In The Matter Of:

City Council Meeting
City of Doraville, State of Georgia

Mayor Ray Jenkins Presiding
September 4, 2007

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CITY COUNCIL MEETING
CITY OF DORAVILLE
STATE OF GEORGIA
* * *

Transcript of the proceedings held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 7:00 p.m. on Tuesday, September 4, 2007.

* * *

APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilwoman Marlene Hadden
Councilwoman Donna Pittman
Councilman Ed Lowe
Hugh "Rick" Powell, City Attorney
Ms. Priscilla Murphy, Consultant

P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order.

I believe we have enough seats. I appreciate everybody coming out, and looks like we got some kind of controversy in the city for all these people to be here.

But anyway --

UNIDENTIFIED SPEAKER: We love you.

MAYOR JENKINS: Wait a minute. I'm going to ask Priscilla to call the roll.

MS. MURPHY: Councilwoman Hadden?

COUNCILWOMAN HADDEN: Here.

MS. MURPHY: Councilman Lowe?

COUNCILMAN LOWE: Here.

MS. MURPHY: Councilwoman Pittman?

COUNCILWOMAN PITTMAN: Here.

MS. MURPHY: Mayor, Councilman Spangler is absent.

MAYOR JENKINS: Spangler is sick. He called a while ago and said he was sick, so --

We're going to start out with we're going to approve the -- I want to get a motion to approve the minutes of the July 2nd, 2007, Council meeting.

COUNCILWOMAN PITTMAN: Motion.

MAYOR JENKINS: Second?

COUNCILWOMAN HADDEN: Second.

MAYOR JENKINS: All in favor?

Opposed?

To approve the July 26, 2007, Council meeting?

COUNCILWOMAN PITTMAN: Motion.

MAYOR JENKINS: Second?

COUNCILWOMAN HADDEN: Second.

MAYOR JENKINS: All in favor?

Opposed?

We need to set up a new bank account for our tree bank moneys that we're beginning to bring in now. And there's been a suggestion at the work session that we use Intercontinental Bank, which is the bank we use and do all our checking and everything.

Do I get a motion to that effect?

COUNCILMAN LOWE: So moved.

MAYOR JENKINS: Second?

COUNCILWOMAN PITTMAN: Second.

MAYOR JENKINS: All in favor?

Opposed?

COUNCILMAN LOWE: Mayor, how much money do we have in there?

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MAYOR JENKINS: We have 31,000 as we speak.

MS. MURPHY: To put it somewhere. We haven't put it anywhere.

MAYOR JENKINS: That's right. We will be putting it in tomorrow at the Intercontinental; is that correct?

MS. MURPHY: Yes. You have to go and set up the account.

MAYOR JENKINS: Yes, sir. Yes, ma'am. I will.

Autumn Park, Ms. Hadden?

COUNCILWOMAN HADDEN: Okay. Well, we're still waiting to hear from the KaBOOM program whether we're going to receive that wonderful playground or not.

The representative came from Washington, D.C., since we've had our last Council meeting and specifically wanted to meet with the Maintenance supervisor and the head of our Parks & Recreation Department.

And we went over to the site at Autumn Park. We actually moved the site, so we're hoping that that's indicative that we are going to get this playground.

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She asked several questions of Mr. Pittman and of Carol Stephens, and seemed to be satisfactory. So I guess we just have to wait now and hope that we're going to get it. Still, it seems to drag on and on.

The other thing about Autumn Park is we have received some responses to an RFP that we put out to perform some mitigation on our stream-bank erosion. And we have received some estimates on that from Entrix, Moreland Altobelli & Associates, Hayes James and Precision Planning, Inc.

Mr. Entsminger had looked at some of these briefly and basically seemed to feel that Precision Planning, Inc. would probably be the better ones to go with. He had some information regarding work that they have performed in the past that seemed very positive.

And what this would be for would be the grading plan phase. They would coordinate and do the final submittal approval, meeting with Wetlands & Ecological Consultants and the City. They'd develop and design the grading plan and construction details for the two segments of stream requiring stabilization. That's the part

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near Raymond Drive and then the part down near McClave. They would then submit plans to the City of Doraville for review, comments and approval, so we would all be able to see what would be going on with our park.

The erosion and sedimentation control plan phase, they'd develop and design erosion and sediment control plan and details for the two segments of stream requiring the stabilization, submit those to the City of Doraville for comments and approval, and then prepare the plans for submittal to the other agency involved.

Now, there were some things that they would not cover and some of them are not applicable.

Irrigation or lighting plans, those are not applicable so they are not included in this plan.

We do not require a stream-buffer variance, according to Mr. Entsminger, because of where the playground would be located in the park.

Mr. Buice with our Stormwater department would handle the permitting for FEMA

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or the submittals to them.

So they were quite specific on what they could do for us and what they couldn't do, and it was a total of $19,140. They estimated that any reimbursable expenses incurred would be at $300.

So I would like to make a motion this evening that Precision Planning be accepted as the people to help us move Autumn Park forward with their planning, their grading phase, erosion and sediment control plan phase.

COUNCILWOMAN PITTMAN: Second.

MAYOR JENKINS: Any more discussion?

All in favor?

Opposed?

MAYOR JENKINS: Contracts, Ms. Hadden.

COUNCILWOMAN HADDEN: Okay. Due to recent events that occurred in our city, it was suggested that Chief John King be put under an employment contract.

I think that will make everybody feel a lot better. I think we'll feel like our community is stabilized.

And I did a little research, and I've handed out to Council members and the Mayor

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tonight a very, very rough draft of an employment contract for such a position.

Now, this is not dyed in concrete, and I'd like to ask Chief King and his attorney, J. Tom Morgan, if they would please look into this also with other entities and come back to Council at our first meeting in October and present us with some recommendations for putting Chief King under contract with the City of Doraville.

Thank you.

MAYOR JENKINS: John, how do you feel about that?

CHIEF KING: Sounds good, sir.

MAYOR JENKINS: Thank you, John.

COUNCILWOMAN HADDEN: Are you going to hang with us, Chief?

CHIEF KING: Yes, ma'am.

COUNCILWOMAN HADDEN: Thank you.

UNIDENTIFIED SPEAKER: We're going to hang with you.

COUNCILWOMAN HADDEN: The reason that we're asking them to come back to us in October with that is we will only have one October meeting.

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MS. MURPHY: One September.

COUNCILWOMAN HADDEN: We voted in June --

MS. MURPHY: One September meeting.

COUNCILWOMAN HADDEN: I'm sorry. One September meeting, two in October. So this will be the only September meeting that we know of right now.

MAYOR JENKINS: Thank you, Ms. Hadden.

Ms. Pittman?

COUNCILWOMAN PITTMAN: I've been asked by a couple of people what happened to our trees on Winters Chapel.

Due to the really, really hot weather we've had, Dekalb County recommended that we wait until October, possibly November -- November's even better -- to plant those trees. So we still have 84 trees at the tree farm awaiting us.

So sometime in the end of October or beginning of November, we're going to have a tree planting party. They're going to furnish everything. We just need the hands. So I'm going to need a lot of help when this comes around.

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And we're also going to combine the dedication for the Hugo Arango Bridge. We have a really nice plaque that we want to put up. So we'll also be doing that sometime at the end of October or November.

MS. BARKER: Yes. Councilwoman Pittman, is that different from the plaque that's already down there now?

COUNCILWOMAN PITTMAN: Yes, ma'am. All they have now is a sign, and the sign has fallen a couple times.

So what we want to do is put something -- this is a really nice bronze plaque. In fact, it's in there, anyone that wants to look at it. We're going to put it on the bridge because it'll be there forever.

We had to jump through hoops with Dekalb County to be able to do that, but it'll be there fifty years from now. It's not going away. The sign might fall, and somebody might decide at some point they don't want to put it back up, and we don't want him forgotten, so --

MS. BARKER: And I wondered if --

COUNCILWOMAN PITTMAN: -- this is really important.

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MS. BARKER: -- the Council could consider maybe instead of doing a Police Day this year like we've been doing, just kind of combine that, maybe do hot dogs over at the police station when we get through planting. You know, maybe if they would consider that, you know, instead of the whole big Police Day, so they could bring the community together, the Police Department.

MAYOR JENKINS: That was Patty Barker. Anybody else that speaks, give your name and where you live, first.

MS. BARKER: Oh, I apologize. Yes. I'm Patty Barker.

MS. FRAYSSE: Could I add one thing, too, it might be a good (inaudible)?

COUNCILWOMAN PITTMAN: I'm sorry?

MS. FRAYSEE: The book sale for the Friends of the Library. We were hoping to do it in conjunction with the police event, so maybe all three of these things could be set at the same time.

COUNCILWOMAN PITTMAN: Yes, that's certainly something we could consider. That'll be a fun thing.

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Okay? That's it.
MAYOR JENKINS: Jill, come on in, please.
I want to introduce Jill Chambers -- she's our representative -- and J. Tom Morgan.
Okay. Rick Powell, I believe you said you had all yours cleared up?
ATTORNEY POWELL: We're going to take that off for tonight, Mayor.
MAYOR JENKINS: Okay.
John, come on up and give us a report.
UNIDENTIFIED SPEAKER: Yea, John.
CHIEF KING: First of all, I thank you very much. I cannot tell you how grateful I am to you-all.
Especially the last couple weeks have been very difficult, not only for me but I think for everybody in the city.
And I appreciate how things have started working themselves out, and I appreciate everybody's cooperation in getting the city moving forward and continuing a relationship with everybody involved. By no means do I want to burn any bridges with anybody.
A lot of things are going on currently

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in the city, sir, Mayor and members of City Council.
We're in the process of getting the second iteration of the Citizens Police Academy. We really need people to -- I know the last couple weeks have probably put a damper on people's chances or desire to participate in the Citizens Police Academy, but I really invite everybody.
And if you have an interest in attending the Citizens Police Academy, please drop us a line, because I think the more -- the more varied the audience, the more you will get out of it, the more we will get out of it as a police department.
The first iteration, I don't think there's no way you could put that group together if they came from every corner of the city. And that first academy class was truly special, and we're a better police department because of that class, and we expect -- we want to continue growing.
So please invite anybody that expresses an interest in participating in the Citizens Police Academy, please. The commitment is a

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couple hours one day a week, and come in with your brain engaged because we will get just as much from you as you will get from our employees. Our employees are really excited about putting that process through.
There's a lot of -- currently there's -- we've been able to clear the two homicides that we've had in the city. They were clear within 24 to 48 hours with arrests. We cleared those. We are in the process of helping Chamblee. They're still -- they've still having a tough time with them.
We believe that -- that they're Hispanic on Hispanic, and that's causing a lot of problems being able to work those with -- because they're very reluctant to come and talk with law enforcement and cooperate with us.
We are in the process of re-looking at how we can do a better job for the community. I know you, Ms. Pittman, had talked about, you know, moving some personnel.
What we're trying to do, Mayor, is create a permanent-beat basis. Basically, you know, in the past, we've divided the police department with a north zone and a south zone,

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and what we're trying to do now is divide the city in quadrants where you will have the same police officer assigned to that same neighborhood, and basically you will have four officers because we work 12-hour shifts.
So our plan is to work a beat system where when you dial -- you know, when you call the police department, you will get the same officer unless he's already on another call; then the backup officer.
We think that we can manage that. We're talking to our computer software provider to get adjustments, so when the call comes in to 911 and the call comes up, say, on Chestnut, it will pop up as beat 103, and car 103 will be the one responding every time. So that's the process that we're doing.
We -- I'm in the process of getting some bids, and I've talked a little bit to Priscilla about it. We're waiting for the actual details. We currently lease a lot of the 911 system, and that is very expensive. That's what's costing us a lot of money.
If we can work out the numbers, my plan is to try to buy some of that equipment,

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reducing the costs for 911. And if we can work out the numbers, it will not cost the taxpayers any money. So our plan is to buy the software and the hardware, avoiding the lease that we currently have, and that way, the only moneys that will be used will be paid for salaries and maintenance costs.

This is a very preliminary report. We will have more details as we sit down with the software and hardware providers. But we're trying to bring down the costs. I know that the 911 system is a concern for a lot of people, and we're trying to address those.

We're still talking with Dekalb County with the City Attorney and trying to come up with a resolution to try to get control over the cell phone towers with Dekalb County. We're in the process. I think we're waiting for them to call us so we can make an appointment.

ATTORNEY POWELL: (Nods head affirmatively.)

CHIEF KING: It does not appear to the police department that Dekalb County Police Department has a major problem with this, but now it is an issue that we have to build a

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bridge with the fire department. The fire department is very concerned.

And what we're -- what we are trying to negotiate with them is if they give us control over the cell phone towers, we will -- we will install a special line that will be not used for anything else but communicating between our 911 center and Dekalb County's 911 center to reduce the delay and the droppage of calls.

So those are the things we're trying to negotiate with Dekalb County to try to meet them and deal with their concerns but also get control of the towers.

Dekalb County -- the city of Chamblee has all the towers responding to their 911 center, and Decatur has the same thing as we're having to work with them.

But Mayor, pending any questions of you or members of the City Council, sir, that is -- that concludes my report.

MAYOR JENKINS: Any questions?

Okay. Thank you, John.

Committee reports.

Stuart, have you got a report?

MR. ANDERSON: Thank you. Oh, I will.

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(Inaudible.)

MAYOR JENKINS: Now, he's on the agenda, though.

MR. ANDERSON: Planning Commission report, we have a zoning -- rezoning and two variances coming up. And I'm sorry to say this, but we have very little information about those two things because the City is not providing us with our forms that the Planning Commission provided to the City to be used for that purpose.

We do the best we can in these hearings, but we'll see how it goes. Okay.

MAYOR JENKINS: Priscilla, do you want --

MS. MURPHY: After they're filled out.

MAYOR JENKINS: Do you have the forms?

MS. MURPHY: I have whatever they filled out when they applied for the application.

MAYOR JENKINS: What else do you need, Mr. Stuart?

MR. ANDERSON: They've provided sets of forms to be filled out by applicants, and they haven't been filled out or they haven't been

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provided to the applicants who are still using a variation on the things that we've been working on or we've been having for the last couple years.

We'll make it work. It's all right.

MAYOR JENKINS: Will you come by and explain it to me tomorrow and we'll --

MR. ANDERSON: Certainly.

MAYOR JENKINS: -- we'll get it worked out.

MR. ANDERSON: Actually --

MR. AMBROSE: It's the forms I brought to you two weeks ago on Friday.

MAYOR JENKINS: Okay. Any other committee reports?

Mr. Grant, would you come up to the podium, please, sir?

State your name, please, sir.

MR. GRANT: My name is Gordo Grant, with the Ethics Committee. And what I would like to just discuss here is the Ethics Committee was tasked to have forms, complaint forms approved by the City Council that would be used and put into place.

And currently, these forms were given

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to the Council on our last meeting. And just to stay on task with our committee, I was wondering if I could kind of persuade or push these forward and get possibly a first reading or even an approval of the form.

ATTORNEY POWELL: It wouldn't take a first reading. The Council could just approve the forms that we -- you'd worked on and I had reviewed. So if they just approve them, you can adopt them now.

MAYOR JENKINS: Okay. Do you want --

MR. GRANT: I do have extra copies of the forms here.

These are also the request for the advisory opinion. These are basically if a person, a member of the city would like to see if their topic is of an ethical opinion there, we can -- we can discuss that prior to them filing a complaint.

And Rick, we've reviewed these forms well enough?

ATTORNEY POWELL: Yes, right.

MR. GRANT: You feel comfortable there shouldn't be too much of a problem there?

ATTORNEY POWELL: From the legal

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standpoint, as far as I'm concerned, they're fine.

COUNCILWOMAN HADDEN: Well, I'd like to make a motion that we accept these forms as submitted this evening for the Ethics Committee. That's a Request for Advisory Opinion form and an Ethics Complaint form of the City of Doraville.

COUNCILMAN LOWE: Second.

MAYOR JENKINS: Any more discussion?

Do you have anything else other than the forms to bring?

MR. GRANT: Other than the forms?

Well --

MAYOR JENKINS: Well, let me finish the motion. I just wanted -- I'm talking about any more discussion on these.

MR. GRANT: On the forms, no, sir.

MAYOR JENKINS: Okay. All in favor?

Opposed?

MR. GRANT: Thank you very much.

COUNCILWOMAN PITTMAN: Nice job.

MR. GRANT: Thank you.

MAYOR JENKINS: Thank you. That's very good. Thank you.

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MR. GRANT: Yes, we have ethics forms. If you want to file an ethical complaint, come right up here to City Hall and the forms will be there for you.

So that goes ahead and that takes out item number two, current process with that form, since we do have the current forms.

My next question would be directed towards Mr. Powell.

There was a question that we might be changing the ethics ordinance itself or at least some verbiage of it?

ATTORNEY POWELL: Yes. And we will present that at the next meeting. I will have gotten it to the Council ahead of time for their review, and so we're on top. We're going forward with that.

MR. GRANT: Perfect, perfect.

And I would also like to bring to the Council's attention that Susan has decided to pursue another venue, and she has done the ethical thing by departing from the committee. So the Council has two people to replace, one from District 2 and --

Susan, what was your district?

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MS. FRAYSSE: Three.

MR. GRANT: From District 3?

So a person from District 2 and a person from District 3. And the way they should be seated as stated in the ordinance is by a suggestion from the Council and then a majority vote from the Council.

And if I could request that those be put in place or request be made and we'll try to get these people in place probably about the next meeting if that would --

MAYOR JENKINS: I think that would be better. We don't have anybody from District 3 here.

MR. GRANT: Okay.

MAYOR JENKINS: So we could on -- you say District 2?

MR. GRANT: One from District 2 and one from District 3.

MAYOR JENKINS: I won't be able to nominate because I nominated the last one, so it'll be up to the Council on this particular one.

MR. GRANT: Okay.

MAYOR JENKINS: Okay. And I'll get one

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from the other district by October the 1st. Okay?

MR. GRANT: Thank you for your time.

MAYOR JENKINS: Mr. McLendon. Earl McLendon.

Give your name and your purpose of being here, sir.

MR. McLENDON: Yes. My name is Dr. Earl McLendon. I have a dental practice on Buford Highway and I want --

UNIDENTIFIED SPEAKER: We can't hear.

MR. McLENDON: I'm sorry. My name is Dr. Earl McLendon. I have a dental practice on Buford Highway.

The question I have for the Council was about the occupation tax.

When I first opened my practice in 1995, it was one page; it was simple. You gave the estimate of your income, and you got a bill later on, and you had to send another form in to confirm your income for that year.

But now it's kind of grown into an occupation tax. And this last one I was looking at, I was saying, wait a minute. What exactly is an occupation tax? What are we taxing? And

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then when I looked at it a little bit further, I realized it's a tax on the income.

So I called up here and I asked the young lady in the tax office exactly how you go about taxing the income for a business license.

And then it kind of dawned on me, because I've been reading fair-tax books. I deal with insurance on a regular basis. And I'm starting to understand what I see is a problem. If you keep taxing business and individuals in an indiscriminate, uncontrolled way and then you try to back up that taxation with insurance to help people, you're going to help them to death, because income tax is a death sentence. You cannot survive income tax.

The way I see it, income tax takes away your discretionary income. Twenty percent of your income is your discretionary income. In a capitalistic society, your money is your power, and if you're giving it up -- and I'll tell you, I don't even know if what is taken out is correct or not because I don't know what I'm supposed to be paying.

And so the Constitution says you're not supposed to have a direct tax on the people by

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the government. These guys knew what they were talking about. You will destroy a man if you work him and then take what he earns from him without any control.

The IRS and government has a hundred percent limit on how much they can take form you. A hundred percent limit. And then they will come back with Medicaid and Medicare and Blue Cross and Blue Shield and MetLife to help you. But 50 percent of the people who are going bankrupt are people with health insurance with health problems.

Now, I'm just a country boy. I don't know a whole lot about a lot of things, but I know when somebody's stealing from me. It is not adding up.

I'm just bringing it to the Council's attention, and I think we've gotten into a system where we have stopped thinking. We don't even recognize when we're hurting ourselves now.

And I asked the lady up there, what are you basing it on? And the book she gave me was a North American Insurance Industry Classification, which now includes Mexico, United States and Canada. No borders.

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Why are we participating in something like that? Why are we basing our business tax in Doraville on a system that doesn't sound too right? -- to me. I don't know.

And I asked her. I said, why are you basing it on income? And she gave me the classifications and the different rates that they use, .004, .003, .002, depending on which group you belong to. And in my group, it's .004 or $400 flat, depending on which one is lowest. And I said --

And then I've got to go get a Department of Labor fourth quarter report. I've got to give a profit-and-loss statement and I've got to get it notarized.

I got too much to do already. I got the State, the Federal, the State Unemployment, the State Workmen's Compensation, and my staff and my patients. And everybody keeps adding a little bit more, a little bit more.

And then I wonder why is G.M. closing? Because we're killing them. We are killing them.

In my estimation, a business license is like a driver's license. Nobody asks me what my

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income is when I go to get my driver's license. They'll give me a fee for a driving a car, a fee for driving a truck, a fee for driving a motorcycle.

And I'm thinking, why can't Doraville do that? Make it simple. Keep it simple because businesses have too much to do already.

I was talking to a guy the other day. He's got a liquor tax from the City, the County and the State.

MAYOR JENKINS: Sir --

MR. McLENDON: I'm sorry.

MAYOR JENKINS: -- sum up your --

MR. McLENDON: Okay. I'm just saying that as a citizen, as a citizen, I'm just concerned about the direction we're taking about our government and our economy. Because in my position, I'm watching taxes and insurance and I'm seeing what it does to the people, and it's killing them. Thank you.

MAYOR JENKINS: Bonita Hoffmeister?

MS. HOFFMEISTER: Honorable Mayor and City Councillor, before you I have put the Dekalb zoning ordinance, Section 27-732. I also have put the descriptions of adult

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entertainment.

While reviewing our zoning ordinance, I noticed that the adult entertainment on the south side of Buford Highway outside of I-285 is not in compliance with Dekalb zoning ordinances.

If you will read item (b)(1), (2) and (3), they must be a thousand feet apart from each other, they must be a thousand feet from a school and they must be a thousand feet from a residence structure.

The properties off of Buford Highway -- and I know this is not in the city of Doraville, but it is adjacent to us and it does impact our image. And I would request that we pursue seeing how the County is going to clean up these violations.

We have an adult video, we have two strip joints and we have an adult theater, all of which are not in compliance with Dekalb ordinances.

The second item I have on the agenda is our interchanges. It's been a very dry summer, so I haven't been before you like I normally am every week, asking you to work with the State to mow these interchanges. This is our gateway to

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our community, and a dirty and unkempt gateway does not bode well for our property and our commercial area.

The third item I have in front of you is in front of the concrete planter on New Peachtree, we have concrete blocks that are used by the State to build the interchanges.

They have set there for years. I would like to see if we could get them removed. It is not only are our gateways cluttered but our roads into and from MARTA are unsightly because of this.

If we're going to have some concrete structures, let's have some that are artistic.

COUNCILWOMAN HADDEN: I think Chief King may be able to address the concrete sculptures, but that may be something to do with Homeland Security.

CHIEF KING: Ma'am, those concrete --

MS. HOFFMEISTER: They're just a pile of blocks.

CHIEF KING: Yes, ma'am. And they're strategically placed there. In case we ever have to shut down the tank farm facility, we can block vehicular traffic from going over the

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railroad tracks or block the streets by using our maintenance department to drag those and block the street.

MS. HOFFMEISTER: Okay.

CHIEF KING: But if we could --

MS. HOFFMEISTER: If you could hide them --

CHIEF KING: Fair enough, ma'am.

UNIDENTIFIED SPEAKER: Behind the bush.

CHIEF KING: Anyway, I'll work on it with the head of the Maintenance department and see if we can do a better job.

COUNCILWOMAN HADDEN: And on -- Mayor --

MAYOR JENKINS: Yes?

COUNCILWOMAN HADDEN: -- may I speak?

MAYOR JENKINS: Yes, ma'am.

COUNCILWOMAN HADDEN: On Ms. Hoffmeister's first item, adult entertainment on Buford Highway, would we be able to get Mr. Powell to draft a letter to the County asking them to check into this and report to us --

MAYOR JENKINS: Yes.

COUNCILWOMAN HADDEN: -- what they are

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going to do or what they have done with regard to it? Okay.

MAYOR JENKINS: Yeah.

COUNCILWOMAN HADDEN: Okay.

MS. HOFFMEISTER: Yeah, because there's numerous violations.

COUNCILWOMAN HADDEN: I appreciate you bringing this to our attention.

MS. HOFFMEISTER: Well, unless -- until I read the zoning ordinance --

COUNCILWOMAN HADDEN: Thank you.

MAYOR JENKINS: Karen Pachuta?

MS. PACHUTA: Very, briefly, Brian Bates and I Friday announced the recall campaign.

Councilman Lowe is up for reelection, so he was not included, Mr. Hart qualified to run for mayor so he is no longer included, but we are continuing forward with Councilman Spangler.

Brian Bates, myself, and Susan Fraysse will have applications to sign outside City Hall after the meeting.

It's a several-step process. Once we get enough signatures for the application, we'll

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go back to Dekalb County.

When they issue the petitions, we will then be getting signatures.

And signing the petition if we get enough signatures does not remove Mr. Spangler from office. It just means that there will then be an election, and you go to the polls, and you're basically voting whether or not to retain Bob Spangler as a councilman.

We will have the charge sheets outside. Some of the charges include releasing false statements at the August 21st press release regarding the Police Department and Chief King and also violation of Open Meetings Act.

We have put all of our background evidence and documents online at Doraville-Recall.com. It's in PDF format. And we'll be outside to answer any questions after the meeting.

MAYOR JENKINS: Item number 13. Clint Howard called before, and he was on his way to the hospital. We don't know any results from that. If we find out anything from that, we'll let you know. We hope it's not serious.

So he is off the agenda. That's number

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13.

And I would like to limit the citizens' comments to three minutes if that's possible, please, and everybody will come to the podium.

Come on up.

MS. HOFFMEISTER: A group of concerned citizens have drafted a letter to the City. We have contacted 38 people and asked them to wear white shirts and raise their hands. And please bear with me. I'm not a legal expert. We refer to "Mr. X" in this. We decided not to publish his name. And I will now read this:

(Reading) Honorable Mayor, City Councillors, Ladies and Gentlemen, we feel that there is a pattern of process failures in the governance of the City of Doraville.

Tonight we are delineating the failure of the City to follow established procedures and Roberts Rules of Order. This confirms a precedent that appears unethical, ongoing, and divisive.

The processes we are addressing concern Peachtree Pavilion/H-Mart Properties' variance petitions.

Previous April 2007, they petitioned

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for a variance to reduce by 40 percent the number of parking spaces required by our zoning ordinances for their development. The Doraville Planning Commission and Pond & Company recommended denial of their variance at the May 7, 2007 City Council meeting.

The developers then asked that their variance petition be tabled.

At the May 21st, 2007 City Council meeting, the City Council voted to table the petition.

The petition was on the following Council meeting agenda, June 4th, 2007. The Mayor informed the Council that Peachtree Pavilion/H-Mart had again requested the petition be tabled. No motion or vote was conducted.

Thereafter, neither the Mayor nor the Peachtree Pavilion/H-Mart representative brought up the variance. It was never on the agenda.

The variance has still not been voted on after at least seven City Council meetings.

The public has every right to expect this variance to be addressed in a timely manner. Instead, it was allowed to expire.

In the meantime, it is our

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understanding a land disturbance permit has been issued to Peachtree Pavilion/H-Mart and was signed not by the head building official, Chuck Entsminger, as required by Doraville ordinances, but by "John X" who is retired from Dekalb County.

"Mr. X" seems to have been sporadically employed by Doraville as a subcontractor. Rumor has it that "Mr. X" signed the land-disturbance agreement for Peachtree Pavilion/H-Mart.

Something specific took place that established a relationship between Doraville and "Mr. X" that one or more City officials assumed gave them the right to bypass Chuck Entsminger's authority.

It also appears that "Mr. X" based the land disturbance permit on Dekalb County ordinances which may or may not necessarily meet Doraville's ordinance requirements.

In the current atmosphere of secrecy, it has been impossible to learn exactly when this subcontracted building official issued the land disturbance permit and under what authority and laws it was issued.

Considering the public concern about

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this property development, we request a full public disclosure of the details about when, how, and under what authority this land disturbance permit was issued.

These system failures lend credence to Doraville's reputation as unsophisticated, easy to slide things past, and unattractive to quality development. This in turn leads to declining residential and business vitality. These failures also lead to citizen distrust of public officials, lack of confidence in the City adherence to existing ordinances, policies and procedures and even to Roberts Rules of Order.

This has resulted in polarized, ineffective and embarrassing administration of our tax dollars, energy and intellectual capital.

Our deepest and serious request is that there be an open display of all documents pertaining to this recent land disturbance permit and that an open meeting be held to discuss this.

MAYOR JENKINS: Who's next?

MR. ANDERSON: No comment.

MS. HOFFMEISTER: No comment?

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MR. ANDERSON: No comment.

MAYOR JENKINS: Go ahead. You got three minutes.

MS. BIRD: Kay Bird, Northwoods.

Can you hear me back there? I'm not sure this is on. We couldn't hear very well.

MAYOR JENKINS: Just get closer to it, ma'am. I'm sorry.

MS. BIRD: I have a question that came up this evening. I have another issue, but I was wondering why Karen Pachuta was allowed to present the recall petition publicly, and when I presented a petition to be read during citizens' comments on a public petition requesting that the City Council put some effort into a renewed proposal for the downtown center, I was -- proposal for a renewed downtown center including a Publix and Kroger's, I was told to sit down and that I couldn't complete my presentation. I find this unacceptable.

Now, this is an ante litem notice, and this is addressed to Mr. Powell, and I'll hand out copies to each of you.

(Reading) Dear Mr. Powell, you're hereby served notice it's your responsibility to

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know and properly advise the Doraville city government about the zoning laws of Doraville and of Georgia as they relate to any actions which may have . . . taken or are intended to be taken concerning a land disturbance permit to Peachtree Pavilion/H-Mart and Associates.

According to CLE article Growth Management in Georgia, Thomas M. Mitchell, written January 22nd and twenty -- it was produced January 22nd and 23rd, 2007, Atlanta, Georgia, found at www.lawseminars.com, says, "If a local government fails to follow the minimum requirements of the Zoning Procedures Law of Georgia, the zoning decision is void," end quote. This comes from Tilly Properties v. Bartow County with citations following.

Additional requirements for hearings on proposed zoning decisions are identified in the Official Code of Georgia Annotated, paragraph 36-66-4 (2007), of which a copy is attached.

The request by Peachtree Pavilion/ H-Mart for a variance was tabled by Mayor Jenkins and the Doraville City Council in May of '07. It has since been -- not been passed or properly authorized. A tabled issue is not a

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passed issue. The minimum standards have not been met in order to issue a land disturbance permit.

Your immediate action to correct any current or potential illegal land disturbance permits is demanded in accordance with the laws that protect the public's interest in this matter.

Sincerely, Kay Bird.

MAYOR JENKINS: Who's next? Come on up to the podium.

MS. CALVERT: Jenny Calvert.

Well, Chief, you almost stole my thunder because I was going to announce about the Academy.

See this shirt you will get (indicating)? Now, it's very glamorous. You can either wear it down to your knees or you can park it sideways and put your clothes on this hip. See? So it's quite glamorous if you work with it.

Okay. Did you know that we are the only -- probably the only police force that has its own EMT?

Am I giving away some secrets here?

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Okay. Good.

Yes. He is on 24-hour call. He goes to any accident and waits there and does what he can possibly do as an EMT until the ambulance driver gets there. This is something you will learn. You will get to see all his equipment and plus he will give you a talk on what he does, how he does it. And it's great. It's a great course.

Did you know we have also 16 SWAT Team members? And let me tell you something. When you go there, you do what they tell you to, because if you don't stick your fingers in your ears -- and they show you, they show you what explosives do. You don't put those fingers in the ears tight, you're going to regret it big-time. This kid did.

CHIEF KING: Don't scare them.

MS. CALVERT: You'll love it. You will get to also watch the canine unit. There are four units, and you will get to watch them and how they do their dogs outside the cars, and that's really interesting.

It's a good course. You'll get to go to the shooting range, shoot one of those guns

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that go (gesturing), like that. It's terrific. They're wonderful.

You really need to get with it. You will learn so much more. Let me tell you. All these kids, the SWAT teams, the EMT man, all of them are certified officers. There are 39 altogether, and they're the ones that are running around here. And if you don't recognize that canine car, you won't know he's been by your house. I've seen him come by many times.

You get to ride in the car four hours, and I can tell you which car to go in. I think I was a race car driver in my other life. Anyway, don't you get onto my guy that drove me.

So anyhow, the canine unit is also very interesting. And that's why I pushed the spotlights on all the cars, because I rode in one car that didn't have one. And the canine unit that did. And we were on the expressway looking for a lady and her three kids that had car trouble, and he was using his light trying to find these people that were walking on the highway.

But remember, girls, you get a very glamorous shirt. Thank you.

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Oh, that made my 75 years. Whistle again, guys.

MAYOR JENKINS: Anybody that can top that one, come on up. Even if you can't, come on up.

MS. CRAWFORD: Susan Crawford, Oakcliff. Is this on?

MAYOR JENKINS: Speak louder.

MS. CRAWFORD: Well, I can't top that.

Do you not think that you should address the questions that were asked? because we won't be here for another month. And maybe if we quelled things before they turned into really bad situations, we wouldn't have quite as many really bad situations.

So this pertains to the H-Mart. What is going on? I'm kind of curious, too.

MAYOR JENKINS: It will be addressed through the Inspections Department.

MS. CRAWFORD: Well, I don't have a pipeline to the Inspections Department. How would we find out, the citizens?

MAYOR JENKINS: We'll answer the --

MS. CRAWFORD: When?

UNIDENTIFIED SPEAKER: How about now?

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MAYOR JENKINS: -- through the Inspections Department.

UNIDENTIFIED SPEAKER: How about now?

UNIDENTIFIED SPEAKER: How about now, Mr. Mayor?

UNIDENTIFIED SPEAKER: What happened?

UNIDENTIFIED SPEAKER: Yeah. What happened? We want to know.

MS. CRAWFORD: See, this is the problem. The perception is that there's something that we shouldn't know, instead of you just saying, yes, they dropped the bank or they dropped this or that and we've decided to grant the variance.

MAYOR JENKINS: Yeah, I know.

Sandra, ask Chuck if he wants to address that now or in writing later.

UNIDENTIFIED SPEAKER: (Inaudible)

MAYOR JENKINS: Sir? He's not here?

MR. HART: Yes, but he didn't sign off on it.

MAYOR JENKINS: He worked with him on it.

MS. BIRD: This is a question for the City Council according to the laws.

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Chuck Entsminger may have a part in it. Once the laws have been followed, he can follow through on his part and sign a land disturbance permit, but we have not established the fact that that land disturbance is legal.

MAYOR JENKINS: Who's next? Anybody else?

COUNCILWOMAN HADDEN: Chuck's coming around.

COUNCILWOMAN PITTMAN: Chuck is coming around.

ATTORNEY POWELL: Mayor?

MAYOR JENKINS: Yes.

ATTORNEY POWELL: We've been served an ante litem notice about this issue.

MAYOR JENKINS: Do what, now?

ATTORNEY POWELL: We've been served an ante litem notice, so that's a threat of a lawsuit.

(Brief, inaudible discussion between the Mayor and Mr. Powell.)

MAYOR JENKINS: Okay. There's some possibilities of litigation on this, so we won't comment on this any more.

Anybody else from the floor want to comment?

Citizens comment, one more time.

MR. ANDERSON: I realize you're not going to comment on it, but I apologize for piling on, but I'm going to do -- I've done one Open Records report on this or request on this already, and I will be requesting the agreement between the City and the person that signed off on this and the H-Mart people.

MAYOR JENKINS: Okay. Anybody else? Motion to adjourn?

COUNCILWOMAN PITTMAN: Motion.

MAYOR JENKINS: Second?

COUNCILWOMAN HADDEN: Second.

MAYOR JENKINS: All in favor.

(Whereupon, the proceedings were adjourned at 7:55 p.m. the same day.)

-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 11th day of September, 2007.

_____

Theresa Bretch, CCR
Permit No. B-755

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