In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

March 28, 2011

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

* * *

Transcript of the meeting held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Pro Tem Donna Pittman presiding, before Theresa Bretch, Certified Court Reporter, commencing at approximately 6:30 p.m. on Monday, March 28, 2011.

* * *

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APPEARANCES:
Doraville City Council:
Mayor Pro Tem Donna Pittman
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Bob Roche
Councilmember Pam Fleming
Melissa McCain, City Clerk
William Linkous, City Attorney

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P R O C E E D I N G S

MAYOR PRO TEM PITTMAN: Meeting come to order.

Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Here.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

MAYOR PRO TEM PITTMAN: Approval of minutes, none.

Mayor's Comments, none.

Department Reports. Mr. Linkous, Department of Justice submissions.

ATTORNEY LINKOUS: Yes, ma'am. The first item on the Department of Justice Submissions, I've been asked to inform the City Council and the Mayor that in accordance with the preclearance letter on both of these submissions, that copies have been placed on the counter at the front of City Hall.

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These have been published in a newspaper ad, they've been posted physically at City Hall, and copies have been sent to the Council and Mayor.

This announcement is recommended but not required by the Department of Justice, so we felt like we would go ahead and make sure it was done for the City from the legal perspective. No need to take any actions.

MAYOR PRO TEM PITTMAN: Questions from the Council?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Okay. Thank you very much.

Okay. Next will be Public Comments on Agenda Items. If you can please limit your comments to three minutes and on the agenda items only.

- - -

(Brief discussion off the record between Mayor, Council and Clerk)

- - -

MAYOR PRO TEM PITTMAN: Chief King has some items on the agenda tonight. He is going to be a little late due to a circumstance, so he will be here

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1 shortly.
2 So if we get to some items that need his
3 input or is his item, if we could possibly get a
4 motion at that time to put it toward the end until he
5 gets here.
6 Mr. Linkous?
7 ATTORNEY LINKOUS: The second item that we
8 have is the Bethenod pawn shop lawsuit settlement.
9 Basically this is a lawsuit that has been
10 handled by GIRMA. GIRMA provided the City with a
11 lawyer. And ultimately the case has come to a
12 resolution in the form of a settlement agreement, and
13 I have four copies of the settlement agreement.
14 The City is not out anything in the
15 settlement. GIRMA is the one that's responsible for
16 the settlement. And GIRMA is asking that the City
17 sign off on the settlement agreement as it's drafted,
18 so I need a motion to approve the settlement.
19 COUNCILMEMBER ALEXANDER: On page two, there
20 is a date to be filled in.
21 ATTORNEY LINKOUS: I don't know what that
22 date would be.
23 COUNCILMEMBER ALEXANDER: So it's not in
24 your copy?
25 ATTORNEY LINKOUS: It's not in my copy, no,

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1 But it should be a matter of record. It
2 appears that it was at some point in December of 2010,
3 so it should be a matter of record. I don't know what
4 the date is. We'll have to look up the date. But it
5 shouldn't be a big deal. I don't see a problem with
6 approving the settlement agreement like it is and
7 filling in the date.
8 MAYOR PRO TEM PITTMAN: Any additional
9 questions?
10 COUNCILMEMBER FLEMING: Yes.
11 I believe, if I'm not mistaken, after our
12 previous meeting, the additional citations that were
13 issued for the parking lot were supposed to have been
14 addressed, and I want to make sure that that has been
15 handled before we move forward.
16 MAYOR PRO TEM PITTMAN: Mr. -- I can't think
17 of his name -- was supposed to have went up there and
18 picked that up, I believe. But I don't know if he did
19 or not. The Chief is not here to answer that
20 question.
21 COUNCILMEMBER FLEMING: Okay.
22 MAYOR PRO TEM PITTMAN: But my
23 understanding, yes, it was; but without the Chief
24 here, I don't -- I can't say yes or no.
25 COUNCILMEMBER FLEMING: Okay. If it has

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1 been dismissed, I don't have a problem with moving
2 forward, but if has not been dismissed and signed off
3 of at the court, then I'd like to hold off. But I
4 don't mind . . .
5 COUNCILMEMBER BATES: Well, my guess would
6 be that it wouldn't be agreed upon by the Bethenod
7 party if it hadn't have been resolved to ...
8 MAYOR PRO TEM PITTMAN: Yeah. Joe Frank
9 called me. That's who I was trying to think of. Joe
10 Frank called me, and I advised him he could go up
11 there and get a copy of it from the court system, but
12 I don't know if he did that or not.
13 COUNCILMEMBER FLEMING: Okay.
14 COUNCILMEMBER ROCHE: Well, he's not a party
15 to this lawsuit, though.
16 COUNCILMEMBER FLEMING: He is part of this
17 because of the parking lot situation.
18 COUNCILMEMBER ROCHE: No, I understand, but
19 he's not part of the actual lawsuit itself.
20 MAYOR PRO TEM PITTMAN: Okay.
21 COUNCILMEMBER ROCHE: See?
22 COUNCILMEMBER FLEMING: Uh-huh.
23 COUNCILMEMBER ROCHE: He's not in there.
24 COUNCILMEMBER ALEXANDER: I'm fine with
25 passing this because if it's not to their

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1 satisfaction, they won't sign it.
2 COUNCILMEMBER PACHUTA: Yeah.
3 MAYOR PRO TEM PITTMAN: Okay. Do I get a
4 motion?
5 COUNCILMEMBER PACHUTA: I make a motion that
6 we approve the Bethenod GIRMA settlement.
7 MAYOR PRO TEM PITTMAN: Do I get a second?
8 COUNCILMEMBER BATES: Second.
9 MAYOR PRO TEM PITTMAN: Discussion?
10 - - -
11 (No response)
12 - - -
13 MAYOR PRO TEM PITTMAN: Call the roll,
14 please.
15 CLERK McCAIN: Councilmember Alexander?
16 COUNCILMEMBER ALEXANDER: Yes.
17 CLERK McCAIN: Councilmember Bates?
18 COUNCILMEMBER BATES: Yes.
19 CLERK McCAIN: Councilmember Fleming?
20 COUNCILMEMBER FLEMING: Yes.
21 CLERK McCAIN: Councilmember Pachuta?
22 COUNCILMEMBER PACHUTA: Yes.
23 CLERK McCAIN: Councilmember Roche?
24 COUNCILMEMBER ROCHE: Yes.
25 MAYOR PRO TEM PITTMAN: Motion carries.

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Thank you.
MAYOR PRO TEM PITTMAN: Okay. Now Public Comments on Agenda Items. If you could please limit your comments to three minutes and on agenda items only and state your name and address for the Clerk, please.
Mr. Anderson?
MR. ANDERSON: I'll be back. I'm going to Elena Parent's meeting.
MAYOR PRO TEM PITTMAN: Okay.
MR. ANDERSON: Thank you.
MR. CRAWFORD: Ben Crawford, Oakcliff -- Oakcliff Estates.
And this is on agenda item number 3 for a Conditional Use Request for Applicant William Ho at 5382 Buford Highway and replacement of the existing business.
Conditional use in C-2 is exactly that: conditional use. There's no reason that you have to grant it. It's something that certain conditions have to be met if the City Council was going to grant a conditional use.
We have a huge amount of massage therapy places and whatnots in the city of Doraville as it is, so now we have another one coming up. And is this one

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perhaps that has been in existence there and doesn't have an occupational placard, perhaps?
So what did we have the last count? 14? 15? 16? So is this is another one that's going to get blessed tonight? I'd like to know that.
And that's about it on the agenda items. Thank you.
MAYOR PRO TEM PITTMAN: Anyone else?
MS. CRAWFORD: I'd like to weigh in on that same agenda item.
I think this is a chance for you guys to put your money where your mouths are. And if you do mean to start enforcing the ordinances that we have and start going back the other way -- and I believe you just passed -- Well, I know you just passed a limit to the number of massage parlors, and it was four, which I think we've gone over, so I don't know why this is even an issue, why it's even on the agenda.
But remember, conditional use means it's up to you to say yes or no and to put conditions if you do say yes or no. So it's in your hands, and we're all watching. Thanks.
MAYOR PRO TEM PITTMAN: Anyone else?
- - -
(No response)

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- - -
MAYOR PRO TEM PITTMAN: Thank you.
All right. We're going to move into Old Business.
Number 1 is not a public hearing. It was previously done on January 31st, 2011; Section 905, R-3 District. Re-advertised from 2010/recessed from January 31st, postponed from the meeting of February 28th.
There are some changes made in this that the Council wanted.
MR. WALTON: Lee Walton with MACTEC Engineering and Consulting acting as city planner. Good evening.
The first two items in old business are text revisions, and they're similar, and they've both been reviewed and approved by the Planning Commission for your consideration.
The first one, R-3, concerns primarily revisions to the district dimensions -- dimensional requirements, focusing on minimum lot area, maximum building height and maximum impervious surface area.
Since there's not a public hearing required due to a previously-held public hearing, I think we can start and finish with Council questions.

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MAYOR PRO TEM PITTMAN: Council?
COUNCILMEMBER BATES: Thank you. I'll make a motion to adopt the R-3 District Section 905.
MAYOR PRO TEM PITTMAN: And do I get a second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: And motion carries. Thank you.
The next item is going to be a public

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hearing, Text Amendment Section 906 R-4 District.
MR. WALTON: Thank you.
Similar to the discussion of R-3, the proposed amendments to R-4 focus on the dimensional requirements in the section; specifically, minimum lot area requirements, minimum building height requirements, and minimum impervious surface requirements.
And the recommendations are actually in some categories consistent with R-3. And minimum lot area, the minimum lot recommendation is for six acres with an exception that allows as low as one-and-a-half acres with a City-initiated rezoning and existing condominium regime. Other than that, six acres.
Minimum building height, 10 stories or 120 feet provided that the building is not adjacent to a residential classification; otherwise, three stories or 40 feet.
MAYOR PRO TEM PITTMAN: Questions from the Council?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. At this time, we're going to open the public hearing. All those that are in favor of this, if you'd like to speak.

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- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: No one? Okay. All those against?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: No public comments? Okay. Thank you. Bring it back up to the table.
MR. WALTON: One additional comment to make is that the Planning Commission also considered this and motion to approve 3 to 0.
COUNCILMEMBER BATES: And I'll make a motion to adopt Section 906 R-4, Multiple Family Residence District.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.

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CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries. Thank you.
The next item is going to be a public hearing Conditional Use Request. This is Applicant William Ho at 5382 Buford Highway, Suite C. This is a replacement of existing business. This is a replacement of another business. Requires a CUP for massage therapy in accordance with Ordinance 2008-33.
MR. WALTON: Okay. Thank you, Mayor.
Again, this is a conditional use permit request not reviewed or reviewable, I guess, by the Planning Commission, so there is no Planning Commission motion relative to this.
There was a staff report prepared by Scott Haeberlin in advance of the February 28th Council

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meeting, and I believe you have a copy of that report.
In summary, the staff report resulted in a no-recommendation finding from staff for stated reasons.
MAYOR PRO TEM PITTMAN: Questions from the Council?
COUNCILMEMBER ALEXANDER: Is the Applicant here tonight?
MAYOR PRO TEM PITTMAN: William Ho? Anyone representing William Ho?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. Council, your thoughts on that?
COUNCILMEMBER BATES: Applicant doesn't want to be here for it, then motion to deny.
MR. WALTON: Well, I think we are required to have a public hearing.
MAYOR PRO TEM PITTMAN: We are, yes.
COUNCILMEMBER BATES: A premature motion to deny.
MAYOR PRO TEM PITTMAN: Okay. At this time, we're going to open the public hearing.
Those that are for this?

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- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Those that are against who wish to speak?
MR. CRAWFORD: Ben Crawford, 3959 Red Oak Drive, Oakcliff Estates.
Like I said before in a comment for agenda items, this one here, I believe, I guess it had a CUP prior, before, and for massage therapy. But I believe by our zoning, it doesn't carry over, so I guess that's why the Applicant is not here tonight or what -- you know, could be here tonight for this.
And I think it'd be a good thing if the City Council does not approve this whether the applicant was here or not. I think we have enough massage-therapy places in Doraville and we need to try to promote different types of businesses coming into the city.
MAYOR PRO TEM PITTMAN: Anyone else wishing to speak against?
MS. CRAWFORD: Susan Crawford.
And it seems really redundant, and I don't know enough about it to be creative and come up with something else except that I just -- I hope that you

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will continue to push to go in a different direction. We have so many massage parlors here now that we could probably massage half of the Southeast.
Thank you.
MAYOR PRO TEM PITTMAN: Anyone else wishing to speak?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Okay. I'm going to close the public hearing portion and bring it to the table.
COUNCILMEMBER ROCHE: I just wanted to ask, I think we have done some research as to how many massage parlors actually are in the city of Doraville, and I'm just wondering what the latest number is on that.
MAYOR PRO TEM PITTMAN: Well --
ATTORNEY LINKOUS: Well, I can tell you what I've seen in correspondence, and apparently there's one or two that are in existence because they may have abided by some of the requirements of the City Council to apply for a CUP and therefore would be grandfathered, and I think that the ordinance allows up to potential of four more.

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COUNCILMEMBER ROCHE: So we have?
ATTORNEY LINKOUS: As far as I know, we have two.
COUNCILMEMBER PACHUTA: Yeah. We have two in existence that do have conditional use -- did apply for a conditional use permit. But there was a third that is no longer in business.
And I believe, if I'm correct, this property is still zoned C-2; it is not C-2 CUP.
COUNCILMEMBER ROCHE: I just have heard some different numbers thrown around. I heard like 18 and all that, and seems like when we were actually checking it out, we're what? We're down to three now?
COUNCILMEMBER FLEMING: Seven.
COUNCILMEMBER ROCHE: Seven.
COUNCILMEMBER FLEMING: We have seven.
And based on our previous advice from, I believe, Freeman Mathis Gary's firm, from another attorney, that we cannot go back retroactive and put conditions on properties.
And we created this problem. So those that are in litigation with us right now do need -- as far as I am concerned, in my opinion, have to be considered as part of the four, which was seven at the time before we lowered it to four, because they are

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still litigating with us.
But there are two physically that have applied for CUPs, that is correct, but we have physically seven in the city.
COUNCILMEMBER BATES: That are doing full-body massage.
COUNCILMEMBER FLEMING: Yes, sir.
COUNCILMEMBER ALEXANDER: They're doing full-body.
COUNCILMEMBER FLEMING: Full-body massage.
COUNCILMEMBER ROCHE: And how many foot massage?
COUNCILMEMBER FLEMING: The only one that I have not gone into, as I had mentioned and requested the Chief to do it since he made the comment at the last meeting that he didn't have the staff to be able to do it, if you'll recall.
And I have a powerpoint that I presented to Acting Mayor Pittman as well as the Chief if he so desired to look at it.
The only one that I have not gone into is the Masaje -- (spelling) M-a-s-a-j-e -- Therapeutico. It's out past Pinetree, because it was a Spanish dialect on the -- on the sign, I felt it might be necessary for him to go in.

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And I don't know the outcome of that, but we have seven including that one.

COUNCILMEMBER PACHUTA: I don't know if that one has applied for an occupational tax placard, because that was -- I don't recall that name on the list that we received last year that had applied for occupational tax placards.

COUNCILMEMBER BATES: Motion to deny the application before us.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER ALEXANDER: Second.

MAYOR PRO TEM PITTMAN: Discussion?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

MAYOR PRO TEM PITTMAN: Excuse me. Did you have discussion?

COUNCILMEMBER ROCHE: Yeah. I just wanted to say I echo what Mr. Bates said: that if the applicant is not here, obviously we can't pass it. Thank you.

MAYOR PRO TEM PITTMAN: Okay. I'm sorry.

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Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MAYOR PRO TEM PITTMAN: Motion carries.

Okay. Next is going to be number 4, Public Hearing - Text Amendment Section 402. The definitions were postponed from February 28th, 2011 meeting.

I believe this is just where there was a question about if the text amendment was the same as matched in the zoning. I don't know. Mr. Roche, was that yours or Mr. Bates' question?

COUNCILMEMBER ROCHE: No, it wasn't mine.

MAYOR PRO TEM PITTMAN: Okay.

COUNCILMEMBER ROCHE: It may have come from Mr. Weed.

MAYOR PRO TEM PITTMAN: I believe it was changed.

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COUNCILMEMBER BATES: The zoning.

COUNCILMEMBER PACHUTA: To make sure that the definition in this matched the definitions in the regulation.

COUNCILMEMBER BATES: In the regulatory ordinance.

COUNCILMEMBER PACHUTA: Yes.

MAYOR PRO TEM PITTMAN: Right, and there was -- it did not, but there was a couple of words that they changed, my understanding.

ATTORNEY LINKOUS: Yes, Madam Mayor, that is correct. Council had asked that we go back and make sure that the definitions were identical in both the zoning and the regulatory ordinances. We've done that now, and that's what you have before you.

MAYOR PRO TEM PITTMAN: Okay.

COUNCILMEMBER ROCHE: And this is basically for the quote/unquote foot massage places that we don't have any of right now.

ATTORNEY LINKOUS: I think it's the definition of the massage therapy and the CSTTOM in the zoning code.

COUNCILMEMBER ROCHE: Yeah. Okay.

MAYOR PRO TEM PITTMAN: Anything additional from the Council right now?

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- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Okay. We're going to open the public-hearing portion.

Those that are in favor, if you'd like to speak.

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Okay. No one. Anyone against that would like to speak?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: We'll close the public hearing.

And did you have anything you wanted to talk about?

MR. WALTON: Staff simply agrees that it's advisable to have consistent definitions in the zoning and other sections.

MAYOR PRO TEM PITTMAN: Thank you.

Council?

COUNCILMEMBER ALEXANDER: We've got the

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report where the Planning Commission reviewed some text on the 25th.

COUNCILMEMBER BATES: Motion to adopt Section 402 Definitions.

COUNCILMEMBER PACHUTA: Second.

MAYOR PRO TEM PITTMAN: Discussion?

COUNCILMEMBER FLEMING: Yes, there is discussion.

As I will continue to state, creating a use that isn't recognized by any other municipality or the State of Georgia seems to me a little far-reaching for a city that's three miles square and the fact that it's only for head, neck and feet. So I am not in favor of creating a use that no one can identify with.

COUNCILMEMBER ROCHE: Yeah. Right now I think we have a limit of four massage parlors, and I think we finally passed a limit of four foot massage.

So what we've basically done is open the door for four more foot-massage places to come in the city of Doraville, because we were acting thinking that there were a whole bunch of foot-massage places in Doraville. Turns out there aren't.

So I don't know. As far as this particular ordinance, I guess being consistent is a reasonable thing.

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MAYOR PRO TEM PITTMAN: Okay. Anything additional?

COUNCILMEMBER FLEMING: Ms. Alexander.

COUNCILMEMBER ALEXANDER: Some of these establishments that you visited that are doing -- you say are doing full-body massage are in violation of State law and have been cited. And if you have a list, then we need to contact the Secretary of State's Office.

COUNCILMEMBER FLEMING: Well, all I can tell you is when I went into them, they had beds. Okay?

COUNCILMEMBER ALEXANDER: Then, we need to contact the Secretary of State's Office and get him to enforce.

COUNCILMEMBER PACHUTA: And I -- and I believe that Mr. Begner had indicated to us sometime last fall, with the litigation, he stated that none of them were providing -- that none of them needed licenses because they were foot massage-only. And if that's not the case, then Mr. Begner was not being truthful.

COUNCILMEMBER ALEXANDER: Because Royal Foot Spa at Pinetree West is one of the ones specifically that states -- and if you visited that and they're performing, they are again in violation of State law.

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COUNCILMEMBER FLEMING: Well, we have an enforcement for that, do we not, and it's called the Doraville Police Department?

COUNCILMEMBER ALEXANDER: That's what I'm saying. I would like a list so we can contact the Secretary of State and get them in there.

COUNCILMEMBER FLEMING: Why do we need the Secretary of State to let the Doraville Police Department handle it?

I've already given this information, and it is a powerpoint, and I've given it to Ms. Pittman, and the second -- the second one I guess went to the Clerk or to the police department.

CLERK McCAIN: Yes.

COUNCILMEMBER ROCHE: So they've already been informed.

COUNCILMEMBER FLEMING: I mean if -- like I said, Ms. Alexander, if he didn't --

COUNCILMEMBER ALEXANDER: I will handle it. I'm tired of spending so much time on these establishments. I will get the information from the Chief or Mayor Pittman and I will take care of it.

MAYOR PRO TEM PITTMAN: Thank you.

Okay. We have a motion and a second.

Any additional discussion?

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- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: No.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

MAYOR PRO TEM PITTMAN: Motion carries.

Okay. The next item is going to be CSTTOM regulation, Mr. Linkous.

ATTORNEY LINKOUS: Yes, ma'am.

What you have in front of you is the CSTTOM ordinance. I believe it -- it should say Final 28 March '11.

CLERK McCAIN: I believe that was the one that should be on your desk, yes.

ATTORNEY LINKOUS: As the Council knows,

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1 this regulates separately places that massage feet,
2 hands, ears, head on a person's body but not other
3 places.
4 The way that we've drafted this is a
5 parallel ordinance with the massage therapy ordinance.
6 We, in conjunction with discussions with the
7 Council, have taken into account the possibility that
8 certain of these establishments may provide both
9 massage, as is regulated by the State, and what we
10 call CSTTOM massage, meaning hands, and feet and head.
11 Therefore, we have included provisions to
12 deal with that in the way that we believe that the
13 Council wanted to deal with it, which was to provide
14 for in those instances a requirement that the person
15 operating out of the massage establishment obtain a
16 CSTTOM license but the establishment need not itself
17 obtain a CSTTOM parlor permit.
18 So if you had an establishment that was
19 performing both types of massage, it would obtain a
20 massage parlor permit, a massage license for the
21 massage therapist and then a CSTTOM license for the
22 CSTTOM massage but it would not have to get a CSTTOM
23 parlor permit.
24 COUNCILMEMBER PACHUTA: Only if -- if they
25 have no massage therapist on site, they were just

Page 30

1 doing CSTTOM --
2 ATTORNEY LINKOUS: Then they would --
3 COUNCILMEMBER PACHUTA: -- then they would
4 get the CSTTOM.
5 ATTORNEY LINKOUS: -- get the CSTTOM parlor
6 permit and then the CSTTOM agent permit.
7 So we've drafted it in such a way that we
8 believe fits with what the Council had asked, and we
9 believe it's ready to go.
10 Mr. Weed made a couple of changes at the
11 last minute that you-all may have seen in an e-mail.
12 If you have any questions about that, I can
13 illuminate on that, but I think it's just to make it
14 consistent with what the Council had asked for.
15 MAYOR PRO TEM PITTMAN: Thank you.
16 Council, any questions?
17 COUNCILMEMBER FLEMING: Yes. On page 9,
18 6-824, "If an employee is not a CSTTOM agent, such as
19 a receptionist or janitor, such person must also be
20 registered. Under no circumstances shall a non-CSTTOM
21 employee perform CSTTOM."
22 And to me, I mean if you've got a -- based
23 on that type of statement, a person with a State
24 license for massage therapy would have to get a CSTTOM
25 permit as well as a janitor.

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1 COUNCILMEMBER BATES: Well, I'm really -- I
2 don't necessarily disagree with your first statement,
3 because of the way that it's written.
4 But the second one, I do disagree with.
5 This is only requiring a receptionist or a janitor or
6 another person to be on the registered list but not to
7 get a license. So there would be a list of all the
8 employees, whether or not they have a CSTTOM license
9 or not.
10 I do agree, though, that the language "Under
11 no circumstances shall a non-CSTTOM employee perform
12 CSTTOM" could be interpreted to read even if they have
13 a massage therapy license, they can't do CSTTOM. I'm
14 not sure if that is an accurate assessment, but.
15 COUNCILMEMBER FLEMING: Well, on the first
16 portion of it, such person must also be registered.
17 Are we talking about they are keeping a register or we
18 are keeping a register?
19 COUNCILMEMBER BATES: I read it as they are.
20 COUNCILMEMBER FLEMING: I'm sorry?
21 COUNCILMEMBER BATES: I read it as they are.
22 COUNCILMEMBER FLEMING: Okay. So they're
23 not going to be required to have an employee permit as
24 required by the people that are actually doing the
25 CSTTOM.

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1 ATTORNEY LINKOUS: Let me jump in here a
2 little bit based on my understanding: that each of
3 the businesses has to keep a register of all the folks
4 who work there so that when the police department
5 comes, it knows what employees are employed there and
6 which slot each employee falls into: Are they a
7 CSTTOM, are they a massage therapist who's licensed by
8 the State or are they some other type of employee?
9 That's the meaning of the register: it's
10 just making sure that even if they're a receptionist
11 or a janitor, that person is employed at that
12 establishment, that they are on the register so we can
13 come in and check and see that we've got Joe Smith:
14 he's a janitor; he's not working on folks, and that
15 sort of thing. So that's the intent of the first
16 sentence that Councilwoman Fleming read off.
17 The second sentence, I don't think that the
18 intent of the ordinance was to read that -- or to have
19 it that massage therapists could not perform CSTTOM
20 massage, because I think that we would all agree that
21 they could.
22 If the Council feels that that language
23 needs to be amended by putting in, "Under no
24 circumstances shall a non-CSTTOM employee, except a
25 licensed massage therapist, perform CSTTOM," I think

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that's a reasonable way of dealing with that language.
It may be okay as it is. I'd have to go through and see exactly how it is.
MAYOR PRO TEM PITTMAN: Council?
COUNCILMEMBER ROCHE: I think that it should be, because then we're back into, you know, are you one or the other, and if you limit one -- I think that we need to probably insert that language into this.
MAYOR PRO TEM PITTMAN: Anyone else?
COUNCILMEMBER BATES: This is not a zoning matter; right?
My understanding is is that we need to have a final copy for review.
Madam Clerk, do you have this in a Word document that you could edit and give back to us so that we have a quote/unquote final?
CLERK McCAIN: Right now?
COUNCILMEMBER PACHUTA: Do we have any other changes?
COUNCILMEMBER BATES: I don't have any other changes.
MAYOR PRO TEM PITTMAN: Five minutes?
CLERK McCAIN: Yes.
MAYOR PRO TEM PITTMAN: Okay. We'll take a five-minute break.

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- - -
(Brief recess)
- - -
MAYOR PRO TEM PITTMAN: Meeting come back to order.
Okay. Council?
COUNCILMEMBER BATES: Thank you.
I make a motion to adopt the CSTTOM regulation.
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
COUNCILMEMBER ROCHE: First of all, I guess -- well, I know we did it already. This is supposed to be a work session, and I feel a little uncomfortable passing anything at work sessions --
COUNCILMEMBER PACHUTA: It's not a work session.
COUNCILMEMBER ROCHE: -- because most of the people.
COUNCILMEMBER ALEXANDER: It's not a work session.
COUNCILMEMBER ROCHE: Sorry?
COUNCILMEMBER FLEMING: This is a public hearing.
COUNCILMEMBER ROCHE: This is a regular --

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This is not a regular meeting like the first and the second.
COUNCILMEMBER PACHUTA: It is a regular meeting. The fourth Monday of the month is a regular meeting.
COUNCILMEMBER ROCHE: Well, can I continue?
COUNCILMEMBER PACHUTA: I'm just correcting your mistake.
COUNCILMEMBER ROCHE: Thank you very much.
Anyway, as I've said before, I think that the regulation of this should be handled at the State level.
Now that we've got the true facts, there are no foot-massage places in Doraville now, anyway, I think that all we're doing here is potentially inviting litigation.
I think we're creating something. This doesn't exist in any other city in the United States of America, apparently, either, and I'm just -- you know, we've spent a lot of time on this.
It started out because we wanted to limit the number and we did pass an ordinance to limit the number to either. It was drafted by our attorney. And then it turned out that that somehow wasn't legal, so we had to go all over again and do the massage

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therapy ordinance and then finally managed to get a limit of four on this but thinking we had 18 but we don't have any.
I just think we're going to live to regret it if we pass this tonight, so I'm going to have to vote against it.
MAYOR PRO TEM PITTMAN: Okay.
Motion and a second. Additional discussion?
- - -
(No response)
- - -
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: No.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: No.
MAYOR PRO TEM PITTMAN: Motion carries. Thank you.
The next item, number 6, is Rezoning of 5141 Buford Highway, C-2 CUP to C-2. I believe this is a

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1 vacant building. I believe the one that was in there
2 before went out of business. I don't know that they
3 were legal at the time.
4 Go ahead.
5 MR. WALTON: Excuse me. It is my
6 understanding as well that this is a -- currently, and
7 it has been for some time, a vacant business according
8 to Chief King.
9 It had a conditional use permit, and the
10 proposal is to -- the advertisement used the term
11 revoke the conditional use permit. That's the
12 equivalent in this case to rezoning to reduce it from
13 C-2 with a conditional use to simply C-2 zoning.
14 COUNCILMEMBER BATES: And the conditional
15 use on that property was?
16 MR. WALTON: It was a massage business.
17 COUNCILMEMBER BATES: So this would be
18 removing one of the existing massage --
19 MR. WALTON: Well, not -- not --
20 COUNCILMEMBER BATES: -- conditional use
21 permits.
22 MR. WALTON: I don't think this is in our
23 count of active --
24 COUNCILMEMBER FLEMING: Yeah.
25 MR. WALTON: -- potential --

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1 COUNCILMEMBER FLEMING: What was --
2 MR. WALTON: -- suspected massage
3 businesses.
4 COUNCILMEMBER FLEMING: -- the name of
5 this business? Do you have any idea? Because I don't
6 have any paperwork on this one at all.
7 COUNCILMEMBER PACHUTA: I believe it was
8 Linda's Healthcare if that's the correct name.
9 MR. WALTON: The file from the planning
10 office also does not have any detail on this other
11 than that there was a conditional use permit
12 associated with it that's proposed to be revoked now
13 that the business is no longer active.
14 COUNCILMEMBER ALEXANDER: I guess my concern
15 is 5141 Buford Highway has multiple suites in it and
16 not the entire property is vacant. There's Italy
17 Optical in there and I believe there is also a Chinese
18 restaurant in there also.
19 MR. WALTON: Okay.
20 COUNCILMEMBER ALEXANDER: So I don't know.
21 Hopefully, the CUP referenced the suite number when we
22 granted it.
23 So we would have to do this as a City-
24 initiated rezoning?
25 MR. WALTON: It is a City-initiated

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1 rezoning, correct.
2 COUNCILMEMBER ROCHE: So tonight we would
3 vote to proceed with a City-initiated rezoning?
4 I mean as Councilwoman Fleming said, there
5 is no paperwork anywhere, I mean.
6 MR. WALTON: I apologize. I should have
7 read this to begin with. The detail that was
8 published in the notice reads as follows:
9 "The City of Doraville, Georgia, Mayor and
10 Council will consider for review the revocation of the
11 conditional use issued on 6/30/2010 to Applicant Hye
12 (Lisa) W. Shin, Land Lot 297 of the 18th District,
13 property described as 5141 Buford Highway, Suite B,
14 Parcel I.D. 18-297-10-021; a conditional use
15 application for massage therapy as defined by State
16 law with all parties holding a valid massage therapy
17 license issued by the Georgia Board of Massage
18 Therapy," all that in quotes, within property zoned
19 C-2 General Business District and being .809 acres.
20 So it is Suite B at 5141 Buford Highway, and
21 the applicant is named.
22 MAYOR PRO TEM PITTMAN: Council?
23 COUNCILMEMBER PACHUTA: Do we have a public
24 hearing?
25 COUNCILMEMBER ROCHE: Well, there's no

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1 paperwork. There's nothing to hear.
2 COUNCILMEMBER ALEXANDER: There's no signs
3 posted on the property or anything --
4 COUNCILMEMBER ROCHE: There's nothing.
5 COUNCILMEMBER ALEXANDER: -- so we're going
6 to have start this process.
7 MAYOR PRO TEM PITTMAN: Did you have a list
8 of the signs? Was this one of the ones that had a
9 sign? This should have had a sign up.
10 MR. WALTON: This is one that should have
11 had a sign.
12 MAYOR PRO TEM PITTMAN: That's correct.
13 The sign posting --
14 MAYOR PRO TEM PITTMAN: Bobby gave us a list
15 of signs that he posted, and that was one of them; is
16 that correct?
17 MR. WALTON: The sign -- according to the
18 file, the sign posting -- again, this is in February -
19 - the sign posting was requested on February the 17th,
20 and an e-mail from Jackie Bryant of The Champion
21 newspaper indicated that the ad would publish February
22 17th, 2011.
23 COUNCILMEMBER BATES: I concur. I don't
24 recall seeing a sign, and I was just down by the
25 property earlier this week.

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MAYOR PRO TEM PITTMAN: We can take this off and handle it accordingly, make sure the sign is put up.
MR. WALTON: Absolutely.
MAYOR PRO TEM PITTMAN: If we could ask Mr. Pittman to see, because he gave a list of the signs Mr. Haeberlin had provided, and --
MR. WALTON: He did, and this is --
MAYOR PRO TEM PITTMAN: -- that was one of them.
MR. WALTON: -- one of the ones that he provided to us, indicating --
COUNCILMEMBER PACHUTA: Can we postpone it to a date certain? and that would -- I mean we do not have to readvertise it?
MR. WALTON: I would suggest that, because the advertisement has run. We can reconfirm that with The Champion newspaper that the advertisement did run as scheduled, and then we can . . .
COUNCILMEMBER FLEMING: I need to clarify what we're doing here, though.
If we are revoking the CUP on that piece of -- or on that suite, Mr. Linkous, is that the same as a City-initiated rezoning?
And if it's a City-initiated rezoning, well,

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there's a lot more paperwork that has to go along with it.
ATTORNEY LINKOUS: Well, I mean I assume that you're -- A CUP is a zoning item, and so if you're taking off the permit and if there's no applicant, it seems to me that it is a form of City-initiated rezoning.
COUNCILMEMBER FLEMING: Okay.
ATTORNEY LINKOUS: I don't know if that's exactly what the code says about City-initiated rezoning, but, essentially, that's what it is.
COUNCILMEMBER FLEMING: Okay. So I would suggest that we go through the procedures that we have in place for City-initiated rezoning where a letter goes to the property even though it's vacant as well as the owner of the property for that suite so that they're notified that we are revoking or changing back to the C-2/C to C-2 so that they are aware and would have an opportunity to be here to make comments.
MR. WALTON: I concur with that suggestion.
COUNCILMEMBER PACHUTA: I make a motion that we continue this item to the date certain of April 25th, 2011, which is our next zoning scheduled meeting.
COUNCILMEMBER ROCHE: Second.

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MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Okay. The next item is going to be the Adoption of the Official Zoning Code and Readopting of Zoning Map.
I do not believe -- I believe the zoning map is still in the works.
MR. WALTON: Correct.
MAYOR PRO TEM PITTMAN: The zoning code, though, it's possible we could go ahead and pass that if the Council wishes, and if you'd like to take it

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from here.
MR. WALTON: Yes. This is related to the overall adoption and readoption of the City Code, the Zoning Ordinance portion of that. The City Code was last adopted in May of last year, and so in discussions with the city attorney, the goal is to work with the Municipal Code Corporation to update that again.
So the zoning map, Keck & Wood, the City's engineering consultant, will be directed to update the map. They have not as of yet, per our understanding last Friday. Map revisions are minor, and there's no reason that those should not be completed prior to your next zoning meeting.
However, the notice for readoption of the City Zoning Map was separate from the notice posted and advertised for adoption of the City Zoning Code. So though they're a single item on the agenda, they had two separate notifications.
COUNCILMEMBER BATES: So the adoption of the Code would be to adopt what Municode has published in their book.
MR. WALTON: To adopt the Code at its current status including all amendments that have been adopted since its last adoption.

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COUNCILMEMBER BATES: Okay.
MR. WALTON: Right.
COUNCILMEMBER PACHUTA: The Zoning Map, do we need to push that to a date certain?
MR. WALTON: That should be pushed to a date certain, yes.
COUNCILMEMBER PACHUTA: Okay. I'll go ahead and do that.
I make a motion to continue the item Readoption of the Zoning Map to the date certain of April 25th, 2011.
MAYOR PRO TEM PITTMAN: Get a second?
COUNCILMEMBER BATES: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.

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CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries.
MR. WALTON: Thank you.
ATTORNEY LINKOUS: And the other item, Mr. Weed asked that the Council essentially make two motions or a combined motion to adopt these books as the Code of Ordinances of the City and to also adopt the zoning portion of these books as the Official Zoning Code of the City. So he asked that both be done.
He feels -- and I think it's a good idea to go ahead and readopt the whole book. And since we know we've got the books right here, this essentially is the book plus the amendments since it was codified, that these books be made the official copy for the City.
COUNCILMEMBER BATES: Do we need a public hearing on this because it's the zoning code?
ATTORNEY LINKOUS: Ordinarily, yeah, you would need a public hearing providing the opportunity for folks to speak one way or another. That would be recommended.

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MAYOR PRO TEM PITTMAN: Okay.
MR. WALTON: And for clarification, there are no zoning changes proposed by the action, but it is technically a zoning issue.
MAYOR PRO TEM PITTMAN: Okay. Open the public hearing portion of this.
Anyone in favor of this who would like to speak? Anyone against?
MR. CRAWFORD: I'm in favor.
MAYOR PRO TEM PITTMAN: Okay.
MR. CRAWFORD: Ben Crawford, Oakcliff Estates.
A little side note here on conditional use. If a use has been discontinued for a period exceeding six months, that conditional use will expire is what it says right there in the zoning.
But I think it's about time that we stayed with the updates to our zoning and that we got it codified. And it would be nice if the Planning Commission had accurate copies of what you decide to -- after you've made all your changes so we can work from the same text.
Thank you.
MAYOR PRO TEM PITTMAN: Thank you.
Anyone against?

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MR. HAEBERLIN: Scott Haeberlin, East Point, Georgia.
Would be my understanding this readoption would require an action from the municipal Planning Commission. I have not heard any recommendation tonight regarding this action, so I would be against it. I believe it would be a violation of the Zoning Procedures Act.
Thank you.
MAYOR PRO TEM PITTMAN: Thank you.
Mr. Linkous, any comments on that?
ATTORNEY LINKOUS: I haven't researched what he's talking about, so I can't tell you for sure.
But I do know that this -- all we're doing is readopting the Code. I don't think that this is a zoning action by the board, but I think it's a good idea to have a public hearing just in case, and I think the board is authorized at this time to enact -- to reenact the Code and also to reenact the zoning portion of the code in two separate motions.
MAYOR PRO TEM PITTMAN: Council?
COUNCILMEMBER ROCHE: I would rather just do them both at once. I'd rather wait until we have the zoning map ready to go and just -- because a lot of times, you know, they walk hand-in-hand. So I'd be

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more in favor of postponing this to a date certain of April 25th.

COUNCILMEMBER BATES: Are there pros and cons of waiting?

MAYOR PRO TEM PITTMAN: Mr. Linkous?

MR. WALTON: I think that's more a question for Mr. Linkous.

MAYOR PRO TEM PITTMAN: Pros and cons of waiting?

ATTORNEY LINKOUS: What you're doing basically is somewhat of a formality. I mean if you decide not to readopt the Code, obviously you've got what you've got right now. We have no indication that any portion of the Code is invalid right now; however, with Mr. Weed's view, and I think it's probably a good cautionary view, is that the Code get readopted. So that's one portion.

The other is the adoption of the codification of the zoning portion of the Code, and I think that there's no real push to do it right now. So if the Council feels like they want to wait until April 25th, that's certainly okay. I think it's just merely a cautionary measure, I guess, is the best way to describe it.

MAYOR PRO TEM PITTMAN: Okay. Thank you.

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Council?

COUNCILMEMBER ROCHE: I'd like to make a motion to postpone agenda item 7, Adoption of Official Zoning Code and Readopting of Zoning Map to April 25th.

MAYOR PRO TEM PITTMAN: Do I get a second?

COUNCILMEMBER FLEMING: Second.

MAYOR PRO TEM PITTMAN: Discussion?

COUNCILMEMBER BATES: Madam Clerk, do you foresee any issues with us not adopting either code section tonight?

CLERK McCAIN: The only issue would be that until that is adopted, we won't be using this code, we'll be using the prior code and the ordinance as it is. We won't be using this book. But this will give us a chance to advertise it again just to be double sure.

COUNCILMEMBER ALEXANDER: I don't know that we have to advertise it again if we postpone to a date certain; correct?

COUNCILMEMBER ROCHE: Right.

MR. WALTON: That's my understanding.

COUNCILMEMBER ROCHE: We don't have a map, so.

MR. WALTON: It's my understanding that the

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ads were properly published. The notification requirements are met.

CLERK McCAIN: I'm sorry. I don't know if I just misunderstood you. I was just talking about the codification of the Municode. I thought that's what we were --

We've already continued the Zoning Map adoption till April 25th, so we just need the zoning code, and then the attorney had added in there the Municode adoption.

MAYOR PRO TEM PITTMAN: These were two different, separate ads; correct?

CLERK McCAIN: Yes.

MR. WALTON: There are two separate notices in the file, one for adoption of the Zoning Ordinance and the other one for readoption of the Zoning Map.

MAYOR PRO TEM PITTMAN: Thank you. Okay. We have a motion and a second. Additional discussion?

COUNCILMEMBER FLEMING: Just one other comment. It is our intent of the Planning Commission to hear all text amendments, and I would think that if we are indeed going to adopt a book, then they should at least have the opportunity to possibly view it.

Now, whether there is enough time -- or to schedule them to have view of the complete Code of

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Ordinances or not, I don't know, but that is our intent for the Planning Commission to hear -- I mean to view all text amendments.

COUNCILMEMBER ALEXANDER: To the zoning code, yes.

MR. WALTON: To the zoning code.

COUNCILMEMBER ROCHE: Are we actually changing -- We're not actually changing any code. I'm not saying that I disagree, I mean.

COUNCILMEMBER BATES: One of the problems that I think is out there, which is why it's important to adopt it, is the sections' numbering have changed from the old zoning code into the new, what's up --

CLERK McCAIN: We'd have to use the old numbers.

COUNCILMEMBER BATES: Right; what's up on Municode. So the sooner we can move this forward so that we can adopt all the new numbering issues especially for code enforcement and things like that is certainly beneficial.

COUNCILMEMBER FLEMING: Very true. However, if a business owner or even resident went to our Code of Ordinances, they'd go to Municode and see the most current.

COUNCILMEMBER BATES: Which is not what

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we're using internally because we haven't adopted it.
So our Section 902 in Municode is 1507.
CLERK McCAIN: Correct, because Chapter 23 is the Zoning Ordinance and we're still using 1000.
COUNCILMEMBER BATES: Right.
ATTORNEY LINKOUS: And I had forgotten about that. That was something that Mr. Weed and I did discuss, that there's a difference in the numbering system. So we're going to have to continue under the old numbering system if we do want to move forward.
COUNCILMEMBER BATES: So that's my only caveat on not moving it out is that there is some numerical discrepancy right now because of what's been codified v. what's being used. I just want to throw that out there before we vote.
COUNCILMEMBER ALEXANDER: (Inaudible)
COUNCILMEMBER BATES: Well, because the zoning's part of the black book.
COUNCILMEMBER FLEMING: Melissa indicated that it would be two votes, one for the zoning book and one for the Code of Ordinances is the way that I understand that we will do this; is that correct?
ATTORNEY LINKOUS: Yeah. There were two votes that we would be talking about in addition to the -- The map is one thing, but you've already

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postponed that. So two votes on basically to adopt the new codification of the whole code and the other is to adopt the zoning portion of the code, and the second part is to make the numbering consistent as Councilman Bates had talked about.
COUNCILMEMBER ROCHE: Well, I still think that on the -- I mean we fought long and hard to make sure that the Planning Commission got to review text changes, and I don't think I -- I wouldn't be in favor of taking that away.
I know a month is not very long, but, you know, I stand by -- You know, if you want to do the other one separately, that's fine, but I think my motion was to postpone the Official Zoning Code till a date certain of April 25th -- I think that's what I said -- and that would give the Planning Commission the opportunity to review the text before passage.
CLERK McCAIN: I don't believe there's text changes, Councilmember Roche. I believe it's just the numbering system.
COUNCILMEMBER ROCHE: Well, I know, but --
CLERK McCAIN: Okay.
MAYOR PRO TEM PITTMAN: Okay. Got a motion and a second. Additional discussion?
- - -

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(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries. Thank you.
Okay. The next item's going to be under new business, Police Department Contracts. The Chief is out on an emergency. Does the Council feel comfortable with going forward with this?
CLERK McCAIN: I believe there was some -- if I may --
MAYOR PRO TEM PITTMAN: Sure.
CLERK McCAIN: -- some exigent circumstances that they'd like to get these passed as soon as

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possible. If for some reason the air conditioning went out in the jail, we do not have a contract to maintain that system.
COUNCILMEMBER ROCHE: But they would just simply call up these people, right? without a contract?
MAYOR PRO TEM PITTMAN: Well, they wouldn't come without a contract.
COUNCILMEMBER ROCHE: I understand why we're under the gun. I'm looking at one of the findings from the recent audit. Finding 9.6B about procurement said the procurement process should be reevaluated to make sure that each procurement is well documented as to how the vendor was selected and that open competition is not limited.
So I'm always going to be in favor of going out for bids for these and, frankly, for everything. I think not going out for bids is a real problem.
And waiting until the very last minute to tell the Council we need to renew a contract, which kind of just puts us under the gun, I think that's just --
If I was going to renew this contract, I would say renew the contract for 60 days until such time as we can put it out for bids. In fact, I'll

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make that a motion.
COUNCILMEMBER ALEXANDER: Okay. I think we already voted, and this was on the list of contracts that appeared before us at the regular Council meeting, and I think we need a motion to accept -- to allow to renew those contracts.
COUNCILMEMBER ROCHE: Well, then, we don't need to be having this on the agenda tonight.
COUNCILMEMBER ALEXANDER: I believe it appeared on the agenda tonight because we didn't have a hard contract in front of us at the time.
COUNCILMEMBER ROCHE: Well, there's nothing in this con- --
CLERK McCAIN: The motion at the last meeting was to direct the attorney to move forward with drafting the contracts as presented at the last meeting.
ATTORNEY LINKOUS: Which we have. We have the finals here ready to go.
MAYOR PRO TEM PITTMAN: Okay. So you have a motion on the table. Do I get second?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: No second?

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Okay. Motion dies.
Council?
COUNCILMEMBER PACHUTA: I make a motion that we approve the contracts for the police department with Cool-Ray Heating & Cooling and Perkins Electric Company.
COUNCILMEMBER FLEMING: Take them separately, please.
COUNCILMEMBER PACHUTA: Okay.
I'll amend my motion to approve the contract with Cool-Ray Heating & Cooling.
MAYOR PRO TEM PITTMAN: Do I get a second?
COUNCILMEMBER ALEXANDER: Second.
COUNCILMEMBER FLEMING: There's no prices in here.
COUNCILMEMBER ROCHE: Yeah. We have no idea what this costs.
COUNCILMEMBER ALEXANDER: Cool-Ray is $1,890.
COUNCILMEMBER FLEMING: I'm sorry?
COUNCILMEMBER ALEXANDER: Cool-Ray is $1,890.
COUNCILMEMBER ROCHE: Where is that?
COUNCILMEMBER ALEXANDER: Page three.
COUNCILMEMBER BATES: Article three.

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MAYOR PRO TEM PITTMAN: Okay. Motion and a second. Discussion?
COUNCILMEMBER FLEMING: Thank you.
COUNCILMEMBER ROCHE: Is that per month?
COUNCILMEMBER BATES: In totality.
MAYOR PRO TEM PITTMAN: Okay. Additional discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ALEXANDER: Make a motion to accept the Perkins Electric.
MAYOR PRO TEM PITTMAN: He hasn't answered yet.

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COUNCILMEMBER ALEXANDER: I'm sorry.
COUNCILMEMBER ROCHE: I'm confused, but it looks like it's under five grand so I'll say yes.
COUNCILMEMBER ALEXANDER: Sorry.
MAYOR PRO TEM PITTMAN: Okay. Motion carries.
Ms. Alexander?
COUNCILMEMBER ALEXANDER: Make a motion to accept the Perkins Electric Company contract for $850.
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?

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COUNCILMEMBER ROCHE: Yes.
MAYOR PRO TEM PITTMAN: Motion carries.
Next item under New Business is number 2: 3093 Flowers Road, rezoning from C-1 to C-2 with variances.
My understanding per applicant, this is going to be postponed for the Planning Commission to review, and I believe the applicant is here.
MR. WALTON: That is correct, as per the e-mail I sent to all of you. And earlier today the applicant has -- I need to ask this to be postponed to a date certain, and the applicant is present tonight and would like to introduce herself to you if that's okay.
MAYOR PRO TEM PITTMAN: Sure.
MR. WALTON: And then, as you've correctly stated, we will be bringing this before the Planning Commission prior to returning to you.
Applicant is Ms. Caroline Nappo.
MS. NAPPO: Thank you for giving me just a few minutes. I'm here on behalf of 3903 Flowers Road, rezoning from a C-1 to a C-2. It will be for the purposes for a heating and air company, so I'm sorry to say that we lost out to Cool-Ray, but perhaps in the future we may get an opportunity to bid.

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We are currently working out of Atlanta but it is our desire to move to Doraville. As a real estate broker, I'm very specific about being in Doraville and I clarify that when I tell people it's not Atlanta but Doraville because I want to be affiliated with Doraville -- no offense to the city of Atlanta.
Just so that you would know, currently what we're looking at at 3903 Flowers Road, there is a combination, there is already a C-2 zoning I think about two addresses down. Next door to us is a C-1. On the other side is a C-1. There's an M-1. So I think it already has been established that there is a C-2, so I'm hoping this is going to be a positive thing for you as far as looking at our request for giving us a C-2 zoning.
In particular, the neighbor next door to us, they also work with air conditioning. They do diagnostics for insurance company pertaining to air conditioning and what may have caused those malfunctioning, so we're really hoping to get a chance to kind of work with them. It seems a great opportunity.
We've already started establishing working with Blaze Recycling here in Doraville, again, trying

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to bring some financial benefits to Doraville and to us as well. So please know I'm working very diligently on being a good neighbor and business partner to y'all.
And I just want to say I'm just fascinated sitting here just listening to government in action. All of it, it's just been very compelling.
Anyway, I believe Lee is going to be presenting his final -- his study report to you on Thursday for your final vote. Hopefully, it'll be soon since our business season's getting ready to start. But I understand you're in the midst of stuff, so if it takes till the end of the month, then that's -- but I thank you for your time and I'm looking forward to a positive response from you.
MAYOR PRO TEM PITTMAN: Thank you.
MS. NAPPO: Thank you.
MAYOR PRO TEM PITTMAN: Okay.
COUNCILMEMBER ROCHE: Motion to postpone this agenda item to date certain of April 25th.
MAYOR PRO TEM PITTMAN: Get a second?
COUNCILMEMBER FLEMING: If we can hear it sooner, that would be --
It's already been advertised; is that correct?

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MR. WALTON: Yes, ma'am, it has been advertised. And this will be discussed at a Planning Commission meeting which is scheduled for this Thursday, March the 31st. So the Planning Commission will have heard this by this Thursday, and any date as early as is convenient for the Council would be appreciated by the applicant.
COUNCILMEMBER ROCHE: I'll withdraw my motion in favor of an earlier date if we want to decide on one.
COUNCILMEMBER FLEMING: With that in mind, I don't think that we would be able to.
Will you have to publicize it again for another date?
CLERK McCAIN: No.
MR. WALTON: I don't believe so. I believe it's my understanding that it's been -- or it is my understanding that it's been publicized. It has been posted. We verified the sign at this location. And my understanding is that the ad has run in accordance with Zoning Procedures Act. So postponement to a date certain will continue the validity of that notification.
COUNCILMEMBER FLEMING: I'm not sure, but I think our April 4th is getting pretty full, is it not?

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CLERK McCAIN: It is.
COUNCILMEMBER ROCHE: Yeah. I think April's going to be busy anyway. We're going to have to interview city planners, we're going to have to interview city attorneys too, so we'll be scheduling all that.
COUNCILMEMBER FLEMING: Do we want to try for the second Monday instead of the end of the month?
COUNCILMEMBER BATES: My preference is to keep planning and zoning together.
COUNCILMEMBER ROCHE: All right.
COUNCILMEMBER BATES: That's why we created this meeting was to consolidate stuff, so.
COUNCILMEMBER ROCHE: To do planning and zoning.
COUNCILMEMBER BATES: Right. My preference would be to keep it on the 25th, but I'm open to persuasion for the 18th.
MR. WALTON: Well, I didn't mention regarding the 18th, it is my understanding that there will be a planning-related/zoning-related issue on the 18th which also will be discussed at the Planning Commission meeting this Thursday, so.
COUNCILMEMBER ROCHE: Motion to postpone this agenda item to a date certain of April 18th.

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MAYOR PRO TEM PITTMAN: Okay. Do I get a second?
COUNCILMEMBER PACHUTA: Second.
MAYOR PRO TEM PITTMAN: Discussion?
- - -
(No response)
- - -
MAYOR PRO TEM PITTMAN: Call the roll, please.
CLERK McCAIN: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK McCAIN: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK McCAIN: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK McCAIN: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK McCAIN: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes. Thank you.
MAYOR PRO TEM PITTMAN: Reports, there are none.
Public Comments. Please limit your comments to three minutes.
MS. CRAWFORD: Susan Crawford.
I saw something very disturbing and I don't

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know if it's true, but it was a fee schedule in which we as residents would be charged for things like replacing water heaters and light switches.
I'm certainly hoping that this is not valid and it was somebody's misunderstanding, but if it is, I would ask you to step back. I know these are hard economic times for all of us, but remember why you're up there and who you're representing.
I mean I'm sure that you do need to make cuts somewhere or bring in revenue somehow, but turning on your own constituents, and that is exactly how it would be perceived.
If somebody is barely making ends meet and his water heater explodes, which has happened to us, and it has to be replaced, the last thing we want to think about is that you're going to get a cut. I mean how -- how extremely short-sighted.
Thank you.
MAYOR PRO TEM PITTMAN: Thank you. And I just want to make a comment that that is draft only. It's going to be probably several.
Typically, that was for the Council, for the Council to review and work through. Mr. Calcaterra provided that, and there's some reasoning behind that, but that was for the Council to look at and fine tune.

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MR. CRAWFORD: Ben Crawford.
And actually my comments would be about that also. Surface unit, $8.00; oven limit [sic], $8.00; combined unit, $10.00; water heater, six bucks; clothes dryer, $6.00; dishwasher, $4.00; disposal -- I guess that's a dishwasher disposal -- $4.00; furnace, $6.00; washing machine, $6.00.
And I guess I get three minutes so I'll go on for a few minutes and tell you my thoughts.
Bath fan, vent hood, roof ventilator, less than one, five twenty-five; one through five, five through ten, ten through twenty, twenty through fifty-nine; sixty and over. I'm guessing perhaps that's dealing with amperage, not quantity.
So to me, I'm looking at this and I'm thinking, what next? The faucet goes out in my bathroom, the commode; do you want to charge me for that too?
You know, these things are being bandied about, but what should be bandied about is the health insurance for the City Council, retirement for City Council, things like that that should be bandied about before you decide to charge $6.00 per residence for a hot water heater, clothes dryer, dishwasher.
I mean those are things -- you know, that's

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the fabric of our lives. We use those things to go to work every day, and you think you're going to come back and take advantage of that?

It's not going to happen. The residents in this city aren't going to put up with it. You better think in other directions about where you're going to cut, but it's not by, you know, penalizing us bit by bit, piece by piece.

It's not going to happen. Thank you.

MAYOR PRO TEM PITTMAN: My understanding on that is that's for new construction, not --

CLERK McCAIN: So they can check the outlets and the connections.

MAYOR PRO TEM PITTMAN: Not for what people have currently. That's why it's a draft: so we could offer explanations to the Council.

COUNCILMEMBER ROCHE: This is on the next agenda, isn't it?

CLERK McCAIN: It is.

MAYOR PRO TEM PITTMAN: It is.

COUNCILMEMBER ROCHE: So since it's a supporting document for an agenda item, hopefully we can get that on the Web as soon as possible so people can review it.

MAYOR PRO TEM PITTMAN: Somebody's already -

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-

COUNCILMEMBER BATES: Well, it's already out.

MAYOR PRO TEM PITTMAN: Somebody already put it out.

COUNCILMEMBER ROCHE: Yeah. Well --

COUNCILMEMBER PACHUTA: And I think the e-mail that was sent to us, if we could please provide feedback prior to Wednesday so that a revised draft could be up for the agenda.

MAYOR PRO TEM PITTMAN: And we were hoping to get feedback from the Council prior so we can have an explanation to the public on what it is.

Okay. Reports, none.

Motion to adjourn?

COUNCILMEMBER ALEXANDER: So moved.

COUNCILMEMBER PACHUTA: Can I just make one announcement --

MAYOR PRO TEM PITTMAN: Sure.

COUNCILMEMBER PACHUTA: -- reminding people that there's an art show Thursday at the Church of the New Covenant, with the local schools involved, I believe. The Cross Keys band is also playing. And that's at 6:00 p.m. Thursday at Church of the New Covenant.

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MAYOR PRO TEM PITTMAN: Thank you.

Okay. Motion to adjourn?

COUNCILMEMBER ALEXANDER: So moved.

COUNCILMEMBER BATES: Second.

MAYOR PRO TEM PITTMAN: Discussion?

- - -

(No response)

- - -

MAYOR PRO TEM PITTMAN: Call the roll, please.

CLERK McCAIN: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK McCAIN: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK McCAIN: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK McCAIN: Councilmember Pachuta?

COUNCILMEMBER PACHUTA: Yes.

CLERK McCAIN: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

- - -

(Meeting adjourned at approximately 7:55 p.m.)

-o0o-

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C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 7th day of April, 2011.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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[

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