In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

July 22, 2010

American Court Reporting Company, Inc.

52 Executive Park South

Suite 5201

Atlanta, Georgia 30329-2217

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Original File 61139-1.txt

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

* * *

Transcript of the meeting held in the Mayor's office at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at approximately 7:00 p.m., July 22, 2010.

* * *

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APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Karen Pachuta
Councilmember Donna Pittman
Councilmember Bob Roche
Councilmember Pam Fleming
Sandra Bryant, Assistant City Clerk
Murray J. Weed, City Attorney

David Greene
Perkins & Will

William Fussell
Miller & Martin

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P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order. 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?

COUNCILMEMBER PACHUTA: Here.

CLERK BRYANT: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

CLERK BRYANT: Councilmember Roche?

COUNCILMAN ROCHE: Here.

MAYOR JENKINS: All right. No minutes to approve, no comments from the Mayor, reports none.

Public comments. This is a special-called meeting. How do we deal with that, Murray? Special-called meeting, public comments on the agenda?

ATTORNEY WEED: Sir, my opinion is if you have a meeting and you're following the baseline agenda that you can take public comments.

MAYOR JENKINS: Okay. We'll have three minutes on public comments on the agenda items. The

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next item on the agenda is approval of the Alford Group contract, and then we'll be going into Executive Session on real estate acquisition.

Comments from the audience.

Yes, sir.

MR. HART: I understand we're going to hire a detective firm, and is this a budget item that's been passed in the budget, to hire outside detective firm?

MAYOR JENKINS: We have legal in our budget, which it'll come out of legal.

MR. HART: Okay. And the second question I had is that I understand --

Well, it's hard to make a comment about hiring a detective firm if you don't know what they're detecting. I mean is this a citizen or is this someone that works for the City or what exactly is the detective agency being hired for and what is their connection with any of the current legal -- I mean is it connected to the law office of our city attorney or who is it and why isn't the police department --? Don't they have detectives over there? I mean why are they not here?

MAYOR JENKINS: I can try to answer but you can probably do better.

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ATTORNEY WEED: I'll make an attempt, Mr. Mayor.

If the Counsel elects to do so, Mr. Alford's agency will be contracted to investigate complaints that have been made pursuant to Section 2.6 of the Personnel Policy. That's the only thing that I'm at liberty to comment on right now, and that's the only answer I can give to the question.

MR. HART: Then, we're using this private detective agency, and when I was on the City Council, the police department didn't have any problem following me around, so I mean I don't understand what the big problem is. Thank you.

MAYOR JENKINS: Any more comments?

MR. ANDERSON: I guess I would say why aren't we using the police department to investigate whatever it is we're investigating?

MAYOR JENKINS: My only answer to that would be we do not want anybody connected with the City.

Would that be the answer, Murray?

ATTORNEY WEED: Mr. Mayor, I think that is your answer and I think that's a fine answer.

MR. SHANAHAN: Could you tell us what 2.6 is?

ATTORNEY WEED: Would the Council like me to

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answer that question?

MAYOR JENKINS: Yes.

COUNCILMAN ROCHE: Of course.

COUNCILMEMBER PITTMAN: Sure.

ATTORNEY WEED: It's under the Personnel Policy and it is essentially employees have a right to bring forward complaints when they feel they are being intimidated, harassed or discriminated against.

It's a pretty standard policy in most employment policies that are adopted nationally.

MR. CHAMBERS: Is this against a citizen or another employee?

ATTORNEY WEED: I'm not -- I'm not at liberty to answer that question as the city attorney.

MR. CHAMBERS: Or someone -- against someone at the police department?

ATTORNEY WEED: I'm not at liberty to answer that question as the city attorney.

MR. CHAMBERS: And no one else can answer the question? Are you advising no one else to answer the question?

ATTORNEY WEED: I'll answer. I'm happy to offer advice to the majority of the Council if you would like me -- if you are asking me to provide you advice. That's all I can say.

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MAYOR JENKINS: Any more questions?

- - -

(No response)

- - -

MAYOR JENKINS: Okay.

ATTORNEY WEED: Mr. Mayor, the next item of business is Section 7, Item 1. It's approval or non-approval of the Alford Group contract. It's a roughly standard-form contract prepared for my offices.

COUNCILMEMBER FLEMING: Mr. Weed, excuse me for interrupting.

I'd like to recuse myself in regard to Item Number 1 and I will be out of the building. And so when we go to take item number 2, if someone will come and get me, I'd appreciate it.

MAYOR JENKINS: Yes, ma'am.

COUNCILMEMBER FLEMING: Thank you.

MAYOR JENKINS: We sure will.

ATTORNEY WEED: Thank you, Ms. Fleming. And let the record reflect that.

- - -

(Councilmember Fleming exited the room)

- - -

ATTORNEY WEED: The simplest terms of the contract are it is with Mr. James Alford and his

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corporation, The Alford Group. The terms are a maximum of $3,000 for 10 hours worth of work on two different matters, $150 per hour for the matters. If it is determined that additional time would be required, then I will probably approach the Council and seek additional time.

This matter actually is below the threshold under 2.9 -- 90, however, my office, since I've been city attorney, we have endeavored to put forward all contracts to the Mayor and Council, which was not done in the past. The fine line that we've tried to operate under and what we've instructed the department heads is that if it's a flat-out purchase of something, then 2.90 clearly exempts anything below $5,000; however, if it's a service, we've been trying to train, for lack of a better term, the department heads that those things require contracts and require review by the city attorney's office.

Obviously, I'm not in a position to, you know, advise the department heads to do one thing and yet not live up that same standard. I won't do that. Therefore, this contract is before this Council.

There's nothing in the ordinance that require me to do this; however, I think it's the best thing for the city. That's my advice, it's in keeping

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with the advice I've given the department heads up to now, and that's why I'm asking the Council to vote to approve this matter.

COUNCILMAN ROCHE: Was it your advice to use this different way of investigating the situation instead of investigating it the way we've always investigated every other situation that was similar?

ATTORNEY WEED: I'm happy to offer legal advice in Executive Session if the Council would like to go into an Executive Session, and I'll answer your question at that time, Councilman Roche. Until then, I will not answer it publicly.

COUNCILMAN ROCHE: Well, that's my question is why are we going to do this special trip or special deal to hire other people? because as some people have said and as I've received several e-mails and phone calls today about it, you know, we already have a police department. They've done the investigations. They investigated the library situation, they've investigated and can investigate their own employees, and I don't know why we're doing a -- making a special case here for this.

ATTORNEY WEED: I'm happy to answer your question, and of course you can always vote no, and the Council can always choose to assign the

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investigation to someone else. However, I'd like to answer your question in an Executive Session. So I would advise the Council to go into Executive Session for the purposes of personnel in addition to going into executive session for purposes of consideration of acquisition of real estate, and I'll be happy to -- delighted to answer your question at that time, Councilman.

COUNCILMAN ROCHE: Then, if we're going to go into Executive Session for personnel issues, all the evidence has to be presented in public before we can go into Executive Session.

ATTORNEY WEED: Not with regard to the application of legal advice. You've asked me for my legal opinion. I'm happy to offer it.

COUNCILMAN ROCHE: I wasn't asking you specifically. I was saying that's a question at large, is why is this Council spending money on someone -- why are we making a special case for this special investigation?

ATTORNEY WEED: Okay.

COUNCILMAN ROCHE: Why aren't we being consistent? Why aren't we treating everyone fairly? Why do we have one process for one situation and one human being and yet a different process for other

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people?

ATTORNEY WEED: So you're not asking me a question. You want --

COUNCILMAN ROCHE: I'm not asking --

ATTORNEY WEED: -- to make a speech to the Council.

COUNCILMAN ROCHE: -- a question. And I'm not making a speech; I'm making a point. I'm making a point that fairness is -- that we should be fair, and why we have to --

Every time we have a similar situation, we're going to have a brand new policy? Is that what's going to happen? Or is it just all going to be at the whim of whoever happens to be the boss at the moment?

COUNCILMEMBER PACHUTA: I don't think the situation's analogous. And I don't really care in a public meeting to go into that, but because of the positions, I don't think it's an analogous situation.

COUNCILMAN ROCHE: I don't see how. I don't get your logic there.

So no. I mean I can't support this. I mean as other people have said, we have a perfectly good police department, they were perfectly capable of investigating similar situations, and I don't see why

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we should have to go outside for this.

And the only other thing I'll say about this is I'll be very glad when all this is public. The sooner, the better.

And the last thing I'll say is that 10 hours is not enough to investigate this situation, from my understanding. Ten hours is not enough time to interview all the people that would need to be interviewed, review all the tapes of meetings that would need to be reviewed, review the e-mails, et cetera, et cetera. So 10 hours is nowhere enough. And that's my concern is that the cost of this could easily just get out of control; whereas, we already have in-house detectives that we're already paying their salaries. So if it takes 30 hours or 50 hours or 100 hours, it doesn't cost us more money. It's not going to cost us $15,000.

So I think this is a poor use of the City's money, and I don't know, the whole thing is -- whatever. I'll leave my opinion on that.

MAYOR JENKINS: Anybody else got anything to say?

Do I have a motion?

COUNCILMEMBER BATES: So moved.

COUNCILMAN ROCHE: Could you say that? What

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motion is that?
COUNCILMEMBER BATES: Chair, I'll make the motion to accept the Alford proposal. Is that okay?
COUNCILMAN ROCHE: Let's get everybody on the record here.
MAYOR JENKINS: Do I get a second?
COUNCILMEMBER ALEXANDER: Second.
COUNCILMEMBER PACHUTA: And I just want to make a comment just before anyone...Murray had mentioned in passing that The Alford Group did about 80 or 90 percent of work for Troutman Sanders. And so I just want to put on the record that I did spend nine months working at Troutman Sanders, not as a Troutman Sanders employee. They hired me as an independent contractor. But I worked there, and I have no idea who this guy is; never worked with him at Troutman Sanders. I just wanted to get that out in the open because he had mentioned that.
COUNCILMEMBER PITTMAN: And there's no affiliation with the city at all, is that correct, that you're aware of?
ATTORNEY WEED: That is my understanding and that's what's been represented to me.
COUNCILMEMBER BATES: And I do concur with Mr. Roche, the sooner we get this over and done with

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and out, the better it is. It's distasteful.
MAYOR JENKINS: Yeah, I agree with that.
Any more discussion?
- - -
(No response)
- - -
MAYOR JENKINS: Call the roll, please.
CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BRYANT: Councilmember Roche?
COUNCILMAN ROCHE: No.
MAYOR JENKINS: Motion carried. So we need a motion to go into Executive Session.
COUNCILMEMBER PACHUTA: I make a motion that we go into Executive Session to discuss real estate acquisition.
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Any more discussion?
- - -

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(No response)
- - -
MAYOR JENKINS: Call the roll, please.
CLERK BRYANT: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BRYANT: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BRYANT: Councilmember Pachuta?
COUNCILMEMBER PACHUTA: Yes.
CLERK BRYANT: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BRYANT: Councilmember Roche?
COUNCILMAN ROCHE: Yes.
- - -
(Executive Session)
- - -
MAYOR JENKINS: Public comments. Anybody got public comments?
ATTORNEY WEED: Mr. Hart, you're the only one here. Do you have any public comments?
MR. HART: Yeah. What happened? Anything?
COUNCILMEMBER ALEXANDER: Nothing.
ATTORNEY WEED: There we go.
MR. HART: Because I think we were talking about -- I assumed, since Mr. Burkett was here, that

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you-all were talking about the General Motors plant.
And the other thing was we're spending money to investigate a councilperson. And when I went to the Planning Commission meeting, they said that the planner said he couldn't talk about it because there was some -- there was some litigation.
So is there something that the public needs to know about spending money on investigating Council people and City employees or --? I mean what -- That's part of the public meeting that happened earlier.
MAYOR JENKINS: You had comments on the regular meeting to start with also, sir.
MR. HART: Yeah.
ATTORNEY WEED: Anyone is welcome to make a comment. The Council is under no compunction to answer any questions.
MAYOR JENKINS: Okay. Any more comments, Mr. Hart?
MR. HART: I didn't expect an answer. Never do get one. It's like the old joke about a dark suit.
MAYOR JENKINS: Anybody else want to make a comment?
- - -
(No response)

MAYOR JENKINS: Can I get a motion and a second to adjourn?

COUNCILMEMBER ALEXANDER: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Call the roll.

[By the Mayor] Ms. Alexander?

COUNCILMEMBER ALEXANDER: Yes.

MAYOR JENKINS: Bates?

COUNCILMEMBER BATES: Yes.

MAYOR JENKINS: Fleming?

COUNCILMEMBER FLEMING: Yes.

MAYOR JENKINS: Pachuta?

COUNCILMEMBER PACHUTA: Yes.

MAYOR JENKINS: Pittman?

COUNCILMEMBER PITTMAN: Yes.

MAYOR JENKINS: And Roche?

COUNCILMAN ROCHE: Yes.

MAYOR JENKINS: Meeting adjourned.

(Meeting adjourned at approximately 9:05 p.m.)

-o0o-

C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

I hereby certify that the foregoing transcript was taken down, as stated in the caption, and the proceedings were reduced t o 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 20th day of August, 2010.

_____

Theresa Bretch, CCR
Permit No. B-755

[SEAL]

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