of the City; and

WHEREAS, the adoption of the International Property Maintenance Code ("IPMC") helps to ensure the safety of property, buildings and structures in the City; and

WHEREAS, the adoption of the IPMC is recommended by the State of Georgia as one of the required international codes for a qualified municipality; and

WHEREAS, the City of Doraville previously adopted the 2006 edition of the IPMC with its amendments; and

WHEREAS, the State has adopted the 2012 edition of the IPMC as its latest version and the City thus hereby desires to adopt the 2012 Edition in order to stay current with state adoptions and provide best for the health, safety and welfare of the citizens of the City.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

Chapter 5, Section 5-26 and 5-27 of the City of Doraville Code of Ordinances shall be amended by readopting the IPMC and inserting local amendments to read in their entirety as follows:

Sec. 5-26. Adoption of International Property Maintenance Code.

That a certain document, three (3) copies of which are on file in the City of Doraville, one (1) at the office of the City Clerk, and two (2) at the office of the Planning Department, being marked and designated as the International Property Maintenance Code, 2012 edition, as published by the International Code Council, be hereby adopted as the Property Maintenance Code of the City of Doraville for regulating and governing the conditions and maintenance of all property, buildings and structures; by providing

the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings and structures unfit for human occupancy and use and the demolition of such existing structures as herein provided; providing for the issuance of permits and collection of fees therefore; and each and all of the regulations, provisions, penalties, conditions and terms of said Property Maintenance Code on file in the offices stated above are hereby referred to, adopted and made part of as if fully set out in this ordinance with the additions, insertions, deletions and changes prescribed in Section 2 of this ordinance.

Sec. 5-27. Amendments to IPMC

The following sections are hereby revised:

Section 101.1. Insert “City of Doraville”

Section 103.1. Change “Department of Property Maintenance” to “Community Development Department, Code Compliance Division.”

Section 103.5. Delete section and insert “*Fees shall be as determined by the Authority having Jurisdiction and appropriately posted.*”

Section 106.2. Add sentence: “*A citation without prior notice of violation may be served upon owner of property where a notice of any violation had previously been served within a 24-month period prior to the new violation.*”

Section 106.4. Add sentence: “*Penalties assessed for each violation shall be either a fine of up to \$1,000 or a term of incarceration of up to 6 months, or both.*”

Section 107.1 is amended to read as follows:

Notice to person responsible. Whenever the building official determines that there has been a violation of this code or has grounds to believe that a violation has occurred, if a notice is issued, it may, but is not required to be, given in the manner prescribed in Section 107.2 and 107.3 to the person responsible for the violation as specified in this code. Notices for condemnation procedures shall also comply with Section 108.3. The building official shall have the power to issue subpoenas requiring occupants, residents, owners, or parties in interest of buildings under inspection, investigation, or who have been accused of a violation of this article to appear in Doraville Municipal Court. The building official or his/her designee shall also have the power to issue subpoenas to occupants, residents, owners, or parties in interest to produce written records related to the property under inspection or investigation.

Section 302.4. Insert “10 inches”.

Chapter 3, General Requirements, Section 303, Swimming Pools, Spas and Hot Tubs, of the International Property Maintenance Code, as adopted by the City of Doraville, is hereby amended by the addition of Section 303.3 following Section 303.2, to read as follows:

“Discharge of Swimming Pools. The discharge of water from a swimming pool, regardless of location, size, or use type (public or private), into the environment shall be governed by the following criteria, depending on the type of occurrence:

Section 303.3.1. *Major Discharges.* The discharge of chlorinated swimming pool water in an amount exceeding that which is necessary for routine back

flushing of a filtration system, as a result of normal use or that occurs as a result of overflow caused by precipitation. Quantities exceeding these occurrences shall be required to conform to the following criteria:

- Pool water shall not be discharged directly into any waters of the State of Georgia.
- Notice of intent to discharge/drain a swimming pool must be submitted to the City of Doraville at least two (2) weeks in advance of the proposed event.
- Pool water must sit at least two (2) weeks after the last addition of chlorine or until the level of chlorine is below 0.1 mg/l. This is the Reference Dose based on the United States Environmental Protection Agency 2006 Edition of Drinking Water Standards and Health Advisories. It is an estimate of a daily oral exposure to the human population (including sensitive subgroups) that is likely to be without an appreciable risk of deleterious effects during a lifetime.
- The ph of the water must be between 6.5 and 8.5 before it is discharged (this represents a neutral range for discharge water that is neither acidic nor basic in nature).
- Discharges shall not be allowed to create erosive conditions.
- Discharge the water in a manner that will prevent nuisance conditions (such as creation of odors and mosquito breeding areas).

- Pool water shall not be discharged onto the property of an adjacent homeowner, without notification and unless a dedicated drainage easement exists in the path of discharge.
- Discharges to the environment should be directed over a vegetated surface to allow filtration to occur.
- Pool water shall not be discharged into the sanitary sewer system without prior approval from the local sewer authority (DeKalb County Government). Additionally, as a disinfectant, chlorinated pool water is generally not desirable as an additive to a system reliant on microorganisms for effective operation (unless de-chlorinated to the standard listed herein).
- Pool water shall not be discharged directly into the storm sewer system, unless water has been de-chlorinated to a concentration of <0.1 mg/l.

Section 303.3.2. *Minor Discharges*: the discharge of chlorinated swimming pool water for the purposes of routine maintenance of filtration systems (back-flushing filters), as a result of normal use or as a result of overflow due to precipitation shall meet the following criteria:

- Pool water shall not be discharged directly into any waters of State of Georgia.
- Discharges shall not be allowed to create erosive conditions.
- Discharge the water in a manner that will prevent nuisance conditions (such as creation of odors and mosquito breeding areas).

- Pool water shall not be discharged onto the property of an adjacent homeowner, without notification and unless a dedicated drainage easement exists in the path of discharge.
- Discharges to the environment should be directed over a vegetated surface to allow filtration to occur.
- Pool water shall not be discharged into the sanitary sewer system without prior approval from the local sewer authority (DeKalb County Government).
- Pool water shall not be discharged directly into the storm sewer system, unless water has been de-chlorinated to a concentration of <0.1 mg/l.

Section 602.3. Insert "*October 1st and April 1st.*"

Section 2

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3

That nothing in this ordinance or in the Property Maintenance Code hereby adopted shall be construed to affect any suit or proceeding impending in any court, or any rights acquired, or liability incurred, or any causes of action acquired or existing, or under any act or ordinance hereby repealed; nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

Section 4

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 5

This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this ____ day of _____, 2014.

CITY OF DORAVILLE, GEORGIA

Mayor

First Reading

Second Reading

ATTEST:

(SEAL)
Sandra Bryant, City Clerk

APPROVED AS TO FORM:

Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	<input type="checkbox"/>	<input type="checkbox"/>
Dawn O'Connor	<input type="checkbox"/>	<input type="checkbox"/>
Pam Fleming	<input type="checkbox"/>	<input type="checkbox"/>
Sharon Spangler	<input type="checkbox"/>	<input type="checkbox"/>
Trudy Jones Dean	<input type="checkbox"/>	<input type="checkbox"/>
Robert Patrick	<input type="checkbox"/>	<input type="checkbox"/>

City Council
Meeting: 01/06/14 06:30 PM Category:
Amendment
STATUS: SCHEDULED

Prepared By: Joe Cooley
Initiator: Joe Cooley

AGENDA ITEM (ID # 1024)

Adoption of State Updated Building Codes

Chapter 5 ("Building Code") of the City of Doraville Code currently contains referential adoption of the State Minimum Standard Mandatory and Permitted Codes. Effective January 1, 2014, the State of Georgia has adopted an updated (2012) version of said standard codes, incorporating its 2014 changes and amendments. In order to keep up with the adoptive codes of the states and provide the most updated and efficient health, safety and welfare code enforcement in the City, the City of Doraville desires to update its referential Standard Code adoption in order to effectuate the updated changes by the State as part of City Policy.

STATE OF GEORGIA

CITY OF DORAVILLE

ORDINANCE NO. 2014-__

AN ORDINANCE TO AMEND THE CITY OF DORAVILLE, GEORGIA,
BUILDING CODE TO REVISE PROVISIONS ADOPTING BY REFERENCE
STATE MINIMUM STANDARD CODES; AND FOR OTHER PURPOSES

WHEREAS, the Mayor and Council of the City of Doraville are charged with
preserving the health, safety and welfare of the citizens of the City; and

WHEREAS, Chapter 5 ("Building Code") of the City of Doraville Code currently
contains referential adoption of the State Minimum Standard Mandatory and Permitted Codes;
and

WHEREAS, the State of Georgia, effective January 1, 2014, has adopted an updated
(2012) version of said standard codes, incorporating its 2014 changes and amendments therefor;
and

WHEREAS, in order to keep up with the adoptive codes of the states and provide the
most updated and efficient health, safety and welfare code enforcement in the City, the City of

Doraville desires to update its referential Standard Code adoption in order to effectuate the updated changes by the State as part of City Policy.

THEREFORE, THE MAYOR AND COUNCIL OF THE CITY OF DORAVILLE, GEORGIA HEREBY ORDAIN:

Section 1

Chapter 5 (“Buildings and Building Regulations”) of the Code of Ordinances, City of Doraville, is hereby amended by revising Article I (“In General”), Section 5-7, to revise the definitions to revise and update the adoption of State Minimum Standard Codes to read as follows:

Sec. 5-7. State Minimum Standard Codes

- (a) *It is hereby declared to be the intention of the Mayor and City Council to enforce and adopt the State Minimum Standard Codes as defined by O.C.G.A. §8-2-20(9). The intent of the Council as part of this adoption shall be to enforce the latest edition of the following State Minimum Standard Codes, as adopted and amended by the State Department of Community Affairs, for all permits approved after the adoption of this Ordinance:*

International Building Code, 2012 Edition

International Residential Code for One-and Two-Family Dwellings, 2012 Edition

International Mechanical Code, 2012 Edition

International Fuel Gas Code, 2012 Edition

International Plumbing Code, 2012 Edition

International Fire Code, 2012 Edition

National Electrical Code, 2012 Edition

International Energy Conservation Code, 2012 Edition

- (b) *The appendices of said codes, as adopted and amended by the State Department of Community Affairs, are hereby adopted by reference as though they were copied herein fully.*
- (c) *For all permits granted or approved by the City under earlier versions of any or all of these codes, it is hereby declared to be the intention of the Mayor and City Council to enforce the code under which the project was approved.*

Section 2

a. It is hereby declared to be the intention of the Mayor and Council that all sections, paragraphs, sentences, clauses and phrases of this Ordinance are or were, upon their enactment, believed by the Mayor and Council to be fully valid, enforceable and constitutional.

b. It is hereby declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, each and every section, paragraph, sentence, clause or phrase of this Ordinance is severable from every other section, paragraph, sentence, clause or phrase of this Ordinance. It is hereby further declared to be the intention of the Mayor and Council that, to the greatest extent allowed by law, no section, paragraph, sentence, clause or phrase of this Ordinance is mutually dependent upon any other section paragraph, sentence, clause or phrase of this Ordinance.

c. In the event that any phrase, clause, sentence, paragraph or section of this Ordinance shall, for any reason whatsoever, be declared invalid, unconstitutional or otherwise unenforceable by the valid judgment or decree of any court of competent jurisdiction, it is the

express intent of the Mayor and Council that such invalidity, unconstitutionality or unenforceability shall, to the greatest extent allowed by law, not render invalid, unconstitutional or otherwise unenforceable any of the remaining phrases, clauses, sentences, paragraphs or sections of the Ordinance and that, to the greatest extent allowed by law, all remaining phrases, clauses, sentences, paragraphs and sections of the Ordinance shall remain valid, constitutional, enforceable, and of full force and effect.

Section 3

All ordinances or parts of ordinances in conflict herewith are hereby expressly repealed.

Section 4

This Ordinance shall be codified in accordance with state law and the Code of the City of Doraville, Georgia. This Ordinance shall become effective upon its adoption by the Mayor and Council.

SO ORDAINED, this ____ day of _____, 2014.

CITY OF DORAVILLE, GEORGIA

Mayor

First Reading

Second Reading

ATTEST:

_____(SEAL)
Sandra Bryant, City Clerk

APPROVED AS TO FORM:

Cecil G. McLendon, Jr., City Attorney

	Yea	Nay
Maria Alexander	<input type="checkbox"/>	<input type="checkbox"/>
Dawn O'Connor	<input type="checkbox"/>	<input type="checkbox"/>
Pam Fleming	<input type="checkbox"/>	<input type="checkbox"/>
Sharon Spangler	<input type="checkbox"/>	<input type="checkbox"/>
Trudy Jones Dean	<input type="checkbox"/>	<input type="checkbox"/>
Robert Patrick	<input type="checkbox"/>	<input type="checkbox"/>

City Council
Meeting: 01/06/14 06:30 PM Category:
Discussion
STATUS: SCHEDULED

Prepared By: Joe Cooley
Initiator: Joe Cooley

AGENDA ITEM (ID # 1025)

**Subdivision of Parcel at 3300 Chestnut Drive (Parcel # 18 296 06 009)
by The Church of the New Covenant Presbyterian Church**

The Church of the New Covenant Presbyterian Church is requesting a subdivision to divide an existing parcel containing approximately 7.4116 ac acres into two legal conforming lots. The parcel currently contains the Church buildings at the northern portion of the existing lot and building associated with a Montessori school on the southern portion of the property (see attached survey by TerraMark Surveyors). The subject property is zoned R-1 Single-family Residential. The current uses of the Church and day-care are legal non-conforming uses. Under current code churches are an allowed use with a conditional use permit, however, the Church of the New Covenant Presbyterian Church predates that change in the code and is considered a legal non-conforming use.

The application is being processed as a standard subdivision for the following reasons:

As per Sec. 23-402 Definitions, Minor Subdivisions are defined as follows: "*Subdivision, minor* means the division of a buildable lot of record into not more than three (3) residential building lots provided there is not the creation of any public right-of-way or the right-of-way for substandard street(s) relative to road classification. For purposes of this definition, a minor subdivision must also meet the following criteria:

(1) Each proposed lot shown thereon complies with all requirements of the zoning chapter and is limited to single-family detached residential use. The need for any variance (administrative or nonadministrative) automatically disqualifies a minor subdivision review and approval. "

Although being in the R-1 single-family residential zoning district, the use of the lots is not for "single-family detached residential use". As such the application is being processed as a standard subdivision application for Planning Commission approval and concurrence by City Council.

The proposed division of the existing lot will create two lots: Tract 1 consisting of approximately 4.6729 acres and Tract 2 consisting of approximately 2.7387 acres. Tract 1 contains the Church buildings and parking; Tract 2 contains the buildings associated with the Montessori school. The Church has created and recorded a shared parking and ingress/egress easement benefiting both parcels. The property is zoned R-1. The proposed properties front on Chestnut Drive. The property is bordered by R-1 single family residential zoned properties to the south and west and R-4 and R-3 multifamily residential zoned properties to the east across Chestnut Drive. The buildings on site were built in or about 1958, 1969, and 1985. As such they either predate the zoning code or were built under the 1971 or the 1986 zoning codes. Churches and schools were allowed uses under those ordinances. Under the current zoning ordinances

churches and day care centers are conditional uses and require conditional use permits. However, the uses are legal non-conforming uses under current code.

The proposed parcels meet City zoning regulations and would be legal conforming lots if subdivided as requested. The existing uses could continue as legal non-conforming uses on legal conforming lots in the R-1 zoning district. Structures on both parcels meet current development dimensional requirements in the R-1 zoning district including amount of pervious surface, buffer requirements, and all setback requirements.

The Planning Commission reviewed the application, heard a presentation by the Church as the applicant and approved the subdivision as per submitted plan. As per Sec. 17.5-21 upon approval by the Planning Commission the subdivision request is sent to the City Council for concurrence and signing of the plat by the Mayor.

City Council
Meeting: 01/06/14 06:30 PM Category:
Grant
STATUS: SCHEDULED

Prepared By: Luke Howe
Initiator: Luke Howe

RESOLUTION (ID # 1026)

EPA Brownfield RLF Grant Resolution

Action Requested: Adopt resolution supporting the City's application for an EPA Brownfield Revolving Loan Fund grant. The application is due January 22, 2014.

Background: The Environmental Protection Agency (EPA) is accepting 2014 applications for funding under their Brownfields Grant Programs. The Brownfields Grant Program provides direct funding for brownfield assessment, planning, cleanup, revolving loans, and environmental job training. The City plans to offer an application for a revolving loan fund (RLF) grant in the amount of \$1 million (the maximum allocation). If approved, this RLF program would be City-wide. EPA RLFs have a performance period of 5 years.

Funds may be used to address sites contaminated by petroleum and/or hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum). 40% of the total award may be distributed in the form of subgrants. The remaining 60% must be used to establish the actual loan fund. Loans are low to no interest. When loans are repaid, the loan amount is returned into the fund and re-lent to other borrowers, providing an ongoing source of capital within a community.

The EPA requires a 20% (or \$200,000) cost share but does accept requests for a hardship waiver. The cost share may be in form of a contribution of money, labor, materials or services. EPA does allow requests for hardship waivers of the cost share. Hardship waivers are reviewed on a case-by-case basis, but the City does meet the basic waiver criteria outlined in EPA policy.

As a side note, the DDA Board recently approved a similar resolution supporting the application as a "coalition partner."

EPA BROWNFIELD RLF GRANT RESOLUTION

**CITY OF DORAVILLE
COUNTY OF DEKALB
STATE OF GEORGIA**

RESOLUTION NO. 2014-__

A RESOLUTION OF THE MAYOR AND CITY OF COUNCIL OF THE CITY OF DORAVILLE, GEORGIA, SUPPORTING AND AUTHORIZING THE CITY'S APPLICATION TO THE U.S. ENVIRONMENTAL PROTECTION AGENCY FOR A BROWNFIELD REVOLVING LOAN FUND GRANT; AND, REQUESTING A HARDSHIP WAIVER FOR THE 20 PERCENT COST SHARE.

WHEREAS, brownfields are real property, the expansion, redevelopment or reuse of which may be complicated by the presence of hazardous substances, pollutants or contaminants; and,

WHEREAS, brownfield remediation and reinvestment protects the environment, reduces blight and alleviates urban sprawl by taking the focus off greenfield development; and,

WHEREAS, as a former automotive plant community, brownfield redevelopment is a critical element of the City's revitalization and comprehensive planning strategy; and,

WHEREAS, the 165-acre Doraville General Motors Assembly Plant has been shuttered for more than five years; and, while its redevelopment presents opportunities, the presence or potential presence of contaminants has and continues to hinder the City's efforts to combat blight and rebuild its local economy; and,

WHEREAS, the EPA offers a revolving loan fund grant, up to \$1,000,000.00 with a 20 percent cost share, as a means of providing loans and subgrants for qualifying remediation projects; and,

WHEREAS, City staff has prepared an application for a \$1,000,000.00 revolving loan fund grant to assist brownfield remediation in the City; and,

WHEREAS, it is the desire of the Mayor and Council to authorize and support the City's revolving loan fund grant application to the U.S. Environmental Protection Agency.

NOW, THEREFORE, BE IT RESOLVED, the Mayor and City Council hereby pledges its authorization and support for an EPA Brownfield Revolving Loan Fund Grant application.

BE IT FURTHER RESOLVED, the Mayor and City Council hereby respectfully requests a hardship waiver for the 20 percent cost share requirement.

ADOPTED THIS SIXTH DAY OF JANUARY, 2014.

CITY OF DORAVILLE

Donna Pittman, Mayor

ATTEST:

Sandra Bryant, City Clerk

(SEAL)

APPROVE TO FORM

Cecil G. McLendon, City Attorney

- rlf_factsheet (PDF)



EPA Brownfields Revolving Loan Fund Grants: Interested in Applying for Funding?

Here's what you need to know to get started...

13.E.a

What is EPA's Brownfields Program?



Colorado Coalition (RLF) - Before

The U.S. Environmental Protection Agency's (EPA) Brownfields Program is designed to empower states, communities, and other stakeholders to work together in a timely manner to prevent, assess, safely clean up, and sustainably reuse brownfields. EPA provides technical and financial assistance for brownfields activities through an approach based on four main goals: protecting human health and the environment, sustaining reuse, promoting partnerships, and strengthening the marketplace. Brownfields grants serve as the foundation of the Brownfields Program and support revitalization efforts by funding environmental assessment, cleanup, and job training activities. Thousands of properties have been assessed and cleaned up through the Brownfields Program, clearing the way for their reuse.



Colorado Coalition (RLF) - After

A brownfield is defined as: real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant. The 2002 Brownfields Law further defines the term to include a site that is: "contaminated by a controlled substance; contaminated by petroleum or a petroleum product excluded from the definition of 'hazardous substance'; or mine-scarred land."

What are the Four Grant Types?

- ✓ Assessment grants provide funding for brownfields inventories, planning, environmental assessments, and community outreach.
- ✓ **Revolving Loan Fund grants** provide funding to capitalize a revolving loan fund that provides loans and subgrants to carry out cleanup activities at brownfields.

- ✓ Cleanup grants provide direct funding for cleanup activities at specific sites.
- ✓ Job Training grants provide environmental training for residents of brownfields communities.

What are Revolving Loan Fund Grants?

Brownfields Revolving Loan Fund Grants provide funding to a grant recipient to capitalize a revolving loan fund that provides loans and subgrants to carry out cleanup activities at brownfields sites.

For the complete discussion of Brownfields Program grant funding, refer to the EPA Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup grants at: <http://www.epa.gov/brownfields/applicat.htm>

How Do I Apply for a Revolving Loan Fund Grant?

Applicants submit a proposal for each grant type that they are applying for (i.e., assessment, revolving loan fund, and/or cleanup). Each proposal must address the selection criteria outlined in the guidelines.

Grant proposals should be concise and well organized, and must provide the information requested in the guidelines. Applicants must demonstrate that they meet threshold criteria requirements and must respond to evaluation criteria. Factual information about your proposed project and community must be provided.

Proposals must include:

- ✓ Cover letter describing project
- ✓ Applicant information
- ✓ Applicable mandatory attachments (e.g., state letter)
- ✓ Responses to evaluation criteria

All applicants must refer to the Proposal Guidelines published by EPA.

Who is Eligible to Apply for a Revolving Loan Fund Grant?

Eligible entities include: state, local, and tribal governments, with the exception of certain Indian tribes in Alaska; general purpose units of local government, land clearance authorities, or other quasi-governmental entities; regional council or redevelopment agencies; or states or legislatures. RLF applications should be community-wide; site-specific RLF grants will not be awarded.

How Much Revolving Loan Grant Funding is Available?

Revolving Loan Fund Grants provide up to \$1,000,000 per eligible entity; they are available for a single recipient or a coalition of eligible entities.

Requirements include:

- ✓ Funds may be used to address sites contaminated by petroleum and/or hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum).
- ✓ At least 60 percent of the awarded funds must be used to implement a revolving loan fund, in order to provide no-interest or low-interest loans for brownfields cleanups.
- ✓ An RLF award requires a 20 percent cost share, which may be in the form of a contribution of money, labor, material, or services, and must be for eligible and allowable costs.

How Long is the Revolving Loan Fund Grant Period?

The performance period for a Revolving Loan Fund grant is five years.

Where Do I Find the Proposal Guidelines?

Electronic copies of the Proposal Guidelines can be obtained from the EPA brownfields Web site at:

<http://www.epa.gov/brownfields/applicat.htm>

Additional information on grant programs may be found at: www.grants.gov

Is Pre-Application Assistance Available?

If resources permit, EPA Regions may conduct open meetings with potential applicants. Check with your regional office for date and location information. Your regional Brownfields Program contacts can be found at <http://www.epa.gov/brownfields/corcntct.htm>

EPA can respond to questions from applicants about threshold criteria, including site eligibility and ownership.

What is the Evaluation/Selection Process?

Brownfields grants are awarded on a competitive basis. Evaluation panels consisting of EPA staff and other federal agency representatives assess how well the proposals meet the threshold and ranking criteria outlined in the Proposal Guidelines for Brownfields Assessment, Revolving Loan Fund, and Cleanup grants. Final selections are made by EPA senior management after considering the ranking of proposals by the evaluation panels. Responses to threshold criteria are evaluated on a pass/fail basis. If the proposal does not meet the threshold criteria, the proposal will not be evaluated. In some circumstances, EPA may seek additional information.



City Council

Meeting: 01/06/14 06:30 PM Category:

Discussion

STATUS: SCHEDULED

Prepared By: Luke Howe

Initiator: Luke Howe

AGENDA ITEM (ID # 1027)

Executive Session