

**In The Matter Of:**

*City of Doraville*

*State of Georgia*

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*City Council Meeting*

*September 4, 2012*

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*American Court Reporting Company, Inc.*

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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Transcript of the meeting held at the

Doraville City Hall, 3725 Park Avenue,

Doraville, Georgia, Mayor Donna Pittman

presiding; before Theresa Bretch, Certified

Court Reporter; commencing at approximately

6:30 p.m. on Tuesday, September 4, 2012.

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1 PROCEEDINGS

2 MAYOR PITTMAN: Meeting come to order.

3 Please rise for the Pledge.

4 ---

5 (Pledge of Allegiance)

6 ---

7 MAYOR PITTMAN: Thank you, and welcome to

8 everyone tonight this Tuesday.

9 COUNCILMEMBER DEAN: Mayor, I would like to

10 address the tabling the public hearing issue.

11 MAYOR PITTMAN: I'm sorry?

12 COUNCILMEMBER DEAN: The public hearing.

13 MAYOR PITTMAN: Okay. Hold on. Let me get

14 through with this part --

15 COUNCILMEMBER DEAN: Okay.

16 MAYOR PITTMAN: -- and then we will, okay,

17 all right, after we call the roll.

18 COUNCILMEMBER DEAN: Okay.

19 MAYOR PITTMAN: Okay. A mild technicality.

20 Hold on just a moment, please.

21 ---

22 (Brief pause)

23 ---

24 MAYOR PITTMAN: All right. Just wanted to

25 remind everyone this Saturday is Movies Under the

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1 APPEARANCES:

2 Doraville City Council:

3 Mayor Donna Pittman

4 Councilmember Maria Alexander

5 Councilmember Brian Bates

6 Councilmember Trudy Jones Dean

7 Councilmember Pam Fleming

8 Councilmember Karen Pachuta

9 Councilmember Robert Patrick

10 Sandra Bryant, Acting City Clerk

11 Cecil G. McClendon, Jr., City Attorney

12 Leonid Felgin, Assistant City Attorney

13 Riley McLendon, LLC

14 315 Washington Avenue

15 Marietta, GA 30060

16 (770) 590-5900

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1 Stars. The Lorax is going to be showing at Forrest

2 Fleming Arena, and the activities I believe begin at 5

3 o'clock. There's going to be jumping things and --

4 COUNCILMEMBER PACHUTA: There's going to be

5 a band.

6 MAYOR PITTMAN: Yeah, a band; right. I

7 believe the band will be there at 5:30/6 o'clock and

8 then the movie will start at dusk.

9 So it's a very nice family outing. I hope

10 everybody can come out.

11 Call the roll, please.

12 CLERK BRYANT: Councilmember Alexander?

13 COUNCILMEMBER ALEXANDER: Here.

14 CLERK BRYANT: Councilmember Bates?

15 COUNCILMEMBER BATES: Here.

16 CLERK BRYANT: Councilmember Dean?

17 COUNCILMEMBER DEAN: Here.

18 CLERK BRYANT: Councilmember Fleming?

19 COUNCILMEMBER FLEMING: Yes, here.

20 CLERK BRYANT: Councilmember Pachuta?

21 COUNCILMEMBER PACHUTA: Here.

22 CLERK BRYANT: Councilmember Patrick?

23 COUNCILMEMBER PATRICK: Here.

24 MAYOR PITTMAN: Okay, Ms. Dean.

25 COUNCILMEMBER DEAN: Okay. I sent an e-mail

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1 out on Monday, August 27th at 10:23 asking for all  
 2 copies of business applications for the businesses  
 3 conducting their business at 5312 Buford Highway,  
 4 which is the matter up for the public hearing today.  
 5 I was told that I could not get those  
 6 documents until tomorrow, the 5th, and as a result, I  
 7 would like to have this hearing held or postponed  
 8 until after I can review the documents of those  
 9 businesses.  
 10 ATTORNEY McLENDON: Typically that would be  
 11 something that would take place in the context of that  
 12 particular item on the agenda, which would be just a  
 13 motion to defer --  
 14 COUNCILMEMBER DEAN: Okay.  
 15 ATTORNEY McLENDON: -- that item when we  
 16 reach that item --  
 17 COUNCILMEMBER DEAN: Okay.  
 18 ATTORNEY McLENDON: -- on the agenda.  
 19 COUNCILMEMBER DEAN: Okay. All right.  
 20 Perfect. Thank you.  
 21 MAYOR PITTMAN: Okay. Thank you.  
 22 Okay. No approval of minutes at this time.  
 23 Next will be the Public Comments on Agenda  
 24 Items.  
 25 I'm going to read something. I will be

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1 reading this at the beginning of every public comment.  
 2 First of all, if you could please line up at  
 3 the podium if you wish to speak. At this time on the  
 4 agenda, public comments will be taken by the Council.  
 5 Please state your name for the Clerk.  
 6 Each person has three minutes to state their  
 7 comment to the City Council. This is not a  
 8 conversation nor a question-and-answer session, and  
 9 unless privilege is otherwise taken by the Chair, no  
 10 response to the comments will be made by the Mayor and  
 11 City Council at this time.  
 12 Demonstration of any sort within the chamber  
 13 is prohibited, so please refrain from any applause,  
 14 cheering, booing, outburst or dialogue with the person  
 15 speaking. Please show the same respect to the person  
 16 speaking that you will expect to receive yourself.  
 17 Continuous outbursts of any person may result in that  
 18 person being escorted from the Council chambers and  
 19 not allowed back in for the rest of the meeting.  
 20 Furthermore, these public comments are an  
 21 opportunity for constructive opinion by the public and  
 22 not an opportunity for the public to berate or insult  
 23 any member of the City Council, Mayor, City staff or  
 24 the public, and any attempt to do so will be strictly  
 25 enforced and the speaker will not be allowed to

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1 continue his public comments.  
 2 Thank you.  
 3 MS. CINDY BRADFORD: Well, I guess I better  
 4 sit down.  
 5 MAYOR PITTMAN: Please, if you wish to  
 6 speak, line up behind Ms. Bradford.  
 7 MS. BRADFORD: Cindy Bradford, Northwoods.  
 8 I just wanted to say I'm happy to see the  
 9 Architectural Standards on the agenda tonight. And it  
 10 says proposed, and I think that we need to move beyond  
 11 proposing, and I think most of the residents here  
 12 would like to see these in place by the end of the  
 13 year if possible.  
 14 On behalf of the constituents that she  
 15 courageously represents, the residents want to extend  
 16 birthday wishes to Councilwoman Trudy Jones Dean.  
 17 MR. STUART ANDERSON: Stuart Anderson.  
 18 Address the first issue on Old Business.  
 19 The CT -- CT zoning situation was created so that a  
 20 small geographic area of businesses could continue to  
 21 exist outside the confines or specifications of the CT  
 22 zoning which to date all still are.  
 23 I find it inconsistent on the City's part to  
 24 deny the zoning request to Mr. Stokes. Our city  
 25 cannot afford to continue our reputation of destroying

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1 business opportunities through unnecessary delaying  
 2 tactics.  
 3 When as in the case of a rental client  
 4 wanting to invest and do business in our city, it is  
 5 incumbent on us to have thorough and professional but  
 6 efficient processes in these matters. If they haven't  
 7 already, Mr. Stokes' customer will take his business  
 8 and taxes elsewhere as so often has occurred in the  
 9 past.  
 10 Thank you.  
 11 MR. THOM ABBOTT: Evening. Thom Abbott,  
 12 Northwoods.  
 13 Several items to comment on the agenda.  
 14 First thing I'll state, I still think it's  
 15 bassackwards if we do this before we hear the items on  
 16 the agenda, but so be it.  
 17 Number one, regarding the application for  
 18 rezoning of the parcels that Mr. Anderson just  
 19 mentioned, my question would be is if we resolve the  
 20 issue that if they do rezone the property, will the  
 21 existing businesses become nonconforming and  
 22 technically be put out of business, and if we have  
 23 resolved that, I would like to know how.  
 24 Number two, regarding the definition of the  
 25 restaurants and nightclubs, I know we are not

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1 attempting to close to loophole about discos, but I'm  
2 now afraid we've opened yet another loophole about  
3 private events. And I'm a little concerned how we've  
4 worded that. May be too late to make a change now.  
5 Perhaps we can readdress that. I'm sure our attorneys  
6 would love to have time to keep them occupied and  
7 rewrite that again, but I think it's something we need  
8 to look at.

9 Regarding the special events application for  
10 the TEA Walk, I just wanted to -- I don't know if the  
11 people that are doing that event are here. I just  
12 wanted to bring up a concern under their marketing and  
13 publications, that they have checked that there will  
14 be no live media event during the coverage.

15 I think these are the perfect opportunities  
16 that we have in Doraville to talk about positive  
17 things in our community, things that are happening and  
18 someone that's doing something. And I, for one, will  
19 certainly be reaching out to them to try and get a  
20 news station here to cover the event if they possibly  
21 will. It's a great marketing opportunity for the city  
22 as well.

23 Item number 4 [sic] that's on the agenda,  
24 the Brook Park Pipe Contract. I just drove by Brook  
25 Park before I came in here. I know that's been an

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1 ongoing issue for a long period of time.

2 I guess my question to City Council would be  
3 unless we're under a Federal, State or County mandate  
4 to fix the situation over there, I have a real concern  
5 that the City's going to spend \$123,000 in the current  
6 condition that we are.

7 I do know I could see the tennis courts are  
8 starting to possibly collapse from that situation, but  
9 I still think it's just -- I really question that  
10 expense at this point in time unless we're under some  
11 type of mandate we have to do it.

12 And then lastly, the agenda item regarding  
13 the Architectural Standards. I was just a little  
14 concerned in the short window of time that's allowed  
15 for public comments of only 23 days, yet it doesn't  
16 really come to a final, absolutely Council until  
17 December 3rd. So I'll certainly be doing my due  
18 diligence and getting out to the residents in the  
19 neighborhood so everybody knows it's upcoming.

20 Thank you.

21 MAYOR PITTMAN: Thank you.

22 MR. TOM HART: This is about the CT zoning.  
23 CT zoning facing Buford Highway in that triangle is  
24 not consistent with our Comprehensive Plan. What's  
25 supposed to be there is highway commercial businesses

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1 in our Comp Plan.

2 This oddity which is this office warehouse  
3 that's located with the roll-up doors, okay, it could  
4 be an office warehouse zoning. We don't have -- As a  
5 matter of fact, the CT zoning, because there have been  
6 no applications at this point and because it's such an  
7 odd classification and it was not on the original Comp  
8 Plan, that perhaps that needs to be taken off the plan  
9 and removed from our zoning ordinances and that this  
10 office -- this roll-up door sitting on a separate  
11 parcel -- it's not a split zoning -- should be zoned  
12 for office warehouse because there are two wholesale  
13 businesses. That's where wholesale belongs: in C-2  
14 or M-1. It belongs not in C-2 but it belongs in O&I  
15 and M-1.

16 Okay. About the park. We're going to spend  
17 120 to 140 thousand dollars putting a plastic sleeve  
18 in a pipe. That's because no one thought to level  
19 two, three and four. If you're going to spend  
20 \$120,000 on a park, there are several things that you  
21 can do to that park that will A., get our money's  
22 worth and will improve the park, will eliminate the  
23 flooding and stream erosion downstream from there.

24 The last thing you want to do is put a  
25 plastic sleeve in a pipe and accelerate the water

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1 through that pipe. Okay? That needs to go back to  
2 the drawing board, and the person that's doing the  
3 work for the City needs to offer the City Council two  
4 and three different variations. You go look at Winn  
5 Park next to Colony Square and look at Midtown Park,  
6 you understand what they do with streams.

7 Okay. That's all I have to say. Thank you.

8 MR. DAVID SHANAHAN: David Shanahan.

9 I was part of getting the CT zoning in place  
10 at that time. The majority of y'all were also there  
11 and part of it. It was gone through in pretty --  
12 pretty exhaustive detail. We had Council members,  
13 Planning Commission all meeting together. We all met  
14 in here and discussed this with the Planning  
15 Commission.

16 Recollection is we had unanimous votes from  
17 the Planning Commission and I believe from all of you--  
18 all on the Council. We talked a lot about speci-  
19 fically what businesses were there especially on  
20 Mr. Stokes' property.

21 I just urge y'all to grant the CT zoning in  
22 the spirit in which it was all worked out. It was  
23 many months in which we did that. Thanks.

24 MR. DEANE STOKES: I guess I could speak in  
25 my own behalf.

1 I had in my mind many things that I wanted  
2 to say. First of all, that the building itself, the  
3 building that we're in, was built by somebody that  
4 took a chance, a contractor that put down a bid price  
5 and he had to build it within that framework.

6 We're kind of in an era today where success  
7 is being punished and disdained and not looked up to.  
8 That's from the federal on down.

9 The zoning in this particular case is just  
10 to put back what was there initially when I built the  
11 building back some 40-odd years ago -- two buildings,  
12 one in front which was a little office building and  
13 the one in back which was office warehouse.

14 The CT zoning covers both. It's a logical  
15 way to go. And when we can as owners of businesses --  
16 and let me just say this again, too -- owners of  
17 businesses, owners of buildings probably didn't get  
18 there the easy way, and many of them took the chance  
19 of going belly-up, which I nearly did in the  
20 seventies.

21 But anyway, the result is a building that  
22 houses many different businesses, services which are  
23 of benefit to the community. They provide services  
24 needed or products needed. And when a tenant is  
25 allowed to come into what was -- a building which was

1 MAYOR PITTMAN: Thank you.

2 MS. CAROL GILMAN: Carol Gilman, Northwoods,  
3 Doraville.

4 Under Mayor's Report on the agenda, could we  
5 please have a status report on the recruiting and  
6 hiring of the City Manager as well as the recruiting  
7 and hiring of our City Clerk? Thank you.

8 MAYOR PITTMAN: Actually, we have a meeting  
9 next Monday to discuss the City Manager with the  
10 headhunter firm, and then we have I believe it's  
11 Thursday the City Clerk interviews. And those will be  
12 posted -- should have already been posted on the  
13 Internet. So thank you.

14 Anyone else?

15 - - -

16 (No response)

17 - - -

18 MAYOR PITTMAN: All right. Next on the  
19 agenda is going to be H.R.

20 As Council is aware, the agreement with Flex  
21 H.R. has an expiration date in September as the  
22 Council wanted to retain the firm for initial period  
23 of six months which ends in September.

24 During this time, Flex H.R. has been  
25 instrumental in day-to-day H.R. functions such as PTO

1 designed for him, it's a benefit to everybody.

2 And that's all I have to say. Thank you.

3 MAYOR PITTMAN: Thank you.

4 MR. BEN CRAWFORD: Ben Crawford, Oakcliff  
5 Estates.

6 Actually, I was on the Planning Commission  
7 when CT was created. I thought it had a time frame.  
8 It was a limited number of businesses that could apply  
9 for it, and it was a transitional type of zoning that  
10 was allowed, and it was by unanimous vote by the  
11 Planning Commission and I think by the City Council  
12 too. I'm not positive about that but I am about the  
13 Planning Commission.

14 But like I said, I thought it had an  
15 expiration date when somebody had to apply for it, but  
16 that I'm not sure of any more, either. I don't have  
17 the records.

18 But it was something that was agreed upon  
19 that was at places that were nonconforming, and I  
20 think it had to do with distances and the setbacks,  
21 roll-up doors and that type of thing. So it was an  
22 agreement that the City Council made with certain  
23 businesses, that they'd have a transitional zoning.

24 Anyhow, just wanted to speak for accuracy.  
25 Thank you.

1 and comp time inputs, transitions of incoming and  
2 outgoing employees, training related to OSHA as well  
3 as employee evaluations and general human resources  
4 functions, and availability for employees who have  
5 questions related to human resources and employee  
6 policies.

7 These are very specific functions and  
8 services offered by human resources professionals in  
9 general and Flex H.R. in particular. These services  
10 are invaluable in maintaining orderly administration  
11 in employment matters.

12 This agenda item is discussion on how the  
13 City wants to move forward. I will say that H.R. has  
14 done an excellent job in helping the department heads.  
15 They've been very instrumental in coming in with  
16 training.

17 I do want to say whichever direction the  
18 Council chooses to go, whether it's go out for RFP, to  
19 utilize someone as an on-call basis or continue them,  
20 we need to maintain some form of H.R. And I want to  
21 reiterate that that is very, very important to the  
22 City to have some form of H.R. consultant on board,  
23 again whether it's on-call basis, we'd retain them or  
24 we go out otherwise.

25 So I'm going to open it up. We have Flex

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1 H.R. here.  
2 Sherry, if you'd like to come up, the  
3 Council may have some questions as we go.  
4 MS. SHERRY PRITCHARD: Sherry Pritchard with  
5 Flex H.R.  
6 COUNCILMEMBER BATES: Hi, Sherry, and thank  
7 you-all for being here. I do have a couple of  
8 questions.  
9 First, I believe Phil provided the time  
10 sheets to the Mayor for the work activity from March  
11 through August, and if I'm reading it correctly, just  
12 within that period of time, you guys worked 23-1/2  
13 hours more than the contract stipulated.  
14 Are those hours that we're responsible for  
15 compensating Flex H.R. for?  
16 MS. PRITCHARD: No.  
17 However, the general practice usually --  
18 You're on a 10-hour-per-month for consulting, and the  
19 general practice is that you don't always use exactly  
20 10 hours every month. It's almost like a retainer.  
21 So one month you might use eight, the next month you  
22 might use 12; two months it averaged out to 20. The  
23 next month it might only be four, then there's a  
24 special project and you use 15, so it kind of goes up  
25 and down.

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1 And when you look at the actual hours, it  
2 has gone up and down. So generally speaking, over a  
3 period of time, enough time, you'll make up those  
4 hours so that you didn't actually lose them because  
5 you did do the work.  
6 But if we stop now, you would not owe us any  
7 money.  
8 COUNCILMEMBER BATES: Okay. So in March it  
9 was 22 hours, in April it was 18 hours over, in May it  
10 was -- I'm sorry. March it was 12 hours over, April  
11 it was eight hours and May it was three and a half  
12 hours over, June it was two hours under, July it was  
13 two hours under, August it was five hours over.  
14 How do we get to the point where we were  
15 doing over six out of seven months -- five out of  
16 seven months? Who authorized the overages? Where did  
17 --? I'm just trying to get a sense of, because I want  
18 to treat consulting firms fairly, and if you are due  
19 compensation for 37 hours, then you should be paid for  
20 37 hours of work, but I'm just trying to get a sense  
21 of why there were these overages.  
22 MS. PRITCHARD: I think it's more a matter  
23 of the work needed to be done and you had somebody  
24 doing it for you that cared deeply and still does  
25 about Doraville. And it needed to be done so it was

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1 just done, which is the way Flex H.R. works: we do  
2 what is needed.  
3 We had a firm set price that we could not go  
4 above, but that didn't mean we weren't going to do  
5 things that needed to get done. So whether we ever  
6 got paid for that time or not really was not the  
7 point. It was really more a matter of doing what was  
8 needed and staying within the budget that you gave us.  
9 You know, some clients in some situations,  
10 you start out on a retainer that you think is the  
11 right number of hours, and if you see that we really  
12 don't need that many hours, then you cut it back.  
13 In other cases where it's like, oh, my gosh,  
14 this is a lot more than everybody anticipated, then we  
15 might bump up that retainer, you know, to say 15 hours  
16 per month or 20 hours per month because everybody  
17 recognizes the need, that we really do need that  
18 amount of time in order to get everything done.  
19 So that's how it would usually work with  
20 most of our clients. But again I want to stress, we  
21 recognize that the City had a certain budget. We  
22 wanted to honor that. We're not looking for you to  
23 owe us anything; just the opposite: We wanted to make  
24 sure that we did the right job and didn't lower our  
25 standards from what we would expect and want done for

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1 ourselves. So the work needed to be done so we just  
2 did it.  
3 COUNCILMEMBER BATES: And on that work, just  
4 trying to get a sense of it because I noted in the  
5 time sheets that there were some projects that were  
6 started like employee evaluations forms, and that  
7 consumed a significant number of time specifically in  
8 August.  
9 Where did -- Who generated those types of  
10 projects? Was that a City-initiated "We need to do  
11 this" or was that a Flex H.R.-initiated "You really  
12 need to do this?"  
13 MS. PRITCHARD: I think it was probably a  
14 combination of both, and certainly Phil can speak to  
15 some of those specifics. But I think some of it, too,  
16 is just knowing what's really needed for an  
17 organization of this size in terms of best practice,  
18 and so therefore we're doing what we know is needed.  
19 Sometimes there's things that were requested either by  
20 managers or by the Mayor or, in some cases, some  
21 things from the City Council. So I think that varies.  
22 But if we want to talk specifics, then I'll  
23 ask Phil to answer your specific questions.  
24 COUNCILMEMBER BATES: Thank you.  
25 MS. PRITCHARD: Thank you.

1 MAYOR PITTMAN: Ms. Alexander?  
 2 COUNCILMEMBER ALEXANDER: I had sent you an  
 3 e-mail yesterday, Mayor, with some of my suggestions  
 4 for an alternative rather than the \$5,000-a-month  
 5 contract, and I just didn't know if Flex H.R. had, you  
 6 know, been advised of some suggestions or if they had  
 7 alternatives to propose.

8 MAYOR PITTMAN: Yes. Phil and I did speak  
 9 of that. I don't know which one of you want to  
 10 address that, but --

11 COUNCILMEMBER DEAN: What was that e-mail?  
 12 What was that? Can we talk about that?

13 COUNCILMEMBER ALEXANDER: Well, some of the  
 14 suggestions I had were, you know, an on-call basis.  
 15 Let's see that. A flat fee for having somebody here  
 16 once a week or something like that. And I definitely  
 17 wanted to get the payroll services separated from this  
 18 contract. Those were some of my thoughts.

19 MAYOR PITTMAN: And we did have that  
 20 discussion today, so I don't know which one of you  
 21 want to address that.

22 MS. PRITCHARD: I think that now having been  
 23 here for eight months and seeing what we feel, just in  
 24 our opinion, the City really needs, we truly do  
 25 believe -- and this sounds very self-serving; I don't

1 continue.

2 So if you were to say, "All right. Let's  
 3 drop the consulting for the \$1,500 a month" -- that's  
 4 the 10 hours at \$150.00 a month -- "and just go with  
 5 all the back H.R. services and payroll services" --  
 6 which is the \$3,500 portion; that's how we came to the  
 7 \$5,000 and discounted both -- I would have to say,  
 8 then, I think it's best that you do something else  
 9 because I just would not be able to do that.

10 So if you decide to stop everything, that's  
 11 -- that's certainly fine, and we'll certainly work  
 12 with you every way we can to offer up any suggestions;  
 13 obviously, we're here. And if the City were to have  
 14 problems in the future and wanted to call Phil in just  
 15 to come in and help on an ad hoc basis, Flex H.R. is  
 16 in that business to provide those services.

17 But I think that in terms of what is really  
 18 needed, with this number of employees and in this time  
 19 of what's going on, you really do need the complete  
 20 package and the complete service whether it's from us  
 21 or someone else or hiring people in-house to do it for  
 22 you. It's very risky in this day and time to just go  
 23 it alone. And H.R. is not just benefits and payroll.  
 24 So just, again, my opinion.

25 MAYOR PITTMAN: Thank you.

1 mean for it to be -- we truly believe that you need  
 2 both.

3 And I think in that context because we  
 4 really do know what's needed, I'd be very concerned  
 5 about you dropping the consulting or dropping what we  
 6 call Employee Universe, which is the back office  
 7 administrative services, which includes preparing your  
 8 payroll, making sure everything is up to date and  
 9 making sure the payroll runs.

10 If you had an H.R. professional here in the  
 11 City, then the back room H.R. administrative services  
 12 that my department does in terms of Employee Universe,  
 13 that could be dropped easily and then Phil could  
 14 perhaps just do just consulting.

15 But if you don't really have dedicated  
 16 resources to do it and do it well, then I have to  
 17 please say to you, I'm concerned, because I would -- I  
 18 would hate to see things occur that I know you would  
 19 not want to occur. So I think it's risky, I guess is  
 20 my bottom line, for you to drop one or the other.

21 I know that if Phil were not doing the  
 22 consulting, and with his experience in being able to  
 23 think through the more strategic things that you need  
 24 as a city, to protect the City, then I think that I  
 25 would have to say that I would not be able to

1 Ms. Ferguson, I wanted to ask you a  
 2 question. The budget -- I believe you worked this  
 3 budget through next year?

4 MS. LISA FERGUSON: Yes. I felt like -- I  
 5 felt like it was important for us to have some H.R. so  
 6 I went ahead and budgeted the \$5,000 a month through  
 7 the end of June.

8 MAYOR PITTMAN: Okay. And it's coming out  
 9 of?

10 MS. FERGUSON: The Finance Department.

11 MAYOR PITTMAN: Okay. Thank you.

12 COUNCILMEMBER ALEXANDER: Okay. I don't  
 13 think that's what we were originally told. I believe  
 14 we were originally told that H.R. was budgeted through  
 15 the end of September.

16 COUNCILMEMBER DEAN: Well, that's what we  
 17 voted on because we voted the contract was going to go  
 18 through September. And so that was something that I  
 19 think that would have required a discussion.

20 MS. FERGUSON: It was included in the budget  
 21 package that you got and it was spelled out as part of  
 22 what was in professional services. I believe you  
 23 specifically asked that question because I --

24 THE REPORTER: I'm sorry. Would you please  
 25 repeat your last sentence?



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1 MS. FERGUSON: She specifically asked the  
2 question what was in professional services in Finance,  
3 and I specifically told you that it was for the  
4 remainder of the year for the H.R. contract.  
5 COUNCILMEMBER BATES: Well, I -- yeah, and  
6 you're correct. The budget includes an allocation of  
7 \$5,000 per month to the end of the fiscal year but it  
8 wasn't specific as to a firm --  
9 MAYOR PITTMAN: That's correct.  
10 COUNCILMEMBER BATES: -- that those moneys  
11 were allocated for. We were contracted with Flex H.R.  
12 through --  
13 MAYOR PITTMAN: That's correct.  
14 COUNCILMEMBER BATES: -- September, but  
15 beyond that, the moneys were budgeted if we chose to  
16 continue with that relationship --  
17 MAYOR PITTMAN: That's correct.  
18 COUNCILMEMBER BATES: -- or look at other  
19 options. So I'm with you; the money's there if we  
20 choose to move forward.  
21 MAYOR PITTMAN: Thank you.  
22 Thank you, Brian.  
23 COUNCILMEMBER PACHUTA: I guess one of the  
24 reasons I asked for the time management is because,  
25 you know, being up here not being day to day, I don't

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1 see everything that goes on but I do see certain  
2 things where I'm like, "Why is Flex H.R. handling  
3 that?" For example, when we get e-mails from you when  
4 we scheduled all the City Clerk interviews and we  
5 scheduled the City Manager interviews and everything,  
6 because that is not something I think you need to be  
7 handling because we have a secretary and we have an  
8 aide to the Mayor, and that's ticking away at our  
9 hours. I just don't feel that is a good use of a  
10 consultant's time.  
11 MS. PRITCHARD: If I may share with you,  
12 that is not using your consultant's time. And it is  
13 apples and oranges, and I apologize if we have not  
14 done a better job of educating this.  
15 Those hours are very discrete: 10 hours.  
16 And he's clocking his time, and he has the sheets to  
17 show you exactly what he's done during his time.  
18 The time done by my staff is endless in a  
19 sense. There is no time. We do the job. So when the  
20 Mayor asks us to schedule some appointments, we just  
21 do it. Our work is robust doing the job that we do  
22 for the employees -- answering their phone calls,  
23 answering their e-mails, working with the managers,  
24 doing the day-to-day things that are needed in that  
25 life cycle of an employee from the time they come on

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1 all the way through and after they're gone.  
2 Verifications for mortgages. The things that you  
3 would find in a typical H.R. department if -- if  
4 that's what's being done, that's what we're doing.  
5 But we're not -- I promise you there's no  
6 hours and it's not costing you more money. It's for  
7 that flat fee of \$3,500 per month, and we discounted  
8 that heavily.  
9 COUNCILMEMBER BATES: So are --  
10 MS. PRITCHARD: But it's not costing you --  
11 It's not time, I promise. Again I don't mean for this  
12 to sound self-serving; it's really not. We just step  
13 up to the plate and do what's needed, and if we're  
14 asked to do something else, we do it for you.  
15 COUNCILMEMBER BATES: So are these -- this  
16 time sheet, is this your hours or Phil's hours or some  
17 combination thereof?  
18 MS. PRITCHARD: Phil's hours. No  
19 combination thereof. Because the work that my  
20 department does in terms of the \$3,500, it's a job;  
21 it's not by the hour.  
22 COUNCILMEMBER BATES: Okay. So, then, when  
23 it talks about payroll issues on here, you're working  
24 on payroll issues?  
25 MS. PRITCHARD: Can you read the exact item?

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1 because it would have to be something that was very  
2 specific.  
3 COUNCILMEMBER BATES: Yeah. It says: "Work  
4 out of office regarding retirement plan and payroll  
5 issues."  
6 MS. PRITCHARD: And --  
7 MR. PHIL DAVIS: Must have had an employee  
8 pay issue that needed my comment. I can't tell you in  
9 retrospect what it was. We've had many issues that  
10 required my comment. But my comment is not the work  
11 that Sherry does; my comment is more of a legal H.R.  
12 opinion regarding a specific situation.  
13 MS. PRITCHARD: Whether it's policy --  
14 MR. DAVIS: Policy.  
15 MS. PRITCHARD: -- or whether it's something  
16 to do with making sure that we're following the laws.  
17 MR. DAVIS: It might have been comp time  
18 because we spent a fair amount with Lisa working on  
19 comp time issues and resolving that.  
20 MS. PRITCHARD: Right.  
21 MR. DAVIS: So it's very likely it was comp  
22 time, which is definitely a legal issue.  
23 COUNCILMEMBER PACHUTA: There were several  
24 entries relating to retirement, the retirement plan.  
25 Can you specify what you were doing in relation to the

1 retirement plan?

2 MR. DAVIS: I monitored the retirement plan  
3 discussion, I helped propose, as you remember sitting  
4 in the Council meetings, various alternatives that we  
5 might follow. So I've been involved in the issue  
6 since we started discussing it.

7 COUNCILMEMBER PACHUTA: I think there's  
8 recent issues in those recent entries.

9 COUNCILMEMBER BATES: August 1st, retirement  
10 plan.

11 MR. DAVIS: If it's August 1st, it was  
12 probably regarding an upcoming retirement and  
13 questions regarding an upcoming retirement. I  
14 remember that I got involved because I was asked to  
15 get involved by the employee who was retiring.

16 COUNCILMEMBER ALEXANDER: And who was that?

17 MR. DAVIS: I don't generally put the names  
18 of specific employees.

19 MAYOR PITTMAN: I don't know if they're  
20 ready for us to make that announcement yet, but I'll  
21 be glad to --

22 MR. DAVIS: Because of exactly that. I mean  
23 I can't disclose --

24 COUNCILMEMBER BATES: Sure, I understand.

25 MR. DAVIS: -- in a public forum information

1 it has been discussed that we were running over our  
2 hours.

3 But we understood that, and again, with no  
4 obligation by the City, because we felt that was the  
5 work that needed to be done.

6 MR. DAVIS: I would say that the Mayor knows  
7 because she knows, because she's my -- she's the  
8 client that I have served directly so I keep her  
9 informed. But she also knows that we do what needs to  
10 be done when it needs to be done, and if we work four  
11 hours, we work four hours.

12 I could take the position that, well, 10  
13 hours is it and I'm not going to work any more. That  
14 would leave an awful lot of issues hanging fire, so I  
15 just don't do that. That's not what we are. We're a  
16 service company who provides service.

17 10 hours per se is supposed to be a sizing  
18 of the anticipated requirement, not a number that we  
19 have chosen in the budget. But we agreed to provide  
20 these services, and you could only afford the 10  
21 hours, so that's what we agreed to. I never intended  
22 to leave the Mayor high and dry on anything.

23 Limiting it to the 10 hours -- and I do say  
24 limiting it to the 10 hours -- also restricts how  
25 quickly we get a lot of issues that need to be

1 that comes to me confidentially.

2 COUNCILMEMBER BATES: Just trying to get a  
3 sense of where you guys are spending it.

4 The time sheets, did you guys send those --  
5 Who do those get sent to? Do they get sent to the  
6 Mayor for review and sign-off or where did this  
7 information go?

8 MS. PRITCHARD: The 10 hours per month is  
9 what you've contracted with us.

10 COUNCILMEMBER BATES: Where do these  
11 tracking forms get sent to? Who received them at the  
12 City?

13 MS. PRITCHARD: We sent them -- they were  
14 sent to the Mayor.

15 COUNCILMEMBER BATES: Okay. Every month?

16 MS. PRITCHARD: No.

17 MAYOR PITTMAN: No.

18 MS. PRITCHARD: They're sent whenever you  
19 request them.

20 COUNCILMEMBER BATES: Okay. So up until  
21 yesterday, we had no idea how many hours you guys were  
22 spending.

23 MS. PRITCHARD: We have talked about how  
24 many hours we're spending, and of course I think  
25 everybody -- No, I won't say everybody. I think that

1 addressed. We have to go a lot slower than I think  
2 you would like to, Mayor, because we don't have the  
3 capacity either in terms of the department heads or  
4 the leadership or the Council or myself to go any  
5 faster.

6 COUNCILMEMBER BATES: Thank you.

7 COUNCILMEMBER PACHUTA: So what exactly are  
8 you working on with employee discipline?

9 Or is that you?

10 MR. DAVIS: No. That would have been me  
11 more than likely, and it would have been a  
12 disciplinary event that came up.

13 There have been many such events that have  
14 come up. Again, I do not put the names of employees  
15 in these reports for the reason I talked about  
16 earlier, but it could be one of a number that will  
17 come up.

18 Usually when it comes to me, we're in a  
19 termination or contemplating termination or ready to  
20 terminate and I got the manager through it. If  
21 possible, I give advice to Council on how do we redeem  
22 that particular individual and restore the person, but  
23 that works sometimes and sometimes it doesn't.

24 COUNCILMEMBER PACHUTA: And you said earlier  
25 you gave legal advice?

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1 MR. DAVIS: I give guidance regarding how to  
2 go through a termination process.  
3 MS. PRITCHARD: We do not give legal --  
4 COUNCILMEMBER PACHUTA: Okay. Well, he --  
5 MS. PRITCHARD: -- advice.  
6 COUNCILMEMBER PACHUTA: -- had said that  
7 like 10 minutes ago.  
8 MS. PRITCHARD: There's -- there's -- you  
9 know, in employment law, without being lawyers, just  
10 being H.R. professionals, you're -- and I think that  
11 Cecil could speak to this very well, but there's --  
12 there's issues that you know you have to be in  
13 compliance on. So you're following the law and you're  
14 helping the organization stay in compliance, so you  
15 could say, well, you know, that's the law and we're --  
16 I don't want to say I'm practicing legal, but I'm  
17 doing it because it's the law to do it.  
18 And so it -- the two -- the two worlds of  
19 H.R. and legal are really very intertwined sometimes  
20 because of all those heavy, burdensome, government,  
21 Federal, legal requirements, and State.  
22 So we have to enter that world even though  
23 we're not attorneys, to make sure that we're -- we're  
24 following those things. Like the e-Verify law now  
25 that you have to make sure that every employee goes

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1 through that process in addition to the I-9. So  
2 that's just one of the things that we made sure is  
3 operating and working, and so when you hire somebody,  
4 we do that. So that's a legal thing, but we're not  
5 practicing -- practicing law.  
6 MR. DAVIS: And Karen, we talked about it as  
7 compliance. It's complying with the laws, not  
8 interpreting them necessarily.  
9 We have a Power Point presentation that  
10 Sherry could walk through if you're interested in  
11 seeing it, that kind of summarizes everything. It's  
12 up to you.  
13 MAYOR PITTMAN: Well, let me continue to go  
14 down and then we'll take it.  
15 MR. DAVIS: Okay.  
16 MAYOR PITTMAN: Mr. Patrick?  
17 COUNCILMEMBER PATRICK: I guess the question  
18 I have is is we have a very good Finance Director and  
19 City Attorney. What are the services that you provide  
20 that these two couldn't handle themselves? And I know  
21 that we spend a lot on our City Attorney.  
22 ATTORNEY McLENDON: I'd be happy to -- I  
23 mean I don't mind addressing that to some extent,  
24 because I can tell you I do provide legal advice, but  
25 that is that basically I'll come in and interpret

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1 laws, I will give you legal interpretations about  
2 particular types of issues that may come up, something  
3 where, you know, there is a particular legal question.  
4 I do not provide interaction with your  
5 staff, I don't come and talk to them about what the  
6 handbook may say, I do not come and discuss their  
7 benefits with them. There are many services that I  
8 would not do as the attorney.  
9 As the attorney, I'm limited to focusing on  
10 legal issues. If you present a specific case to me, I  
11 may sit down with the policies and give you strategic  
12 direction through it, that kind of thing.  
13 But as to general H.R. operations with the  
14 City, that would be something I would not typically  
15 do. That would be a service I wouldn't consider part  
16 of something I did as a legal service.  
17 MR. DAVIS: Yes. And as a matter of fact,  
18 the reason I got originally introduced was because  
19 Cecil asked me to come help, and I just kept helping.  
20 COUNCILMEMBER PATRICK: And I guess is there  
21 a reason why Finance couldn't handle payroll issues?  
22 MS. FERGUSON: I do not have an H.R.  
23 background, and there are a lot of things that come up  
24 that I simply don't know how to handle. I'm not  
25 trained to do it, and it's a whole body of employment

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1 law that I know nothing about.  
2 COUNCILMEMBER PATRICK: Could you give us a  
3 for-instance?  
4 MS. FERGUSON: For instance, we're trying to  
5 get some people to be able to donate comp time to a  
6 sick employee. We don't have a policy on it, and I  
7 have no idea how to deal with that.  
8 MS. PRITCHARD: I could give you, if it  
9 would be all right, a couple of examples that we find  
10 when we go into organizations where they just really  
11 didn't realize the importance of H.R. and what it  
12 means to the organization, and what you'll find is  
13 things like this.  
14 Someone there is attempting to do their  
15 very, very level best to run payroll and to do H.R.  
16 and counsel with employees on employee-relations  
17 items. And where they will get in trouble is things  
18 like when they hire someone, they really don't -- they  
19 don't have the knowledge to truly know exempt from  
20 non-exempt. Or they will configure overtime wrong.  
21 They'll think that it's 80 hours in two weeks instead  
22 of 42 and 38 and make mistakes on payroll. Or they  
23 won't get some things resolved, and then you get ready  
24 to go through an audit and you don't have a clean  
25 audit because you didn't do it right in the first

1 place.

2 There's so many issues that, again, from a  
3 body of knowledge of H.R., that someone who's been  
4 doing H.R. for three to five years versus somebody  
5 who's doing it 20 years, you just won't recognize.  
6 You won't know what you don't know.

7 So while folks are very willing to step up  
8 to the plate and say, "I'll be the H.R. person,"  
9 frequently that gets an organization in trouble  
10 because they're going along and they're doing the  
11 routine like doing payroll or doing benefits or doing  
12 something along that line that they think is very  
13 routine, but they just don't recognize when that  
14 something comes along and they make the wrong decision  
15 because they didn't know, and now the company is out  
16 of compliance or has made a really bad decision.

17 So again, I say it sounds self serving for  
18 Flex H.R. to stand here and say you need professional  
19 human resources, but I will say it: You need  
20 professional human resources.

21 MAYOR PITTMAN: Okay. Ms. Fleming?

22 COUNCILMEMBER FLEMING: What role, if any,  
23 whether it be your department or Phil's, are you  
24 playing in the retirement change in providers,  
25 contacting retirees, vested employees that are no

1 at our office all the time from employees where  
2 they're wanting to know, "Well, what about this? What  
3 about that?" Some things are very confidential;  
4 they're not comfortable speaking to someone -- I guess  
5 I could say they like the fact that they're speaking  
6 to someone who's not actually at the City, because  
7 they feel they could speak more freely to explain what  
8 their problem is, and then we're able to help them and  
9 give them the guidance they need to answer their  
10 questions.

11 Some things have to be escalated to the  
12 insurance company to get their answer, but we know  
13 which things we can answer and which things we have to  
14 take to someone else.

15 COUNCILMEMBER FLEMING: Okay. And I'm not  
16 trying to put you on the spot, because evidently --  
17 and I e-mailed the Mayor today -- I did field a couple  
18 of phone calls this weekend from retirees, not  
19 employees but retirees that have already left the City  
20 that have received the GMA letter, and they're, you  
21 know, questioning the plan and whether their benefits  
22 are going to change and who should they talk to and so  
23 forth.

24 So is it of your opinion at this meeting  
25 that I should refer them to you?

1 longer with us as well as our insurance coverage  
2 change? Are you having any type of role with that at  
3 all?

4 MS. PRITCHARD: Yes, we are having a role in  
5 that. One, there's a body of communication that is  
6 just now getting rolled out that will be approved and  
7 that we have to go through. Some things are legally  
8 necessary in this change-over; some are just good  
9 practice and good policy to do.

10 There needs to be educational sessions. And  
11 while we have professionals with the 401(k) -- excuse  
12 me, with the retirement plans, not 401(k) -- the  
13 457(b) or the pension plan that will come and provide  
14 that education to employees, there's a role for H.R.  
15 to play to make sure that certain things get done and  
16 get done at a certain schedule and that those  
17 employees are helped.

18 There's also questions from employees that  
19 someone has to address, and your provider will speak  
20 to your designee, not to every single employee. So  
21 being able to give help to employees is of critical  
22 importance to answer their questions as we go through  
23 all these changes for them.

24 And the same with benefits, health benefits,  
25 dental, vision, etc. There's questions that we take

1 MS. PRITCHARD: It would be appropriate for  
2 them to come to us, and then we would get them the  
3 answer or get them with the right folks to give them  
4 their specific answers, because some of their answers  
5 are very, very ticky that are going to be required to  
6 come from the actual provider.

7 And as we're in this transition, some things  
8 can be done right now, some things may be done in 30  
9 days. But at least we can help them, and that's what  
10 we're there to do, so we would be delighted to speak  
11 to any of them or e-mail with them as they prefer.

12 COUNCILMEMBER FLEMING: Okay. And the only  
13 other comment I have, in regards to Mr. Bates' comment  
14 about the evaluations, I think that was a very lengthy  
15 discussion that we had at the retreat about the fact  
16 that we have nothing on paper to evaluate, and maybe  
17 it was just a step forward for us to finally get  
18 things on paper. So since Flex H.R., your particular  
19 portion of the firm, putting that together with our  
20 employees, I think that's outstanding.

21 MAYOR PITTMAN: Thank you.

22 MR. DAVIS: And it's not just a form, Mayor  
23 and Councilperson Fleming. It's the training --

24 COUNCILMEMBER FLEMING: Yes, sir.

25 MR. DAVIS: -- of the supervisors that's

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1 designing the process. I mean what sounds like is  
2 very simple --  
3 COUNCILMEMBER FLEMING: No, no, no. I  
4 didn't mean to --  
5 MAYOR PITTMAN: They actually have been in  
6 several department head meetings and really have done  
7 an outstanding job of moving that forward.  
8 Ms. Dean?  
9 COUNCILMEMBER DEAN: Okay. Just to touch on  
10 the legal question again, on the list of contributions  
11 of Flex H.R., you say provided answers to questions of  
12 employment law, provided alternatives, and working  
13 with leadership to achieve desired outcomes.  
14 So you do not give legal advice; right?  
15 Totally separate from you; right, Cecil?  
16 ATTORNEY McLENDON: I can tell you I've  
17 worked with numerous different H.R. groups in several  
18 different cities, and I think Sherry was actually  
19 pretty close to how it works, because a good bit of  
20 what H.R. does is they ensure that you are compliant  
21 with all sorts of laws and all sorts of regs that may  
22 come down and different issues that may come up. A  
23 lot of those don't require legal advice per se as much  
24 as understanding a reg and implementing a reg.  
25 COUNCILMEMBER DEAN: Yes.

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1 ATTORNEY McLENDON: When it comes to, "What  
2 did this mean? What is this gray area?", you know,  
3 "Here are our specific set of facts regarding this one  
4 situation, and let's apply it to the law," that's the  
5 kind of thing that comes to me, and I will sit and  
6 work with that staff to try to come to those  
7 conclusions. That's sort of where the interaction  
8 comes, administrative processes. So I think there are  
9 two different levels to the compliance and the legal  
10 issue that's out there.  
11 COUNCILMEMBER DEAN: The other thing is so  
12 Flex H.R. came in at your introduction, Cecil?  
13 ATTORNEY McLENDON: Well, Flex H.R. had the  
14 contract in Sandy Springs, absolutely.  
15 COUNCILMEMBER DEAN: Okay. Well, here,  
16 because, again, on the same thing, one of the things  
17 that you say you contributed to the City was  
18 "contributed to revamping and upgrading the City's  
19 benefits programs and introduced Ascension," which, to  
20 me, was a red flag, because I asked then if that was  
21 appropriate, number one, because we sent out an RFP.  
22 So I asked at that meeting, because -- I believe Lisa  
23 was there, you guys were here, Cecil was here --  
24 everyone talked about, wow, what a great job Ascension  
25 does, but I thought that was unfair being that the

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1 other two candidates didn't have that same sort of  
2 cheerleading in the background, and that -- that --  
3 So was there anything improper with that?  
4 I mean I asked then.  
5 ATTORNEY McLENDON: Based upon that conver-  
6 sation then, though, I don't see that. I think you  
7 went through an RFP, it was put in front of the Mayor  
8 and Council.  
9 COUNCILMEMBER DEAN: Okay.  
10 ATTORNEY McLENDON: Y'all made an  
11 independent decision on it.  
12 COUNCILMEMBER DEAN: Okay.  
13 ATTORNEY McLENDON: If there was a -- you  
14 know, a group that people knew, there often is. A lot  
15 of times, you have an incumbent that's involved in RFP  
16 processes --  
17 COUNCILMEMBER DEAN: Right.  
18 ATTORNEY McLENDON: -- and are very familiar  
19 with the process.  
20 COUNCILMEMBER DEAN: Right. It just seems  
21 to have been incestuous in terms of how everything --  
22 But my concern is, as you know -- nothing  
23 personal about you guys. I think that we definitely  
24 need the organization. But you guys were brought in  
25 based on the \$5,000 spending allowance that the Mayor

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1 has, and I don't think that that's used properly in  
2 terms of an aggregate contract such as this. And I  
3 think that if we want to spend \$60,000 on H.R.  
4 services, we should send out an RFP and do it  
5 appropriately.  
6 MAYOR PITTMAN: Well, at the time that they  
7 were brought in we were looking at some very, very  
8 crucial issues --  
9 COUNCILMEMBER DEAN: Right.  
10 MAYOR PITTMAN: -- one being a reduction of  
11 force --  
12 COUNCILMEMBER DEAN: Sure.  
13 MAYOR PITTMAN: -- and other issues that I  
14 am not at liberty to discuss because they were  
15 personnel issues.  
16 COUNCILMEMBER DEAN: Sure.  
17 MAYOR PITTMAN: But we did not have time to  
18 be able to go out for an RFP to be able to get those  
19 items addressed.  
20 COUNCILMEMBER DEAN: Sure.  
21 MAYOR PITTMAN: Those were addressed, and  
22 then it was brought to the Council and they agreed to  
23 bring them in till the end of September, and that's  
24 where we're at now.  
25 COUNCILMEMBER DEAN: I understand that, and

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1 that's -- that's -- that's good. And now we don't  
2 have these same kind of pressures. So I think that if  
3 this is the direction in which we want to go, particu-  
4 larly in light of the fact that we're having a city  
5 manager come in, then I think that that's something  
6 that we should look at closely.

7 COUNCILMEMBER BATES: Here's where I am on  
8 this. We fought for four years to outsource payroll  
9 so we could take it out. And we spent a lot of money  
10 because the City failed to file our taxes for eight  
11 consecutive quarters, you know, and that's an issue  
12 that a professional won't, shouldn't do. And if they  
13 do, they've got insurance to cover that, and it's much  
14 easier to get rid of a consultant firm -- no offense  
15 -- than it is to cut loose an employee. So I  
16 understand the value of outsourced payroll.

17 In looking at cities that have H.R. people,  
18 the cities are split in Dekalb and Fulton between  
19 having a full-time H.R. person or staff or turning  
20 those job responsibilities over to a combination of  
21 the city manager or clerk. So I understand the value  
22 of H.R., and I agree that it's there.

23 I'm with Trudy in that this -- And I'm going  
24 to use a term that I don't like but it's the best term  
25 that I can give you. Y'all were foist upon us in this

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1 urgency. And I understand the urgency, I agree with  
2 the urgency. But now we're in this window of  
3 September, October, November, December, hopefully,  
4 between now and when a city manager, in theory, is  
5 going to come on board.

6 The question, to me, is do we put this out  
7 for bid and look for a firm that is a good fit for us?  
8 And you guys may be the good fit for us. I just don't  
9 have anything to compare you to. Do we do this on a  
10 contract hourly, on-call basis for the next four  
11 months until we've got a city manager in place that  
12 can help navigate us through this or do we extend out  
13 the contract blindly with you guys for the foreseeable  
14 future until we've got that other option?

15 That's where I'm at on that, so.

16 COUNCILMEMBER PACHUTA: And I guess I see  
17 more the value of your general H.R. services right now  
18 because we don't have an employee that can do that,  
19 versus I'm not sure we necessarily need the consulting  
20 right now because -- I mean we did when we were going  
21 through the reduction of force, when we trying to  
22 figure out we had the problem with the payroll  
23 provider and the comp time being calculated correctly  
24 and those issues. I'm not sure that we need a  
25 consultant on retainer necessarily. I see more the

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1 value in the day to day H.R.

2 But then I'm kind of with Brian. We have  
3 never sent this out to RFP, but we are switching to a  
4 city manager who may have his own opinion on what the  
5 City needs, whether the City needs to hire someone or  
6 contract it out or what.

7 COUNCILMEMBER DEAN: Well, even if there are  
8 any of the duties that the Mayor can take over, I mean  
9 because you are involved in the day-to-day operations  
10 of the City. If there's something that you perhaps  
11 learned from Flex H.R. that you can take on.

12 MAYOR PITTMAN: I can do things, but I am  
13 not an H.R. person and would not even begin to try  
14 because that will get you in trouble.

15 And I will say I almost agree with all of  
16 you. There's all kinds of ways to look at this. But  
17 I will say that we certainly, between the time that  
18 the transition of the city manager, do not need to be  
19 without something. We need to have someone.

20 And if we want to use him as an on-call  
21 basis and keep your service or if we want to do an  
22 RFP. Obviously, we do not hire people very quickly  
23 here. We've been trying to hire a City Clerk now for  
24 months and months and months. So --

25 COUNCILMEMBER DEAN: Well, this is on a

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1 contract basis. I think that might be a bit different  
2 than hiring a full-time employee.

3 MAYOR PITTMAN: Right. But either way, I  
4 think in the lapse of time, we do not need to have --  
5 we do not need to have no H.R. altogether. We need to  
6 have something, so however the Council wants to do  
7 that.

8 Did anyone want to see the Power Point?  
9 How long is the Power Point?

10 MS. PRITCHARD: About ten minutes.

11 MAYOR PITTMAN: I don't know if they want to  
12 see that or maybe they've got enough. I don't know.

13 COUNCILMEMBER DEAN: I don't want to see it.

14 COUNCILMEMBER PACHUTA: Yeah. I'm fine.

15 MAYOR PITTMAN: Okay.

16 COUNCILMEMBER FLEMING: We've presently been  
17 without a City Clerk for what? eight and a half months  
18 now. I think we relied quite heavily on the City  
19 Clerk that we had. It may be that we are fortunate to  
20 interview the three prospects and find someone that is  
21 very experienced in H.R. as well as looking forward to  
22 the future, whether it be '13 or '14, we'll have a  
23 City Manager that hopefully will be H.R.-experienced.

24 But until then, I think we need to continue  
25 during this interim period of having no one here.

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1 I mean, Sandra, please don't misunderstand  
2 me. You're trying to do the best job you possibly  
3 can, but if we try to put H.R. on you, I think you'd  
4 probably walk.  
5 So for the time being that we don't have a  
6 City Clerk and we have not put on a City Manager yet,  
7 my preference would be to possibly even just go for  
8 another six-month period of time.  
9 MAYOR PITTMAN: Is that a motion?  
10 COUNCILMEMBER PATRICK: Well --  
11 COUNCILMEMBER FLEMING: There's still  
12 discussion going on.  
13 COUNCILMEMBER PATRICK: Quick question. We  
14 just got handed the contract before the Council  
15 meeting, but I think it says here that we can  
16 terminate with 60 days notice without cause.  
17 If that's correct, can we just renew and  
18 then say we have a City Manager, we have a Plan B in  
19 place, we've done an RFP?  
20 ATTORNEY McLENDON: The contract has a  
21 60-day termination provision in it. That is correct.  
22 That's part of the contract, the existing contract.  
23 MR. DAVIS: The existing contract expires on  
24 a date certain in September.  
25 COUNCILMEMBER PATRICK: What is that date?

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1 MS. PRITCHARD: It's September 12th.  
2 COUNCILMEMBER PATRICK: The 12th?  
3 COUNCILMEMBER FLEMING: I actually didn't  
4 see that date listed in the contract at all.  
5 MR. DAVIS: It is.  
6 COUNCILMEMBER ALEXANDER: I just want to  
7 make sure I heard something perfectly clear, because  
8 it was a little upsetting to me.  
9 So if we hire -- You are refusing to  
10 separate the payroll services from the H.R. services;  
11 is that correct? I just want to make sure I heard  
12 that correctly.  
13 MS. PRITCHARD: Let me make sure I'm under-  
14 standing your question because I want to answer it.  
15 If you're asking us to only do payroll and  
16 not any H.R. work, then that's not the business we're  
17 in. We --  
18 COUNCILMEMBER ALEXANDER: So even if -- if  
19 we hire an H.R. professional, you will not supply us  
20 payroll services.  
21 MS. PRITCHARD: Your payroll services are  
22 supplied by a company called Payroll Strategies --  
23 COUNCILMEMBER ALEXANDER: Okay.  
24 MS. PRITCHARD: -- and you pay them right  
25 now to process your payroll, pay the taxes and file

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1 the tax returns along with, you know, they have to pay  
2 them every payroll and then they file the returns at  
3 the proper time.  
4 So in the system that you're using, the web  
5 apps software is supplied by them as part of those  
6 fees you're paying them. That's not actually part of  
7 Flex H.R.  
8 The part that we're doing at no additional  
9 charge is we're entering all of the changes,  
10 maintenance, new hires, terminations into that  
11 existing system, which someone here would have to do  
12 if we weren't doing it. And then when it comes time  
13 to actually process a payroll, we're the ones with our  
14 fingers or keying everything to make sure that  
15 everything gets into that payroll and that it's  
16 approved properly so that then it can be processed by  
17 the payroll processor.  
18 So if you took Flex H.R. out of it, then  
19 someone here would actually have to do those tasks,  
20 those job duties to be sure that your payroll could  
21 run. But it's not that your payroll would disappear  
22 or the tax service would disappear. That could  
23 continue. It's just that somebody has to pick up  
24 those duties that we're doing that are very  
25 administrative in terms of making sure that everything

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1 gets keyed in properly.  
2 So in terms of Flex H.R., we're not -- we  
3 don't consider ourselves to be a payroll house. We're  
4 an H.R. company. But for our clients, to help them  
5 ensure that their payrolls are as perfect as possible,  
6 we take on the task and the role to be that person so  
7 they don't have to have somebody inside their company  
8 actually doing that keying or that data entry, so to  
9 speak, to be sure everything is done.  
10 So we play that role, but if a company says,  
11 "Look, we want your H.R. services but I want Sally to  
12 enter everything into payroll and make sure that  
13 payroll is run," that's okay. You know, we do that  
14 all the time. So some of our clients, we do their  
15 payroll for them; some of our clients, they may have  
16 their accounting department that does their payroll  
17 for them; but almost never do we take on a client just  
18 to do payroll for them. That's very rare.  
19 COUNCILMEMBER ALEXANDER: Do we have a  
20 separate contract with Payroll Strategies?  
21 MS. PRITCHARD: Yes. It's a month-to-month.  
22 COUNCILMEMBER ALEXANDER: I just asked our  
23 attorney, and he said no.  
24 ATTORNEY McLENDON: I don't believe we have  
25 executed a contract with Payroll Strategies.

1 MS. PRITCHARD: There was paperwork signed  
2 originally in order for them to do the work, and we'll  
3 be glad to get --

4 ATTORNEY McLENDON: I would have to --

5 MS. PRITCHARD: -- you copies.

6 ATTORNEY McLENDON: -- review it.

7 MAYOR PITTMAN: Yeah.

8 ATTORNEY McLENDON: If it is out there, it  
9 is not something that I am familiar with off the top  
10 of my head.

11 MS. PRITCHARD: But typical with any payroll  
12 service where they're providing you that actual  
13 payroll service, you come when you come and they can  
14 crank you up as soon as they can, and you can stop  
15 almost any time you want to stop usually with 30 days  
16 notice. So you're not tied to something. If you want  
17 to stop that payroll service, you can.

18 COUNCILMEMBER DEAN: So we could theo-  
19 retically -- if we have a contract with this payroll  
20 company, we could hire a temp to come in and input the  
21 data if that's what's required. Any changes, for that  
22 matter, because the data I'm assuming is already put  
23 in there for the existing employees.

24 MS. PRITCHARD: That's correct.

25 MAYOR PITTMAN: But you said there was no --

1 COUNCILMEMBER FLEMING: But you're not  
2 just -- Sherry, let me just understand. You're not  
3 just entering new hires, terminations, changes of  
4 data. Are you also including --?

5 I mean your department gets our times from  
6 every single employee, and this is done every week or  
7 every two weeks, and you're entering that portion to  
8 get it to Payroll Strategies?

9 MS. PRITCHARD: The actual time collection  
10 of hours worked is part of that whole web app system.  
11 So when the employees go to their computer and they  
12 log in and they click in, they're clocked in, clock  
13 out for lunch, clock in, clock out for the day, take a  
14 PTO day, take a bereavement day, that's all part of  
15 that HRIS system. It is an integrated system. So the  
16 timekeeping is part of the payroll system, and that's  
17 what you have from Payroll Strategies.

18 So again, very definitely, clearly, if Flex  
19 H.R. were not here, you could -- someone here at the  
20 City or someone you hire could do your payroll.

21 Probably the only piece that would be  
22 missing is that H.R. set of eyes and knowledge when  
23 somebody wants to do something but there's not someone  
24 there to say, "Whoa. Wait just a minute. Let's ask  
25 these five questions." So it's not as -- I don't want

1 that's in the scope of work that you already do; is  
2 that correct?

3 MS. PRITCHARD: It is part of what we're  
4 doing for you right now, but if you -- I mean there's  
5 all kinds of permutations and possibilities here.

6 But let's just say that Flex H.R. was no  
7 longer in the picture. Then either internally,  
8 someone here internally, an employee or your Finance  
9 Department, your accounting department or someone you  
10 hire on a part-time basis to come in and make those  
11 entries for you, absolutely you could do that.

12 MR DAVIS: They need to be able to interface  
13 with the existing systems which is not someone off the  
14 street, I just caution you.

15 COUNCILMEMBER DEAN: I was head of H.R. in  
16 D.C., and some of these programs now are very, very  
17 user-friendly, and so I don't think that it's that  
18 complicated in terms of getting some- -- If the system  
19 is set up, then what we would need is someone to come  
20 in and input the data; is that correct?

21 MS. PRITCHARD: Trudy, I agree with you; it  
22 can be done. You have to hire the right person --

23 COUNCILMEMBER DEAN: Right.

24 MS. PRITCHARD: -- but it can definitely be  
25 done.

1 to make it sound -- it's simple, but sometimes it's  
2 very complicated, so.

3 But to answer you directly, you could get  
4 someone to make those entries. Everything is set up,  
5 everything is good right now, and so someone with the  
6 right knowledge and a little bit of training could  
7 come in and continue that with you with Payroll  
8 Strategies and you could keep having your same time-  
9 keeping system, your same payroll system.

10 We helped pick that system for you on  
11 purpose before we came in to do your H.R. work,  
12 because we knew it would give you a really good system  
13 to do everything you needed to do. So that was before  
14 we even came in and started working for you.

15 COUNCILMEMBER BATES: Let me ask this  
16 question, and if you guys need a couple days to think  
17 through this, then that's great. I can't vote for a  
18 year or six months just because I don't -- I can't  
19 encumber the City not knowing where we're going to be  
20 in January.

21 We've got the City Manager search process  
22 starting next Monday, we've got interviews with clerks  
23 next Thursday or some combination thereof.

24 Are you guys amenable to looking at a month-  
25 to-month until we get a better sense for where we're



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1 going to be long-term?  
2 And again, I don't expect an answer. We've  
3 got till the -- the contract expires the 12th. If you  
4 guys want to think about that and come back to us  
5 with, you know, a counter to that, I think I would be  
6 very interested in that.  
7 And again, I'm just speaking for me, so the  
8 rest of the Council can tell me, "Brian, you're full  
9 of it. Just shut up and we'll just move on." I am  
10 just telling you that I can't commit to a longer  
11 contract.  
12 MR. DAVIS: Brian, there's always the 60-day  
13 cancellation period. And so if we signed a 20-year  
14 contract, the longest we are obligated to be here is  
15 two months.  
16 COUNCILMEMBER FLEMING: The two contracts  
17 that I presently have, both the one from August of  
18 last year and the one in February, doesn't show an  
19 expiration date.  
20 COUNCILMEMBER BATES: Yeah, they do.  
21 COUNCILMEMBER FLEMING: Pardon me?  
22 COUNCILMEMBER BATES: They do. It's Section  
23 8, I think.  
24 MR. DAVIS: Well, the one from last October  
25 doesn't. The newer one does.

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1 COUNCILMEMBER BATES: It's Article 8.  
2 MS. PRITCHARD: And the reason the  
3 expiration date is in there is because we were told  
4 that it needed to be a six-month contract.  
5 MR. DAVIS: We would normally not do a six-  
6 month contract. We normally do an open-ended contract  
7 or a one-year contract. But again, there is always  
8 the ability for either party to give notice and  
9 terminate the contract. This is just to provide  
10 stability for both parties until you need it not to be  
11 stable. That's just --  
12 MAYOR PITTMAN: And I actually like  
13 Mr. Bates' idea because we are in transition in a  
14 variety of ways, and you guys have been an asset. And  
15 we are actually working on things and moving forward,  
16 and I would hate for that just to stop because I feel  
17 all of that would move backwards, and -- and, you  
18 know, if you would like to think about it, then it  
19 would be very helpful if you would consider --  
20 COUNCILMEMBER DEAN: When do we need to  
21 discuss and vote on this? because if their contract  
22 ends September 12th and today is the 4th, then how  
23 would this work? When would we meet? A special  
24 meeting?  
25 COUNCILMEMBER PACHUTA: We have a meeting

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1 Monday.  
2 MAYOR PITTMAN: We have plenty of meetings.  
3 COUNCILMEMBER DEAN: Talk about it on the  
4 10th?  
5 MAYOR PITTMAN: If we could get an answer  
6 tonight.  
7 If not, then we could put it on Monday,  
8 but --  
9 MS. PRITCHARD: Yeah, we'll need to speak  
10 about it --  
11 MAYOR PITTMAN: Okay.  
12 MS. PRITCHARD: -- and we'll get back to you  
13 quickly.  
14 MAYOR PITTMAN: Okay.  
15 MS. PRITCHARD: Thank you.  
16 MAYOR PITTMAN: And then perhaps we could  
17 put this on Monday's agenda first, please.  
18 COUNCILMEMBER FLEMING: Can I -- and yes,  
19 please, but it's Article 8, [as read] "This Agreement  
20 shall commence on the first day above written and  
21 shall continue in effect for a period of six months,  
22 unless and until terminated as hereinafter set forth."  
23 MAYOR PITTMAN: And actually, Lenny  
24 commented on that today. Ms. Fleming, he commented on  
25 that. He said that we had to make a motion to either

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1 continue or discontinue was what he said in the office  
2 today.  
3 COUNCILMEMBER FLEMING: Well, it says unless  
4 and --  
5 MAYOR PITTMAN: I just --  
6 COUNCILMEMBER FLEMING: -- until terminated.  
7 MAYOR PITTMAN: That's what he said.  
8 COUNCILMEMBER FLEMING: Well, I don't  
9 necessarily want to terminate tonight.  
10 MAYOR PITTMAN: Well, no.  
11 COUNCILMEMBER FLEMING: So --  
12 COUNCILMEMBER DEAN: That's why we put it on  
13 the agenda for Monday --  
14 MAYOR PITTMAN: Right.  
15 COUNCILMEMBER DEAN: -- because it expires  
16 on the 12th.  
17 COUNCILMEMBER FLEMING: No, it doesn't.  
18 That's what I'm saying. That's what I just read.  
19 COUNCILMEMBER DEAN: Into the term?  
20 ATTORNEY McLENDON: It's a six-month  
21 contract, and what it has is a renewal provision in  
22 it. But I think everyone agrees that the conversation  
23 I'm hearing tonight isn't the six-month period. It's  
24 sort of the first opportunity for a termination unless  
25 we went into a renewal period.

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1 MAYOR PITTMAN: So if Council is  
2 comfortable, we will put this on Monday's agenda first  
3 thing prior to the city manager discussion and then  
4 we'll just wait on your --  
5 MR. DAVIS: I would --  
6 COUNCILMEMBER DEAN: If you'd like --  
7 MR. DAVIS: I would probably propose a  
8 longer, at least a six-month-or-longer agreement, but,  
9 you know, the normal 60-day termination notice we can  
10 make 30 days if Sherry's comfortable with that.  
11 MS. PRITCHARD: We're going to need to speak  
12 with Jim Cichanski, our owner, and get back to you.  
13 COUNCILMEMBER BATES: Well, yeah, yeah.  
14 MAYOR PITTMAN: Yes, absolutely.  
15 COUNCILMEMBER BATES: Yeah.  
16 MR. DAVIS: Sherry and I are still  
17 employees, so we --  
18 COUNCILMEMBER BATES: Sure, and --  
19 COUNCILMEMBER DEAN: But they're going to  
20 six month. I'm not good with the next six -- I mean I  
21 would rather like --  
22 COUNCILMEMBER BATES: Well, that's why I  
23 didn't want an answer from y'all, because I was just  
24 throwing that out just so that you can appreciate  
25 where I'm coming from. And again, I'm only speaking

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1 for me, but we're in a very interesting transitional  
2 time period, and we'll know much more in the next two  
3 weeks where we're going to be. And you know, if the  
4 interviews for clerks go well next week and if the  
5 process for a city manager moves forward, we're going  
6 to be in a very different place in three months than  
7 we are today, and the services all across the board  
8 that we need may start being able to be filled  
9 internally versus externally.  
10 So I just want to make sure you guys  
11 appreciate where we are from a governing body and  
12 appreciate your services on getting us through some of  
13 our needs over the last, you know, six to eight  
14 months.  
15 COUNCILMEMBER DEAN: Well, having said that,  
16 we won't know by Monday, anyway, right? because we  
17 don't have the interviews until after Monday; right?  
18 COUNCILMEMBER BATES: I agree. That's why -  
19 - You know, we're weeks away from understanding where  
20 we're going to be.  
21 COUNCILMEMBER DEAN: Okay.  
22 MR. DAVIS: Councilman Bates --  
23 COUNCILMEMBER BATES: Yes, sir.  
24 MR. DAVIS: -- I would like to make this  
25 comment in all deference to everybody. We inherited

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1 the H.R. department from one of the more capable city  
2 clerks in terms of her knowledge of H.R., and the H.R.  
3 department we inherited was not functioning very well  
4 at all.  
5 So if you're going to believe that you're  
6 going to bring in a city clerk that's going to be a  
7 full-time city clerk and do H.R. part-time, I think  
8 you're going to be disappointed.  
9 COUNCILMEMBER BATES: Thank you.  
10 MAYOR PITTMAN: Okay. So we will wait for  
11 your reply.  
12 MS. PRITCHARD: Yeah, I think so.  
13 Let me ask another question. I think Phil  
14 brought up something that's important.  
15 If you were comfortable with going again  
16 with another six months -- because I'm having to  
17 dedicate staff to this, so to do it just month-to-  
18 month is very difficult. So if you were to go another  
19 six months and decide next month that you want to  
20 bring it to an end, then, as he said, we could  
21 possibly with permission of our owner do a 30-day  
22 cancellation or a 60-day cancellation.  
23 I think no matter what you did or who you  
24 hired, I think you'd appreciate having a transition to  
25 be able to transition that knowledge and give them

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1 training if they needed it. So I think that it might  
2 be something you might want to consider.  
3 We'll think about it tonight and get back to  
4 you quickly tomorrow.  
5 The other thing is we did lower our price  
6 substantially. We did not ask for an increase in  
7 price at this renewal. Knowing how the City is  
8 struggling, we made a conscious decision not to do  
9 that.  
10 So in some ways, if you want to think about  
11 it, based upon the price that I would normally charge  
12 for just the back-room H.R. administration services,  
13 the Employee Universe, you're really getting Phil for  
14 free. So I would say take advantage of it because his  
15 knowledge is really great and particularly in  
16 protecting you as a city.  
17 Thank you for allowing us to serve you. We  
18 appreciate it. We very much care. We really love  
19 this city and we want to help every way we can.  
20 We'll give careful consideration to this  
21 tonight, we'll speak to our owner and get back to you  
22 quickly, hopefully by tomorrow. Thank you.  
23 COUNCILMEMBER BATES: Thank you.  
24 MAYOR PITTMAN: Thank you so much.  
25 Okay. Next on the agenda is Brook Park.

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1 MR. STRICKLAND: Mayor and Council,  
2 good evening.  
3 This has been discussed for some time now.  
4 At the last meeting we had, Council had questions  
5 about the scope of work and also questions about the  
6 product itself.  
7 I got both of those from our contractor that  
8 gave us the low bid, presented that to everybody, and  
9 just basically here to answer any questions that you  
10 might have.  
11 COUNCILMEMBER BATES: Do we have a  
12 stormwater prioritization project list?  
13 MR. STRICKLAND: Yes. It comes from our  
14 inventory. Also there's an older one from before I  
15 got here. Just from visually looking at what was out  
16 there after the inventory, everything that needs  
17 repair has basically been given a priority.  
18 COUNCILMEMBER BATES: And where does Brook  
19 Park pipe fall in that priority list?  
20 COUNCILMEMBER BATES: It's been on there for  
21 years and years now. So after -- after Oakcliff, it  
22 basically became the number one priority.  
23 COUNCILMEMBER BATES: Okay. Thank you.  
24 MAYOR PITTMAN: Ms. Alexander?  
25 COUNCILMEMBER ALEXANDER: Oh, you can start

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1 with Ms. Dean first. It's her turn.  
2 MAYOR PITTMAN: Ms. Dean?  
3 COUNCILMEMBER DEAN: Okay. I have received  
4 a call regarding the waiver that a resident was asked  
5 to sign.  
6 MR. STRICKLAND: Right.  
7 COUNCILMEMBER DEAN: And I read that waiver,  
8 and I would not sign that waiver myself.  
9 MR. STRICKLAND: Yes, ma'am.  
10 COUNCILMEMBER DEAN: Is there something that  
11 could be done to reassure this resident?  
12 MR. STRICKLAND: We have been in contact  
13 with that property owner, basically asking them what  
14 they want and what they would like to see different.  
15 Unfortunately, the only answers we've gotten is they  
16 won't really tell us what they want; they're telling  
17 us what they don't want, which doesn't give us a whole  
18 lot to work with.  
19 MAYOR PITTMAN: Cecil --  
20 ATTORNEY McLENDON: Let me dive in on that  
21 because as well, my understanding is we don't have any  
22 infrastructure going on that property. I think I  
23 could be relatively flexible with that document as  
24 well, and I think I've communicated that to try to be  
25 communicated to the individual --

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1 COUNCILMEMBER DEAN: Uh-huh.  
2 ATTORNEY McLENDON: -- that I'd be happy to  
3 take a look at that document since we're not putting  
4 physical infrastructure on the property. It's  
5 basically a right-of-entry for the purposes of  
6 completing the project which is not located on their  
7 property is my understanding.  
8 So if they get with us, they might find we  
9 can try to work something through on that language.  
10 COUNCILMEMBER DEAN: Well, in terms of based  
11 on these pictures that you handed out --  
12 COUNCILMEMBER FLEMING: Or that someone  
13 handed out.  
14 COUNCILMEMBER DEAN: -- this tennis court  
15 compared to the cost of fixing this drainage, what  
16 difference would there be in moving the tennis courts  
17 to the flat area of the park, of Brook Park? I mean  
18 is that enormous? I know nothing about this, which is  
19 why I'm asking.  
20 But to move the tennis courts and maybe face  
21 it in a north-and-south direction, you know, so that  
22 it's not -- I mean just kind of just -- This is  
23 breaking apart. And I know when I took my son to that  
24 park I would not let him anywhere near that area  
25 because it's scary.

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1 MR. STRICKLAND: Right. So you're asking  
2 the cost of moving the tennis courts?  
3 COUNCILMEMBER DEAN: Yeah. I mean if you  
4 move that and then fix it, would that be a huge cost  
5 difference or -- or --  
6 MR. STRICKLAND: The problem is is that this  
7 -- we can work on the pipe with the Stormwater Utility  
8 but we can't move the tennis courts with that money.  
9 COUNCILMEMBER DEAN: Right, right, right.  
10 MR. STRICKLAND: So I just -- I don't think  
11 that we have really any money to move tennis courts.  
12 COUNCILMEMBER DEAN: So this is the only --  
13 I mean this is the only option. I mean just fixing  
14 this pipe the way that was presented, that's the only  
15 option?  
16 MR. STRICKLAND: What we're trying to do is  
17 to keep from open-cutting and replacing the pipe,  
18 which would cause us to -- because you see how much of  
19 it goes under the tennis courts? So we would have to  
20 demo and repair the tennis courts, and I don't know  
21 legally the extent of the work that we can do on  
22 tennis courts using Stormwater Utility money. I think  
23 it's a very fine line we'll be walking there.  
24 So the reason why we want to do the cured-  
25 in-place pipe is because we don't have to demo the

1 tennis courts; we can fix the sinkholes, we can fix  
2 the part of the tennis court that's failing because of  
3 the sinkhole because of the pipe. But to just flat  
4 out move or repair or demo and replace the tennis  
5 courts --

6 COUNCILMEMBER DEAN: Do you know this or are  
7 you not sure?

8 MR. STRICKLAND: I pretty -- pretty much  
9 know it. We have to use this money to work on the MS4  
10 system. Like at Halpern if we have -- If you have to  
11 take down a fence to fix the pipe, then you can  
12 replace that fence, but you can't go down the street  
13 and say, "Well, we're going to fix all the fences  
14 because we worked on the pipe over here." It has to  
15 be --

16 COUNCILMEMBER DEAN: If the pipe is under  
17 the tennis court and you have to go through the tennis  
18 court to repair the pipe, then --

19 MR. STRICKLAND: Right.

20 COUNCILMEMBER DEAN: -- wouldn't that be a  
21 cost of repair as a result of fixing the pipe?

22 MR. STRICKLAND: But I think the point here  
23 is that we don't have to do that. We can fix this  
24 pipe by using this method and not --

25 COUNCILMEMBER DEAN: Right.

1 had an opportunity to talk because I would have better  
2 been able to relay her concerns.

3 MR. STRICKLAND: Yeah, if you could. We're  
4 just -- we're trying to figure out exactly what she  
5 wants, like, you know, give us -- take that waiver and  
6 change it, add to it, add something else. Come up  
7 with something that she would be comfortable with.

8 But thus far, I've been unable to get what  
9 she actually wants or what she would be comfortable  
10 with signing to allow us on the property, because I  
11 think there is some confusion between liability and  
12 just right of entry.

13 COUNCILMEMBER DEAN: Well, when I read it --  
14 I mean because she sent it, and I thought that I'd  
15 brought a copy of it -- I said to myself I would not  
16 sign this as written. I would not have signed it.  
17 And I wish I had a copy of it. But it was basically  
18 saying, "If we screw up your property, then we're not  
19 liable for it," and that's -- I mean that's -- that's  
20 not --

21 MR. STRICKLAND: Right. From my under-  
22 standing, and I'm not the legal expert, but it --

23 COUNCILMEMBER DEAN: Have you read it?

24 MR. STRICKLAND: Yes, ma'am.

25 We have to have the -- we have to have the

1 MR. STRICKLAND: We're pushing a liner  
2 through the existing pipe, which is considerably, you  
3 know, cheaper and just less disruptive. We're trying  
4 to not open-cut that -- that park, you know, open that  
5 up.

6 So it's just it's the most -- I guess it's  
7 the most cost effective to fix the pipe that's causing  
8 the problem. Like we don't have a tennis court --

9 COUNCILMEMBER DEAN: Right.

10 MR. STRICKLAND: -- problem. We have --

11 COUNCILMEMBER DEAN: Right, right, right.

12 MR. STRICKLAND: -- a pipe problem. So  
13 we're just trying to fix the pipe, keep the sinkholes  
14 from continuing and getting larger, which is  
15 eventually going to make us lose our tennis court and  
16 then we may have no option.

17 But I don't -- you know, we can't use the  
18 Stormwater Utility on the tennis courts unless it's  
19 directly related.

20 COUNCILMEMBER DEAN: Right. I have not -- I  
21 have not had a chance to actually speak with the  
22 woman, the resident. We've exchanged messages.

23 MR. STRICKLAND: Right.

24 COUNCILMEMBER DEAN: And she is very, very  
25 concerned about this, and I wish that we would have

1 right of entry to go onto the property to do the  
2 repairs, and that's basically what we're getting. But  
3 we're not transferring that liability to the property  
4 owner. We just can't go on private property without  
5 their -- you know, without them allowing us to.

6 And it does specifically say that we will  
7 restore the property to the pre- --

8 COUNCILMEMBER DEAN: As well as possible.

9 MR. STRICKLAND: As well as possible,  
10 because with pipe work, you can do a lot.

11 We don't have to do that in this particular  
12 area, you know, with this particular pipe. But let's  
13 say we did go in there and dig up an old pipe and  
14 replace a new one. I mean it's very disruptive.

15 But we are saying that, you know, the  
16 dirt'll be put back, we're going to grass it, you  
17 know, rock it, whatever needs to be done to restore  
18 that property. It won't be as it was, because, you  
19 know, we're putting a new pipe in the ground. But  
20 this particular instance with just the type of system,  
21 there will be no disturbance that you will see. I  
22 think their main concern is a worker for the  
23 contractor getting injured on her property, but I  
24 don't think that she has to take on that --

25 ATTORNEY McLENDON: We're going to require

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1 insurance on any contractor who's going to --  
2 MR. STRICKLAND: Right, I mean it's --  
3 ATTORNEY McLENDON: -- do the project.  
4 MR. STRICKLAND: I don't know if we're  
5 comparing apples to oranges. It's right of entry, not  
6 -- The release of liability doesn't make the property  
7 owner take on that lia- -- We're still liable for --  
8 ATTORNEY McLENDON: And what we're -- what  
9 we're generally talking about -- and right-of-entry's  
10 a relatively standard form. What you're generally  
11 talking about on that -- and I understand it's a scary  
12 document.  
13 COUNCILMEMBER DEAN: Okay. You've seen it;  
14 right? Have you read it?  
15 ATTORNEY McLENDON: I've seen and I've read  
16 hundreds of rights-of-entries and I would be surprised  
17 if it had anything different from that, because what  
18 you're basically doing is getting the right to enter  
19 on the property for the purposes of the construction.  
20 It usually will state that the property will be put  
21 back into the general condition as before. It doesn't  
22 state, "I'll replace your koi ponds," but it says it  
23 puts it back into a grassed and stable condition.  
24 COUNCILMEMBER DEAN: Right.  
25 ATTORNEY McLENDON: The liability language

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1 generally is going to be referring to the fact that  
2 I'm making an improvement in the area and saying, you  
3 know, you acquiesce to the improvement.  
4 But to be honest with you, with this not  
5 being on this person's property --  
6 COUNCILMEMBER DEAN: Right.  
7 ATTORNEY McLENDON: -- so hopefully sent the  
8 message to say, send it to me and let's talk about it,  
9 because we can probably make it work.  
10 MR. STRICKLAND: Cecil, part of that pipe is  
11 on her property, and that's the whole reason.  
12 And the other thing is understand the whole  
13 reason that we have to do this is because the age of  
14 the city, it's before the neighborhoods were platted.  
15 We don't have easements. After 1972, you have  
16 easements over your pipes, and basically that does  
17 give us the right to go on there. So any newer  
18 neighborhood is not dealing with this at all because  
19 they have easements. We have to do this because we  
20 don't have easements.  
21 COUNCILMEMBER DEAN: Right, right.  
22 MAYOR PITTMAN: Okay.  
23 MR. STRICKLAND: So a lot of the pipe work  
24 that you see going on nowadays, they're working under  
25 easements and it's a totally different ball game.

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1 COUNCILMEMBER DEAN: So I'm not going to  
2 bring up the Urban Redevelopment Act; right?  
3 All right. You can ask.  
4 MAYOR PITTMAN: Ms. Fleming?  
5 COUNCILMEMBER FLEMING: Just so that I  
6 understand, the first question I have is that  
7 Stormwater money will be paying for the patching of  
8 the tennis courts once the piping --  
9 MR. STRICKLAND: Yes, ma'am.  
10 COUNCILMEMBER FLEMING: -- is completed; is  
11 that correct?  
12 MR. STRICKLAND: The little bit that has  
13 started to slough off. You know, basically we're  
14 dealing with a 5x30 and a 3x30 section on that one  
15 side that is related to the sinkholes that are caused  
16 by the pipe failure.  
17 COUNCILMEMBER FLEMING: Okay. Have you got  
18 your information in front of you --  
19 MR. STRICKLAND: Yes, ma'am.  
20 COUNCILMEMBER FLEMING: -- that you provided  
21 us? Would you look at the map for me, please?  
22 MR. STRICKLAND: Yes, ma'am.  
23 COUNCILMEMBER FLEMING: What does "remove" -  
24 - Up at the top rectangle it says "remove rock HW and  
25 place in" what by hand?

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1 MR. STRICKLAND: In ditch. Remove the rock  
2 head wall and place in ditch by hand.  
3 COUNCILMEMBER FLEMING: Okay. This is  
4 another issue of Ms. Caribbean's in that she is very  
5 concerned that you're taking down a -- or not you --  
6 that the City will be allowing this contractor to take  
7 down what's already a wall there and put all the  
8 debris into the ditch, into the stream --  
9 MR. STRICKLAND: The reason why we --  
10 COUNCILMEMBER FLEMING: -- thereby -- wait  
11 just a second -- thereby what she feels is the backup  
12 of water and flooding into her property.  
13 MR. STRICKLAND: No, ma'am. That's --  
14 COUNCILMEMBER FLEMING: And she's very  
15 concerned. I mean why would we --? Tell me why we  
16 would be taking down a wall behind her house and then  
17 throwing it into the ditch, into the stream.  
18 MR. STRICKLAND: The wall for all intents  
19 and purposes has failed; it's pretty much gone. I  
20 would say there may be -- The whole top of it's gone.  
21 I have pictures of it. You're basically looking at a  
22 plain pipe end. It's just the head wall is for all  
23 intents and purposes gone. It's just deteriorated and  
24 crumbled over the years.  
25 So all they were going to do is just

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1 basically, you know, finish what -- what has occurred  
2 over the past 50 years.  
3 And rip rapping the pipe in -- you know,  
4 once the pipe is in place, rip rap as an energy  
5 dissipator is standard practice. It helps to knock  
6 down that velocity but it does not cause -- if it  
7 causes any type of pooling, it's temporary because the  
8 water is going to make its way through those rocks.  
9 It's not a wall. It's not a -- you know, it's not  
10 going to flood.  
11 It's basically there's parts of a wall there  
12 that have crumbled. They're not doing anything. So  
13 to take that existing rock and just try to make it  
14 something that's useful as opposed to.  
15 But I mean we could just, you know, leave it  
16 alone, but it was --  
17 COUNCILMEMBER FLEMING: Well, I'm just  
18 making comment here.  
19 MR. STRICKLAND: Right.  
20 COUNCILMEMBER FLEMING: The other couple of  
21 comments I want to make also are, you know, I sent  
22 them, my comments to Legal and yourself regarding her  
23 property, and I'm very concerned because I would want  
24 to be there also if somebody was going to start  
25 chopping down trees that I didn't know that they were

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1 going to chop down trees.  
2 MR. STRICKLAND: Right.  
3 COUNCILMEMBER FLEMING: So I do have issues  
4 with the contract as well and I think that there  
5 should be some provision in the contract that states  
6 that this is "What we plan to do on your property,"  
7 dot, dot, dot, dot, dot, before she gives a waiver to  
8 allow you to come or allow the contractor to come on  
9 the property. And if we can't, you know, spell out  
10 "This is what we're going to do on your property," as  
11 I stated in my e-mails to both of you is that I also  
12 wouldn't give you any right.  
13 She doesn't want to stall this process and I  
14 don't want to stall this project either, but I surely  
15 wouldn't give the City -- You know, if you're not  
16 going to take the responsibility for any type of  
17 problems that are done on my property and the  
18 contractor is not going to take the responsibility,  
19 then I'd say, "Absolutely not. You're not allowed on  
20 my property."  
21 MR. STRICKLAND: Right.  
22 ATTORNEY McLENDON: One of the strategies  
23 I've seen people use in the past to deal with that is  
24 to go out and stake the area, go and show the property  
25 owner the limits of the area of disturbance,

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1 potentially show any trees that would be damaged. I  
2 don't know if that would be applicable to this case.  
3 MR. STRICKLAND: Right. We --  
4 ATTORNEY McLENDON: In a lot of cases, that  
5 can be helpful.  
6 MR. STRICKLAND: Right.  
7 COUNCILMEMBER FLEMING: Well, if we had some  
8 type of an additional insured, you know, on his  
9 policy, whoever the contractor is that we choose. If  
10 it says that his additional insured is, you know,  
11 Lorraine Caribbean, or the home of or the property of  
12 such-and-such parcel number and also the other  
13 property that they will be going on as well. But  
14 she's the one that's most concerned. I think that  
15 that would be very helpful because I would require it  
16 myself.  
17 MR. STRICKLAND: Right. We really need to  
18 do very little at that pipe end. We won't have to  
19 remove any trees. We can leave the head wall.  
20 What it is is that the sleeve is going to  
21 come out the end of that pipe and it's going to be  
22 solid, and it actually has to just -- it has to be cut  
23 and then tucked back so that it's open, and that's  
24 about all we really need access to the end of that  
25 pipe for.

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1 COUNCILMEMBER FLEMING: Well, they're just  
2 not going to walk out there in their little boots with  
3 their shovel. I can imagine these bulldozers --  
4 MR. STRICKLAND: No, no, no.  
5 COUNCILMEMBER FLEMING: -- and everything  
6 else going on her property.  
7 MR. STRICKLAND: No. The work -- I can  
8 assure you the work can be done by hand.  
9 See, originally we were going to propose  
10 putting in a new head wall but it would have to be a  
11 poured-in-place concrete head wall, and we knew that  
12 that would require . . .  
13 And we wouldn't be taking down trees.  
14 They're all saplings, nothing eight inches or larger.  
15 But you would have to have a trail down there to get  
16 equipment. You'd have to get the concrete tube down  
17 there. You'd have to frame it up. You'd have to do,  
18 you know, a lot of work.  
19 But to minimize the damage to the private  
20 property, we basically weren't going to do that. We  
21 just have to have access to finish the pipe end. And  
22 then we were just going to, you know, basically take  
23 the rest of the third of the head wall that's left and  
24 just make it something a little bit more useful. But  
25 this is minimal disturbance to the property, and

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1 that's why we wanted to do this. So no equipment, no  
2 framing up, no pouring concrete. Just to get that  
3 liner cut. It has to be wrapped back around so that  
4 you have a pipe end.  
5 Now, I think it's easier to do it from the  
6 outside but you could actually do it from the inside  
7 also. So it's minimal, minimal disturbance.  
8 MAYOR PITTMAN: I know that other Council  
9 members probably have comments. But obviously we're  
10 not going to move forward with this until we make  
11 contact with her and communicate, and I hope that we  
12 can try to do that. I think --  
13 Have you reached out and have not received a  
14 response from --  
15 MR. STRICKLAND: Like I said --  
16 MAYOR PITTMAN: -- her yet?  
17 MR. STRICKLAND: -- the response was not --  
18 it was basically, "I don't want this." And then the  
19 last communique was, "I'll get my thoughts together and  
20 get back with you," but that was late last week. That  
21 has not happened as of yet.  
22 MAYOR PITTMAN: Right. I think that, again,  
23 I'm sure Council has comments, but I wouldn't  
24 recommend it until we make contact with her and find  
25 out exactly if we can come to some agreement.

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1 But I'll hear from other Council members.  
2 Mr. Patrick?  
3 COUNCILMEMBER PATRICK: The question I've  
4 got is you said this was the low bidder. It is a  
5 contractor that has a history of sticking with the low  
6 bid or does he come back and say there's additional,  
7 extra charges?  
8 MR. STRICKLAND: No. This is a lump-sum bid  
9 so there will be no -- I mean Council would have to  
10 authorize a change order that would exceed this  
11 amount, but this is --  
12 You know, the scope of work is everything  
13 that they plan on doing, so I don't foresee any  
14 additional expenses at this time. But change orders  
15 that exceed the contract amount have to be approved by  
16 Council. For example, we know everything that's  
17 included in this pipe system, but in the future, you  
18 may go out there and find something buried that you  
19 didn't know was there, and that --  
20 COUNCILMEMBER PATRICK: Another quick  
21 question for you is with this \$123,000, what does that  
22 leave our Stormwater Fund at afterwards?  
23 MR. STRICKLAND: What we've budgeted for the  
24 technical services, it's not going to exceed that.  
25 COUNCILMEMBER PATRICK: I guess the entire

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1 Stormwater Management Fund that we have, this \$123,000  
2 is coming out of the Stormwater Management Fund;  
3 correct?  
4 MR. STRICKLAND: Right, yes.  
5 COUNCILMEMBER PATRICK: The Utility Fund.  
6 MR. STRICKLAND: Uh-huh.  
7 COUNCILMEMBER PATRICK: So once we make this  
8 transaction, what's left over in that fund? How much  
9 is left over there?  
10 MR. STRICKLAND: In the line item for this  
11 or the total fund?  
12 COUNCILMEMBER PATRICK: In the total fund.  
13 MR. STRICKLAND: I'd have to get back with  
14 you on that to give you a specific number, but this  
15 comes out of a line item for technical services to  
16 basically do pipe work.  
17 COUNCILMEMBER PATRICK: Right.  
18 MR. STRICKLAND: And we're not going to  
19 exceed that budgeted line-item amount.  
20 COUNCILMEMBER PATRICK: Okay. Thank you.  
21 MAYOR PITTMAN: Ms. Pachuta? Mr. Bates?  
22 COUNCILMEMBER BATES: How big is the pipe?  
23 MR. STRICKLAND: The pipe varies. We  
24 basically have diameters and lengths. Once you get to  
25 -- It's not very deep in the park. Where it gets deep

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1 is where it goes under the road, because that pipe  
2 stays at the same elevation that the road goes up,  
3 because they built the road up. So at that point, I  
4 don't have exact figures but it's pretty shallow  
5 through the park and then it gets deep at the road,  
6 and then it -- because it comes out. If you stand at  
7 Brook Parkway and you look down, you'll see the creek  
8 bed down there. That's the elevation of the pipe. So  
9 the road gets built up, so it's shallow until it hits  
10 the road.  
11 COUNCILMEMBER BATES: Any idea on what the  
12 age of this piping system is?  
13 MR. STRICKLAND: I'd put almost all of our  
14 pipe in the city at 50. I'm not sure of the history  
15 of Brook Park. This may have gone in after the houses  
16 were built, but I still say they're, you know, 40 to  
17 50 years old just based on -- and based on the  
18 condition at they're in, the level of deterioration to  
19 cause the sinkholes that you see out there. So  
20 they're beyond their life and functionality, because  
21 back then, the pipes were not coated in any way. It's  
22 just metal pipe that rusts out.  
23 COUNCILMEMBER BATES: My final question, and  
24 it's part of the initial question that I asked, do we  
25 have any other projects that are more important from a

1 safety standpoint --  
 2 MR. STRICKLAND: No, sir.  
 3 COUNCILMEMBER BATES: -- than this?  
 4 MR. STRICKLAND: No, sir.  
 5 COUNCILMEMBER BATES: Because while I want  
 6 Brook Park to get usable, I don't want to spend  
 7 \$123,000 if we can allocate those resources to other  
 8 areas of the city that are more important.  
 9 MR. STRICKLAND: No. This -- I mean because  
 10 we only have this extensive pipe system in Brook Park.  
 11 Our other, you know, Autumn and Halpern or -- they're  
 12 open creeks.  
 13 So to have this, everything else is much  
 14 more smaller. But the reason why this is going to be  
 15 top of the list is because I'm afraid we will  
 16 eventually lose the tennis courts or the functionality  
 17 of those, and the sinkholes that are in a public park  
 18 that are causing a safety issue.  
 19 We don't have any other sinkholes over pipes  
 20 within the city. The other problem is that, you know,  
 21 we own Brook Park, so it's our property. We may  
 22 have -- there may be sinkholes on private property,  
 23 but that becomes a second priority because it's not  
 24 public property.  
 25 COUNCILMEMBER ALEXANDER: Guarantees.

1 mean they're not going to be able to move forward  
 2 without an agreement with Ms. Caribbean, and we really  
 3 don't need to be involved in that.  
 4 You-all will be working that out with Legal.  
 5 MR. STRICKLAND: And fortunately, the City  
 6 winds up in a win/win situation. The property owner  
 7 is a win-or-lose situation because we -- you know, we  
 8 have the right to fix the pipe to the edge of the  
 9 right-of-way, which means everything in the park will  
 10 get fixed and everything dealing with the right-of-way  
 11 on Brook Parkway. And if we have to, then we just --  
 12 you know, we stop the repair at the right-of-way.  
 13 So we can approve the contract to get the  
 14 pipe system fixed, and then, you know, just try to get  
 15 the property owner the information, you know, what  
 16 they want, and then ultimately they decide whether or  
 17 not they want to allow us on the property or not allow  
 18 us on the property.  
 19 But even if they don't, we can . . .  
 20 COUNCILMEMBER DEAN: I would feel a lot more  
 21 comfortable talking to her because I haven't even had  
 22 a chance to talk to her. I mean we've exchanged  
 23 messages.  
 24 MR. STRICKLAND: Yeah.  
 25 COUNCILMEMBER DEAN: But this was today, and

1 warranty, estimated life span of this technology?  
 2 MR. STRICKLAND: It's 50 years.  
 3 COUNCILMEMBER ALEXANDER: And have you  
 4 checked with any other municipalities to see if  
 5 they've used this technology on their repairs?  
 6 MR. STRICKLAND: Yeah. Actually, this is  
 7 not only being used nationwide, which I know, but just  
 8 locally this technology is being used in all the other  
 9 municipalities that surround us: Sandy Springs,  
 10 Dunwoody, Johns Creek, Chamblee, and then both Dekalb  
 11 and Gwinnett County. But it's also -- beyond that,  
 12 it's being used in metro Atlanta and nationally to fix  
 13 these pipes without having to open cut them. So yeah,  
 14 it's actually -- it's being used in Dunwoody as we  
 15 speak.  
 16 MAYOR PITTMAN: Thank you. Anything else?  
 17 ---  
 18 (No response)  
 19 ---  
 20 MAYOR PITTMAN: We're going to have to move  
 21 this to the next agenda.  
 22 MR. STRICKLAND: Okay.  
 23 COUNCILMEMBER PACHUTA: Why can't we vote on  
 24 it now? because obviously they're not -- We can  
 25 approve the project or not approve the project. I

1 I haven't had a chance to.  
 2 MR. STRICKLAND: Like I said, we're trying  
 3 to find out --  
 4 COUNCILMEMBER DEAN: Right.  
 5 MR. STRICKLAND: -- exactly what they would  
 6 be comfortable with --  
 7 COUNCILMEMBER DEAN: Right, right.  
 8 MR. STRICKLAND: -- and stuff like that.  
 9 But either way, we can fix the pipe in the  
 10 park. It's just are we going to stop this project  
 11 short, you know, are we going to stop it at the right-  
 12 of-way? The only reason we want to continue onto  
 13 private property is just to, you know, make it -- make  
 14 it a complete pipe system as opposed to.  
 15 But ultimately, you know, we're only  
 16 responsible for the pipe on our property.  
 17 COUNCILMEMBER DEAN: But if the pipe, the  
 18 entire pipe needs to be repaired, I think that it  
 19 makes more sense to try to do it, you know, the whole  
 20 thing rather than the piece that's on our property,  
 21 because --  
 22 MR. STRICKLAND: It certainly does.  
 23 COUNCILMEMBER DEAN: -- if part of the pipe  
 24 fails on private property, that's still going to  
 25 affect --



1 MR. STRICKLAND: Right.  
 2 COUNCILMEMBER DEAN: -- our piece; right?  
 3 MR. STRICKLAND: We just, like I said,  
 4 without easements, we don't have that option. It  
 5 would have to be -- You know, we do in the case of  
 6 public safety, a failed system that's causing  
 7 flooding, and we do have certain rights to go on that.  
 8 So we can approve the contract or approve  
 9 entering into a contract and then make the stipula-  
 10 tions. We want to look into the, you know, the  
 11 additional insurance and then deal with the liability  
 12 waiver.  
 13 COUNCILMEMBER DEAN: Well, there are clearly  
 14 people wanting to say something about this, so I  
 15 definitely want to wait, put this off, because if I  
 16 have to vote today, then I can't vote for it with a  
 17 clear conscience.  
 18 MAYOR PITTMAN: Okay. So what does Council  
 19 wish to do? I've got two different opinions.  
 20 COUNCILMEMBER PACHUTA: I know. If Council  
 21 wants to table it, fine. I think that's a waste of  
 22 time and we just keep clogging up our agenda week  
 23 after week and paying Steven overtime every time he  
 24 has to come out here, because he's not an exempt --  
 25 You're not exempt, right?

1 COUNCILMEMBER PACHUTA: So you know --  
 2 MAYOR PITTMAN: So do you want to make a  
 3 motion?  
 4 COUNCILMEMBER PACHUTA: I don't think I have  
 5 the support for it.  
 6 COUNCILMEMBER DEAN: Well, but he's made his  
 7 presentation. I guess if we had questions and we  
 8 wanted to make him available.  
 9 COUNCILMEMBER BATES: I'm generally in  
 10 favor. This is the first time I've seen the map to be  
 11 able to ask questions based upon the specifics of  
 12 that. So generally I'm in favor but I'm good to table  
 13 it till the next meeting.  
 14 CLERK BRYANT: The 17th?  
 15 MAYOR PITTMAN: Please. Thank you.  
 16 We're going to move it to the next Council  
 17 meeting agenda.  
 18 MR. STRICKLAND: Two weeks; right?  
 19 COUNCILMEMBER FLEMING: 9/17.  
 20 MR. STRICKLAND: Thank y'all.  
 21 MAYOR PITTMAN: Thank you.  
 22 COUNCILMEMBER ALEXANDER: Can we please try  
 23 to make sure that staff makes contact with her?  
 24 MAYOR PITTMAN: They have reached out. She  
 25 just does not respond. She hasn't responded yet. So

1 maybe one of you will have better luck.  
 2 COUNCILMEMBER ALEXANDER: Well, perhaps our  
 3 attorney might have better luck.  
 4 COUNCILMEMBER BATES: Or the Mayor.  
 5 COUNCILMEMBER ALEXANDER: Or the Mayor.  
 6 MAYOR PITTMAN: We'll try.  
 7 COUNCILMEMBER BATES: Take five?  
 8 MAYOR PITTMAN: Yes. Five minutes. Five-  
 9 minute break.  
 10 - - -  
 11 (Brief recess)  
 12 - - -  
 13 MAYOR PITTMAN: All righty. Next on the  
 14 agenda is going to be CPACS.  
 15 Chief, welcome back.  
 16 CHIEF JOHN KING: Thank you, Mayor, and  
 17 members of the City Council, citizens. Hi.  
 18 COUNCILMEMBER FLEMING: Hi.  
 19 CHIEF KING: I just want to notify the City  
 20 Council. I know in the past we haven't, you know,  
 21 done this. You know, we receive an application for a  
 22 march or a special-events permit. And I think Mr.  
 23 Abbott talked about this. It's an event that starts -  
 24 - it's sponsored by the Center of Pan Asian Community  
 25 Services. They used to be located in our City

1 property but they moved it to Chamblee.  
 2 And what they want to do is they've asked  
 3 every year around this same time of the year, it's  
 4 Saturday, October the 13th, early morning. We've  
 5 reviewed the application, we've run it through Legal,  
 6 and it's our intent to approve it.  
 7 We're going to pass on some of the comments  
 8 that we heard tonight; we'll pass them. Because the  
 9 event is in Chamblee, this is an opportunity, I think,  
 10 Mayor, that we can do something jointly with Chamblee  
 11 and get some, you know, positive press for both cities  
 12 since it's a joint event starting in Chamblee. Well,  
 13 it starts in Doraville but it ends in Chamblee and  
 14 that's where the event is taking place.  
 15 But I kind of wanted to solicit some input  
 16 from the City Council if you-all have any objections  
 17 to me granting this, the permit for the special event.  
 18 MAYOR PITTMAN: It's always been a  
 19 successful event.  
 20 CHIEF KING: It's very peaceful. It's a  
 21 positive event. It doesn't require -- They've  
 22 obtained permits from the City of Chamblee, they have  
 23 obtained permits from the Department of Transportation  
 24 to block off one lane of Buford Highway. Saturday  
 25 morning is not an impact, that we should be able to

1 manage with our own regular scheduled police officers,  
2 so it does not require any additional police officers.

3 We've never had any problem with them, and I  
4 think it's --

5 COUNCILMEMBER FLEMING: And it's a very  
6 colorful event.

7 CHIEF KING: It's a nice event.

8 MAYOR PITTMAN: It is.

9 CHIEF KING: Yes, with or without Charlene.

10 MAYOR PITTMAN: Additional comments from  
11 Council? Questions? Comments?

12 ---  
13 (No response)

14 ---  
15 MAYOR PITTMAN: Chief, thank you --

16 CHIEF KING: Thank you.

17 MAYOR PITTMAN: -- very much. Again, it's  
18 October 13th --

19 CHIEF KING: October 13th --

20 MAYOR PITTMAN: -- and it's a very nice  
21 event.

22 CHIEF KING: -- and it will start at 9  
23 o'clock?

24 MAJOR ATKINSON: Nine.

25 CHIEF KING: It starts at nine, and they

1 will gather here and then walk south.

2 MAYOR PITTMAN: And they are going to --  
3 they have asked permission to utilize some of the  
4 parking --

5 CHIEF KING: Yes, ma'am.

6 MAYOR PITTMAN: -- in the complex.

7 CHIEF KING: We saw no major impact in that  
8 time.

9 MAYOR PITTMAN: Okay. Next on the agenda is  
10 something that was brought up, the C-2 Commercial to  
11 CT Transition.

12 I believe Ms. Dean was going to ask that  
13 we --

14 COUNCILMEMBER DEAN: Make a motion to defer  
15 this matter until I've had a chance to receive and  
16 review the documents I requested from City Hall.

17 MAYOR PITTMAN: Do I get a second?

18 ---  
19 (No response)

20 ---  
21 MAYOR PITTMAN: All righty. Motion dies for  
22 lack of a second. We are going to move forward.

23 MR. JOE COOLEY: This was deferred from the  
24 last meeting, this application for rezoning of parcels  
25 18-310-04-025 and 18-310-04-027. This property is

1 located at 5312 Buford Highway. The request is from  
2 C-2 Commercial to CT Commercial Transition.

3 Public hearing was held at the last meeting  
4 and was closed. Council went into discussion and  
5 deferred decision until this meeting.

6 The applicant is here. I'm sure he'll be  
7 happy to answer any questions you may have, and if I  
8 can answer anything, I'll be glad to.

9 COUNCILMEMBER PACHUTA: I think the main  
10 reason we deferred it was to get some legal opinion on  
11 the whole legal nonconforming, grandfathering,  
12 vesting, all of that.

13 ATTORNEY McLENDON: Absolutely. And I know  
14 we've had a lot of discussion. There is no sunset  
15 language in our ordinance. Our ordinances just  
16 creates a zoning classification with some  
17 restrictions, etc., but there's nothing that says the  
18 ordinance or the classification expired.

19 Reviewed case law. The issue presented is  
20 if an owner comes in and requests a rezoning, does it  
21 extinguish any uses that are on there that would be  
22 inconsistent with the new zoning classification? I  
23 can tell you I've reviewed case law. There is no case  
24 directly on point where the owner has requested it but  
25 there are numerous cases where a city has initiated

1 rezoning and it does not extinguish it.

2 So whereas there's no case law on point, I'm  
3 not going to be able to hand you the case and say that  
4 it is impossible to extinguish uses.

5 What I will tell you is I've spoken with  
6 three other community development directors, three  
7 community development directors in addition to Joe on  
8 this, and nobody does that. It is not the pattern and  
9 practice of any of the cities to extinguish the  
10 existing uses. To the extent that the category was  
11 rezoned, those existing uses, to the extent they  
12 weren't already become nonconforming, legal  
13 nonconforming, there is risk inherent in that. If for  
14 instance the use burns down, it can't be rebuilt; if  
15 for instance the use is discontinued for the  
16 appropriate amount of time, it cannot be  
17 reestablished.

18 So whereas I'm not going to be able to say,  
19 "Here's your case. That is incorrect. You cannot  
20 extinguish it," I think it is an extremely aggressive  
21 approach to take. Joe, you know, being the  
22 Development Director, could also have some significant  
23 input on whether to go forward with that. And I think  
24 if challenged on that, you would be potentially making  
25 case law on, you know, a claim that you were taking

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1 someone's property right inherent in an operating and  
 2 legally conforming business.  
 3 COUNCILMEMBER PACHUTA: So just to  
 4 summarize, currently there are legal nonconforming  
 5 businesses at that location, that they were legal  
 6 until we changed the C-2 zoning back in '07.  
 7 ATTORNEY McLENDON: Now, what I will tell  
 8 you is based upon -- I'm sorry.  
 9 COUNCILMEMBER PACHUTA: Well, I'm just  
 10 trying to -- Prior to 2007, there were businesses  
 11 there that were legal in C-2. We changed the C-2  
 12 zoning so they became legal nonconforming.  
 13 MR. COOLEY: Correct.  
 14 COUNCILMEMBER PACHUTA: If we change it,  
 15 rezone it now to CT, if those uses are not in CT, they  
 16 still remain legal nonconforming.  
 17 ATTORNEY McLENDON: If you wanted to be  
 18 consistent with numerous other cities and how they  
 19 approach it --  
 20 COUNCILMEMBER PACHUTA: Okay.  
 21 ATTORNEY McLENDON: -- that would be the  
 22 typical way to do it.  
 23 COUNCILMEMBER PACHUTA: Okay.  
 24 COUNCILMEMBER FLEMING: However, in 2008 and  
 25 2009, we went through an exhaustive city-wide zoning

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1 appropriateness for two years. So if they were not  
 2 appropriate for those two years, then -- I mean we had  
 3 zoning appropriateness forms where every existing  
 4 business in the city had to go through the scrutiny  
 5 of, every suite in the city, to determine whether they  
 6 were appropriate in that zone. Okay?  
 7 So it would be my understanding that through  
 8 2008 and 2009, the suites occupied at that time would  
 9 have been the -- would be legal conforming to C-2.  
 10 COUNCILMEMBER PACHUTA: No. I know there's  
 11 legal nonconforming in there because they were con-  
 12 forming prior to our C-2 changes like the wholesale --  
 13 MR. COOLEY: Or warehousing.  
 14 COUNCILMEMBER PACHUTA: Right, and the  
 15 warehousing. But now they are legal. They're legal  
 16 but they're legal nonconforming because they're not  
 17 permitted in C-2 any more.  
 18 COUNCILMEMBER DEAN: But we had --  
 19 COUNCILMEMBER PACHUTA: And they would  
 20 remain legal nonconforming through a change to CT is  
 21 what I'm understanding from Cecil today.  
 22 COUNCILMEMBER DEAN: But there is a new  
 23 business there, and this was something that I was  
 24 interested in. MQK. It's a wholesale tee shirt  
 25 company that's new to that property.

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1 COUNCILMEMBER PACHUTA: But --  
 2 COUNCILMEMBER DEAN: And those are my  
 3 questions, because --  
 4 COUNCILMEMBER PACHUTA: But it goes to the  
 5 property, not the suite, so --  
 6 COUNCILMEMBER DEAN: Right.  
 7 COUNCILMEMBER PACHUTA: -- because wholesale  
 8 was a legal nonconforming use on that property,  
 9 another legal nonconforming wholesale can come into  
 10 that property.  
 11 MR. COOLEY: As long as it's not empty.  
 12 COUNCILMEMBER DEAN: I mean if it's before  
 13 six months.  
 14 COUNCILMEMBER PACHUTA: Yes.  
 15 MR. COOLEY: And it applies to the whole  
 16 building. The way our code's written, it applies to  
 17 the whole building, not just individual suites. It's  
 18 the way the code's written.  
 19 COUNCILMEMBER DEAN: And what about we had  
 20 some zoning appropriateness forms at one point in the  
 21 city; right?  
 22 MR. COOLEY: I have no idea.  
 23 COUNCILMEMBER DEAN: Well, would these guys  
 24 know?  
 25 Do you guys recall?

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1 And if we don't, wouldn't that make sense?  
 2 because we have businesses now operating illegally or  
 3 businesses buying properties for businesses that they  
 4 are unable to operate legally because the property's  
 5 not zoned for that. Is that true?  
 6 MR. COOLEY: It depends on whether a  
 7 property has a grandfather. When one comes in for an  
 8 occupational tax placard --  
 9 COUNCILMEMBER DEAN: Right.  
 10 MR. COOLEY: -- which is a new ownership or  
 11 a new business --  
 12 COUNCILMEMBER DEAN: Right.  
 13 MR. COOLEY: -- it's reviewed. And part of  
 14 the research is the Clerk pulls the old information  
 15 about what was there, we verify that the use has not  
 16 -- was there, that was grand- -- if it was  
 17 grandfathered.  
 18 COUNCILMEMBER DEAN: Right.  
 19 MR. COOLEY: It was either grandfathered or  
 20 it was not. If it's been closed more than six months,  
 21 you can't do it again if it's now allowed.  
 22 If it was a use that has been in that  
 23 location and it has been less than six months, it's a  
 24 legal nonconforming use and is grandfathered.  
 25 COUNCILMEMBER DEAN: Because we do have

1 people coming in and buying properties for businesses  
2 that are not zoned for that property; right? I mean  
3 that has happened in the last six months; correct?

4 MR. COOLEY: Yeah. And I would -- as  
5 anybody that comes in and talks about and asks about  
6 zoning beforehand, anybody that's doing their proper  
7 due diligence --

8 COUNCILMEMBER DEAN: Right.

9 MR. COOLEY: -- is going to look and he's  
10 going to investigate, or she --

11 COUNCILMEMBER DEAN: Right.

12 MR. COOLEY: -- and they're going to confirm  
13 what the zoning is. And at that point, they can  
14 request a zoning certification letter, which the City  
15 will issue, that says this is the zoning and these are  
16 the uses allowed.

17 So we do have zoning certification, and  
18 that's pretty standard, and any municipality will have  
19 that.

20 COUNCILMEMBER DEAN: It makes sense, though,  
21 instead of having it requested, to issue that upon the  
22 initiation of a new business coming into the city just  
23 to prevent --

24 MR. COOLEY: If I had four more staff, I  
25 would say let's go for it, but I don't. And to be

1 that as far as occupational tax.

2 COUNCILMEMBER DEAN: So when we have -- See,  
3 this is why I would have really -- because when a  
4 business is coming in, I just want to make sure  
5 they're coming in and operating the way they're  
6 supposed to be operating, and that's something --  
7 before we start changing zoning and things like that.

8 I mean I think that we have some breaks in  
9 our system that should be looked at closely, and  
10 that's -- when I go to that property and I see these  
11 things, CT, I mean we don't have any property in the  
12 city of Doraville, in Doraville, zoned for CT; right?

13 MR. COOLEY: That's correct.

14 COUNCILMEMBER DEAN: All right. So why  
15 would we now on Buford Highway change C-2 to CT?

16 MR. COOLEY: Well, I would have to defer  
17 that back to the Council who passed the zoning  
18 district.

19 COUNCILMEMBER DEAN: Right.

20 COUNCILMEMBER PACHUTA: Well, we chose  
21 certain properties, this being one of them, in which  
22 office warehouse had been built --

23 COUNCILMEMBER DEAN: Right.

24 COUNCILMEMBER PACHUTA: -- legally and under  
25 the permission of the City in C-2 areas, and when we

1 quite honest with you, the way it is now, I'm up to my  
2 eyeballs in trying to look forward on things. And I  
3 really don't -- I don't have an administrator, I don't  
4 have anybody, secretarial work, to do any of that type  
5 of thing. If I had a planner or something like that,  
6 you know, it might be feasible, but right now, I could  
7 not do it.

8 COUNCILMEMBER DEAN: Yeah, but we did have  
9 that; right? Is that correct?

10 COUNCILMEMBER PACHUTA: Well, I think it's  
11 getting mixed. We used to call it the zoning  
12 appropriateness letter, but it's essentially when the  
13 business comes in for the occupational tax, it is  
14 checked for zoning appropriateness.

15 MR. COOLEY: That's correct.

16 COUNCILMEMBER PACHUTA: And that is signed  
17 off on, so that is --

18 MR. COOLEY: And that is still done, and  
19 that's signed off on the occupational tax placard.

20 COUNCILMEMBER PACHUTA: I think we're just  
21 getting mixed up on terms, but that is what's  
22 happening.

23 MR. COOLEY: Okay. If that's what you're  
24 referring to, yes, that's still done.

25 We don't have a particular form, though, for

1 change the C-2 zoning, their building type was not  
2 conducive to the new uses in C-2. So this is why we  
3 came up with a transition zone for those very specific  
4 types of properties --

5 COUNCILMEMBER DEAN: Right.

6 COUNCILMEMBER PACHUTA: -- this being one of  
7 them.

8 COUNCILMEMBER DEAN: What about 01 [sic]? I  
9 mean is that kind of property, is that allowed in 01?

10 COUNCILMEMBER BATES: No. The OI/OW uses  
11 were even more restrictive as to some of the more  
12 industrial type uses that were previously used in  
13 those businesses. The example I used last meeting,  
14 glass cutting. Well, glass cutting is not a use in an  
15 OI/OW zone, whereas, it was in CT. It got pulled out  
16 of CT and now it --

17 COUNCILMEMBER PACHUTA: C-2.

18 COUNCILMEMBER BATES: -- or C-2, and it then  
19 relegated to industrial.

20 Well, these buildings are not conducive, the  
21 roll-up door buildings, and we're talking about four  
22 parcels, four properties, four or five properties in  
23 the entire city that are allowed under the C-T zone.  
24 That's it.

25 COUNCILMEMBER DEAN: Right.

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1 COUNCILMEMBER BATES: And they are more  
2 conducive to a repair facility than an office or  
3 retail facility, and that was the issues that were  
4 raised during this very long process in evaluating  
5 what some remedies were on basically taking some  
6 viable uses away from property owners when we changed  
7 C-2.  
8 COUNCILMEMBER PATRICK: But because of  
9 grandfathering, those uses can still continue on at  
10 that property.  
11 COUNCILMEMBER BATES: Not if they weren't  
12 there.  
13 COUNCILMEMBER PACHUTA: Well, and I think --  
14 COUNCILMEMBER BATES: So as an example --  
15 COUNCILMEMBER PATRICK: Just to be clear --  
16 COUNCILMEMBER BATES: -- glass cutting --  
17 COUNCILMEMBER PATRICK: -- it wasn't allowed  
18 to have I think you just said auto repair at that --  
19 C-2 allows auto repair; correct?  
20 COUNCILMEMBER BATES: Yes.  
21 COUNCILMEMBER FLEMING: That's debatable at  
22 this point.  
23 MR. COOLEY: Some things.  
24 COUNCILMEMBER PATRICK: In some areas at  
25 some point.

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1 MR. COOLEY: Some things, yes.  
2 COUNCILMEMBER PATRICK: Will this allow him  
3 to do a use that he can't do now?  
4 COUNCILMEMBER BATES: Yes.  
5 COUNCILMEMBER PATRICK: And that use is  
6 what?  
7 COUNCILMEMBER BATES: As an example, glass  
8 cutting. In C-2, old C-2, glass cutting was an  
9 allowable use.  
10 COUNCILMEMBER PATRICK: Okay.  
11 COUNCILMEMBER BATES: In new C-2, it is not  
12 an allowable use.  
13 COUNCILMEMBER PATRICK: And so was there  
14 ever glass cutting at that location?  
15 COUNCILMEMBER BATES: That was a specific  
16 example of a property that was denied of wanting to go  
17 into one of the business owners' properties. It was a  
18 viable use; it was no longer there. But because we  
19 changed C-2 to no longer allow glass cutting, it was  
20 no longer a viable use.  
21 COUNCILMEMBER DEAN: What about wholesale?  
22 Is that allowed in C-2?  
23 COUNCILMEMBER BATES: No, but it's a legal  
24 nonconforming.  
25 COUNCILMEMBER DEAN: Right, right, right.

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1 COUNCILMEMBER BATES: So no --  
2 COUNCILMEMBER DEAN: As long as a six-month  
3 period hasn't lapsed without --  
4 COUNCILMEMBER BATES: Right. So if there's  
5 been wholesale in those properties from, you know,  
6 1973, it will continue to be.  
7 COUNCILMEMBER PACHUTA: And -- I'm sorry.  
8 COUNCILMEMBER BATES: So --  
9 COUNCILMEMBER DEAN: And Cecil, is six  
10 months standard to have that? I mean is it, or could  
11 it be three months?  
12 I mean the thing is is we have businesses  
13 now -- and again, I know that at one plaza there are  
14 two wholesale businesses that moved down the street,  
15 and that's something that -- and they're not zoned for  
16 that, and if we investigated, that's something that  
17 it's -- this seems to be such ripe ground for that  
18 kind of business. And I am just wondering --  
19 COUNCILMEMBER PACHUTA: Well, I sent the  
20 entire Council a list of like what? fifteen  
21 surrounding cities, of all theirs.  
22 The only one that had less than six months  
23 was Roswell at three months, but most cities were six  
24 months or 12 months. City of Atlanta was 12 months.  
25 I think Decatur was 12. I don't have the list but --

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1 COUNCILMEMBER DEAN: Right.  
2 COUNCILMEMBER PACHUTA: -- I sent it to  
3 Council. It was like 15 cities.  
4 COUNCILMEMBER PATRICK: How is it determined  
5 --? I'm sorry.  
6 ATTORNEY McLENDON: Let me tell you where it  
7 all comes to. Ours is more aggressive than most in  
8 that it's six months if your business is associated  
9 with a structure and I believe it's three months if it  
10 is just a business not associated with a structure.  
11 Where you're talking about is owning a  
12 business's property right.  
13 COUNCILMEMBER DEAN: Right.  
14 ATTORNEY McLENDON: Once I have a business,  
15 that's something I can't just walk in and say, "Taking  
16 your business."  
17 And what the ability to amortize noncon-  
18 formities is is if you cease doing that business for a  
19 certain amount of time, you lose that interest, and  
20 there's a balancing act.  
21 If I came in with an ordinance that said,  
22 "And if you quit for one day, two hours, I'm going to  
23 come in and take your business," you're going to find  
24 that that's actually going to be zoning that's  
25 challenged for, "You're taking my property rights.

1 You're not giving any sort of a rational timeline  
2 based on that."

3 So I think what you're going to find is  
4 there is a quantum of risk based upon how quickly you  
5 want to go forward with that. I think six months is a  
6 very average, very sort of standard number, and if  
7 you're doing things consistent with other cities,  
8 you're probably going to be in a very defensible  
9 position as opposed to taking it down to, "I want to  
10 do it in 30 days," and then you're going to be an  
11 outlier and you run the risk of being challenged and  
12 probably with more likely a successful challenge on  
13 that.

14 So that's sort of the balancing act you're  
15 talking about, because, understand, owning a business,  
16 that's a valuable property right I have, and for the  
17 government to come in and take some of the  
18 businesses --

19 COUNCILMEMBER PACHUTA: And I know that six  
20 months has been found reasonable by courts. I don't  
21 know that there's any cases upholding anything less  
22 than that, so, but I know that six months has been.  
23 And Norcross, Chamblee, Dunwoody, I think Johns Creek,  
24 all of them are six months, but I think East Point,  
25 City of Atlanta was 12 months. I think Decatur might

1 if we have one to review?

2 MR. COOLEY: I have not received it, but he  
3 is here. I'm sure he'll be glad to answer any  
4 questions you might have.

5 MAYOR PITTMAN: Mr. Stokes?

6 MR. DEANE STOKES: Yes.

7 MAYOR PITTMAN: Did you by chance have the  
8 updated survey?

9 MR. STOKES: I brought that to you.

10 MR. COOLEY: I didn't receive it.

11 MR. STOKES: The big sheet, it was of major  
12 size.

13 MR. COOLEY: Existing, but not an update.

14 You were going to get an update survey. We discussed  
15 that about just having a surveyor come out and  
16 recertify, whatever needed to be done on the old  
17 survey.

18 And the one I've got is --

19 COUNCILMEMBER FLEMING: Did we actually ask  
20 for an updated or just the --

21 MR. COOLEY: Yes.

22 COUNCILMEMBER PATRICK: Updated.

23 COUNCILMEMBER ALEXANDER: Because this  
24 drawing has a proposed addition on that and we didn't  
25 know if that was the actual footprint of the building

1 have been 12 months. I'll have to go back to the  
2 list.

3 But -- I'm sorry -- to go back to Robert's  
4 question also was that we went through every single  
5 possible use over a period of meetings and meetings  
6 and meetings. But what we were looking at was the old  
7 C-2 and taking out the most egregious things that we  
8 really did not want to see even in these buildings and  
9 sort of coming up with some of the things that were  
10 still appropriate for a warehouse-type building but  
11 still removing the more egregious we really don't want  
12 to see there, so it was kind of like a pared-down. I  
13 mean we went through a brazillion uses coming up with  
14 the list of what could be allowed in C-2.

15 MR. COOLEY: That seems to pretty much  
16 reflect what the intent is quoted in the CT district,  
17 too. I mean that's the only thing I can work off of  
18 that's in this chapter.

19 MAYOR PITTMAN: Okay. Ms. Alexander?

20 COUNCILMEMBER ALEXANDER: I believe that  
21 Mr. Patrick had requested an updated drawing.

22 MR. COOLEY: Yes. And I spoke to the  
23 applicant about that, and he was going to get a  
24 survey, bring the survey in.

25 COUNCILMEMBER ALEXANDER: Okay. Do we know

1 or not.

2 MAYOR PITTMAN: Mr. Bates? Anything else,  
3 Ms. Pachuta? Mr. Patrick? Ms. Fleming? Ms. Dean?

4 MR. COOLEY: I don't know if this will help  
5 or not, but as far as the setbacks go and everything,  
6 it's still consistent. It's three foot on the side.

7 So I think that was -- Was that not the concern  
8 whether the setback, the proposed addition? And again  
9 maybe Mr. Stokes can address it better than I can. I  
10 believe according to even that plan, the proposed  
11 meets our conditions as far as the setbacks go. But  
12 other than that, I can't tell you any more without  
13 getting the survey.

14 MAYOR PITTMAN: Okay. Well, what does the  
15 Council wish to do with this? There's a recommen-  
16 dation here that says Council grant the rezoning with  
17 conditions or deny the rezoning application.

18 COUNCILMEMBER PACHUTA: I will go ahead and  
19 make a motion to rezone the property parcels  
20 18-310-04-025 and 18-310-04-027 from C-2 Commercial to  
21 CT Commercial.

22 COUNCILMEMBER DEAN: What are the condi-  
23 tions?

24 COUNCILMEMBER FLEMING: None.  
25 Any?

1 COUNCILMEMBER PACHUTA: Huh-uh.  
 2 MAYOR PITTMAN: Okay. Do I get a second?  
 3 COUNCILMEMBER FLEMING: Second.  
 4 MAYOR PITTMAN: Discussion?  
 5 COUNCILMEMBER ALEXANDER: I think we should  
 6 have an updated drawing of the building and not for it  
 7 to say proposed addition on it.  
 8 COUNCILMEMBER PATRICK: I agree. As Maria  
 9 pointed out to me from last week, 23-1602 -- I believe  
 10 it's 1602 -- says that you need to have a site plan.  
 11 MR. COOLEY: And for what it's worth, it is  
 12 at the discretion of the planning administrator to see  
 13 what's brought in and if it meets sufficient -- what  
 14 we feel is sufficient to provide, which I did in this  
 15 case, because after inspecting the site, there's been  
 16 no recent changes. But that is within the realm of  
 17 the discretion of the zoning administrator. Just to  
 18 make sure that you did understand, it's nothing that  
 19 he's done --  
 20 COUNCILMEMBER PATRICK: Yeah.  
 21 MR. COOLEY: -- or anything like that. It  
 22 was sufficient for what we needed for review.  
 23 ATTORNEY McLENDON: And Joe, the potential  
 24 condition we could do would be to tie it to the  
 25 proposed site plan as existing site conditions today.

1 COUNCILMEMBER DEAN: Well, we asked for it  
 2 last time, at the last meeting; right?  
 3 MAYOR PITTMAN: Okay. We have a motion and  
 4 a second. Do we want to move forward with that or ask  
 5 for an amendment to the second?  
 6 COUNCILMEMBER PACHUTA: Well, I can make the  
 7 amendment to my motion, you know, conditioned on that  
 8 the current site plan or current site does not differ.  
 9 ATTORNEY McLENDON: And existing buildings  
 10 on the site --  
 11 COUNCILMEMBER PACHUTA: Existing buildings  
 12 don't differ.  
 13 ATTORNEY McLENDON: -- are not modified.  
 14 COUNCILMEMBER PACHUTA: Are not modified.  
 15 The footprints of the existing buildings on the site  
 16 are not modified.  
 17 COUNCILMEMBER ALEXANDER: Why can't we just  
 18 ask for a current survey?  
 19 ATTORNEY McLENDON: You can.  
 20 COUNCILMEMBER DEAN: We have.  
 21 MAYOR PITTMAN: Well, right now we have a  
 22 motion.  
 23 And do you want to amend your second,  
 24 Ms. Fleming?  
 25 COUNCILMEMBER FLEMING: It was for site plan

1 MR. COOLEY: Certainly.  
 2 ATTORNEY McLENDON: And I think if that  
 3 condition was in place, it would stay. Now, you  
 4 cannot change/expand the building that's tied to the  
 5 current building without a rezoning.  
 6 MR. COOLEY: Yeah, and I believe that's even  
 7 within the CT also, but that would not be a bad  
 8 condition to place upon it. That way, maybe that  
 9 would resolve concerns on that.  
 10 COUNCILMEMBER PACHUTA: What? I'm sorry.  
 11 MR. COOLEY: Condition it upon submittal of  
 12 a --  
 13 ATTORNEY McLENDON: You can condition upon  
 14 the approved site plans as conditions exist on the  
 15 site today.  
 16 MR. COOLEY: Today.  
 17 COUNCILMEMBER ALEXANDER: But that's our  
 18 point. We have this pencil drawing that says proposed  
 19 addition and we don't have measurements on that  
 20 building.  
 21 ATTORNEY McLENDON: But I think if they came  
 22 in and applied for any sort of a demolition permit or  
 23 any sort of a building permit that changed the  
 24 building, that would be fine. Frankly, if you wanted  
 25 to require a new survey, you could do it.

1 and not survey?  
 2 COUNCILMEMBER ALEXANDER: Well, the survey  
 3 would have the finished dimensions on the building.  
 4 We don't even know the date on that drawing.  
 5 COUNCILMEMBER PACHUTA: I'll just withdraw  
 6 my motion since I don't think it's going to get any  
 7 support.  
 8 MR. COOLEY: We do have the larger plan, but  
 9 for convenience sake, we just Xeroxed that portion of  
 10 it. Otherwise, we'd have to send out to get the large  
 11 plans done.  
 12 COUNCILMEMBER ALEXANDER: I make a motion to  
 13 rezone the parcels 18-310-04-025 and 18-310-04-027  
 14 contingent upon receipt of a current survey of the  
 15 property that shows the existing footprints of the  
 16 buildings that lie on parcel one and parcel two.  
 17 MAYOR PITTMAN: Okay. Do I get a second?  
 18 COUNCILMEMBER FLEMING: Second.  
 19 MAYOR PITTMAN: Discussion?  
 20 ---  
 21 (No response)  
 22 ---  
 23 MAYOR PITTMAN: Call the roll, please.  
 24 CLERK BRYANT: Councilmember Alexander?  
 25 COUNCILMEMBER ALEXANDER: Yes.

1 CLERK BRYANT: Councilmember Bates?  
 2 COUNCILMEMBER BATES: Yes.  
 3 CLERK BRYANT: Councilmember Dean?  
 4 COUNCILMEMBER DEAN: No.  
 5 CLERK BRYANT: Councilmember Fleming?  
 6 COUNCILMEMBER FLEMING: Yes.  
 7 CLERK BRYANT: Councilmember Pachuta?  
 8 COUNCILMEMBER PACHUTA: Yes.  
 9 CLERK BRYANT: Councilmember Patrick?  
 10 COUNCILMEMBER PATRICK: Yes.  
 11 MAYOR PITTMAN: Okay. Motion carries.  
 12 Thank you.  
 13 We carried, Mr. Deane, yes.  
 14 MR. DEANE: Thank you.  
 15 MAYOR PITTMAN: But you need to get with  
 16 Mr. Cooley because you need to provide some  
 17 information to him.  
 18 MR. DEANE: The guy that originally surveyed  
 19 it died and the other fellow is out of business, but  
 20 I'll get it.  
 21 MR. COOLEY: I'll get with you. Give me  
 22 until tomorrow and we'll coordinate that and make sure  
 23 we get the right stuff.  
 24 MR. DEANE: Okay. Thank you. Appreciate  
 25 it.

1 MAYOR PITTMAN: All righty. Okay. Next is  
 2 to amend definition of restaurant and nightclub and  
 3 delete discotheques from Section 23-910. This was  
 4 also carried over.  
 5 MR. COOLEY: That was actually I believe the  
 6 first reading. This is the second reading if I'm not  
 7 mistaken.  
 8 MAYOR PITTMAN: Yes.  
 9 MR. COOLEY: So again, I'll be glad to  
 10 answer any questions.  
 11 COUNCILMEMBER DEAN: I have a concern with  
 12 the language "music and dancing incidental thereto,"  
 13 "serving of alcoholic beverages," all the way down to  
 14 "consumption may be provided." On page 1, 1 of 4, if  
 15 you look at "Whereas, said zoning coordinates also  
 16 allowed for a certain zoning district to have a  
 17 conditional use for discotheques," why can't we just  
 18 say, for zoning purposes, discotheques will have the  
 19 same meaning as nightclubs?  
 20 MR. COOLEY: Because under the definition,  
 21 disco is a nightclub based upon our definition in our  
 22 zoning. Our zoning calls for a nightclub is a place  
 23 where dancing goes. We don't define discotheque,  
 24 which the next thing that you go to is a legal  
 25 dictionary, which defines discotheque as a place for

1 dancing, so it's redundant.  
 2 COUNCILMEMBER DEAN: Well, okay. But here  
 3 it says allows for certain zoning districts to have  
 4 conditional uses for discotheques, which is not a  
 5 defined term and is inconsistent with the intent of  
 6 the provisions of the zoning and other ordinances of  
 7 the City.  
 8 Here's my concern: When we go over to the  
 9 restaurant, we allow music and dancing incidental  
 10 thereto. When I go to a restaurant, I go there to eat  
 11 and maybe have a couple of drinks. I don't think that  
 12 we should allow music and dancing incidental.  
 13 MR. COOLEY: That's certainly something for  
 14 the Council to determine.  
 15 COUNCILMEMBER DEAN: Sure. So on page 2 of  
 16 4, the music and dancing incidental thereto,  
 17 "Incidental use does not include the closing of the  
 18 restaurant for the general public in order to conduct  
 19 an entertainment event at a charge. Incidental uses  
 20 are subject to all other applicable ordinances such as  
 21 alcoholic beverage license requirements."  
 22 I just think that we are allowing confusion  
 23 by putting that language in there.  
 24 MR. COOLEY: Where the confusion has come in  
 25 is people coming in, for example, a Mexican

1 restaurant, "Can I have a mariachi band going around?"  
 2 According to our code, no.  
 3 If you have a dining area, a private dining  
 4 area and you're having a reception, can they dance?  
 5 According to our code, no.  
 6 So those were the things that were being of  
 7 concern that are typical accessory uses to restaurants  
 8 and typical uses in restaurants that we were just  
 9 trying to clarify that the intent was not to not allow  
 10 people to dance at a restaurant in a situation or have  
 11 strolling musicians or violins, whatever, but it was  
 12 to keep it from turning into a dance club.  
 13 COUNCILMEMBER DEAN: See, but I think  
 14 that that's happening in some places, and then  
 15 that's -- But I think that we are opening the doors to  
 16 allowing this kind of stuff to happen: restaurants  
 17 turning into nightclubs, for example.  
 18 MR. COOLEY: Well, again, that's not what  
 19 the ordinance --  
 20 COUNCILMEMBER DEAN: I'm one person.  
 21 MR. COOLEY: That's your concern. I  
 22 understand.  
 23 COUNCILMEMBER DEAN: Right, okay.  
 24 MAYOR PITTMAN: Ms. Fleming?  
 25 COUNCILMEMBER FLEMING: Well, in regards to



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1 I am definitely in favor of deleting discotheque from  
 2 our present code because it didn't even have a  
 3 definition listed in Section 402 because it is a  
 4 nightclub.  
 5 The concern I'm having with all of this is  
 6 the fact that nightclub is indicating that (Reading)  
 7 the principal business is entertaining and the serving  
 8 of alcoholic beverages shall be incidental thereto.  
 9 And to be able for them to have -- if we're going to  
 10 have a definition of nightclub and we're already going  
 11 to say that a nightclub is entertaining and alcoholic  
 12 beverages use incidental to, our Alcohol Ordinance  
 13 will not accommodate the entire city to have a  
 14 nightclub in any zone based on our Alcohol Ordinance  
 15 requirements of 60 percent food to 40.  
 16 MR. COOLEY: Well, again, I can't talk about  
 17 their financial aspects, but there are --  
 18 COUNCILMEMBER FLEMING: And I --  
 19 MR. COOLEY: -- are a number --  
 20 COUNCILMEMBER FLEMING: I'm not saying --  
 21 MR. COOLEY: -- that are like that --  
 22 COUNCILMEMBER FLEMING: -- I don't want --  
 23 MR. COOLEY: -- all over the country.  
 24 COUNCILMEMBER FLEMING: -- little taverns  
 25 around and stuff like that. Don't get me wrong. When

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1 we -- In other words, let's use Rodeo for instance.  
 2 COUNCILMEMBER PACHUTA: Far West.  
 3 COUNCILMEMBER FLEMING: Far West. They were  
 4 a nightclub: entertainment, alcohol, very little food  
 5 if nothing more than nachos and cheese. Been there  
 6 18/20 years or whatever.  
 7 But based on our -- it's zoned as -- So they  
 8 would fall under nightclub. And in the zoning area,  
 9 yes, they could be -- have a nightclub there, but then  
 10 our Alcohol Ordinance is going to catch them up when  
 11 they go to apply for an alcohol permit because they're  
 12 really not going to be selling 60 percent food.  
 13 MR. COOLEY: Well, actually, I believe in  
 14 that case, it's not just that. It's the fact that  
 15 they do not meet the parking requirements and every-  
 16 thing that are required now for an entertainment  
 17 facility --  
 18 COUNCILMEMBER FLEMING: Well --  
 19 MR. COOLEY: -- or nightclub. They're  
 20 grandfathered in is the reason that --  
 21 COUNCILMEMBER FLEMING: No, no. I'm not --  
 22 MAYOR PITTMAN: Excuse me just a minute. It  
 23 is almost 9 o'clock. Could I get a motion to extend  
 24 the meeting?  
 25 COUNCILMEMBER FLEMING: Motion to extend the

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1 meeting.  
 2 MAYOR PITTMAN: Second?  
 3 COUNCILMEMBER DEAN: Second.  
 4 MAYOR PITTMAN: Discussion?  
 5 ---  
 6 (No response)  
 7 ---  
 8 MAYOR PITTMAN: Call the roll, please.  
 9 COUNCILMEMBER PACHUTA: I'm sorry. To  
 10 extend until the end of the agenda?  
 11 MAYOR PITTMAN: Yes, unless Council wishes  
 12 otherwise.  
 13 ---  
 14 (No response)  
 15 ---  
 16 MAYOR PITTMAN: Call the roll, please.  
 17 CLERK BRYANT: Councilmember Alexander?  
 18 COUNCILMEMBER PACHUTA: Yes.  
 19 CLERK BRYANT: Councilmember Bates?  
 20 COUNCILMEMBER BATES: Yes.  
 21 CLERK BRYANT: Councilmember Dean?  
 22 COUNCILMEMBER DEAN: Yes.  
 23 CLERK BRYANT: Councilmember Fleming?  
 24 COUNCILMEMBER FLEMING: Yes.  
 25 CLERK BRYANT: Councilmember Pachuta?

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1 COUNCILMEMBER PACHUTA: Yes.  
 2 CLERK BRYANT: Councilmember Patrick?  
 3 COUNCILMEMBER PATRICK: Yes.  
 4 MAYOR PITTMAN: Thank you.  
 5 COUNCILMEMBER FLEMING: So I guess my point  
 6 is that we've got a catch here.  
 7 MR. COOLEY: You're right.  
 8 COUNCILMEMBER FLEMING: Either we should not  
 9 allow nightclubs at all because we know that they're  
 10 not going to meet the 60 percent requirement, or we  
 11 need to be working on something else in regards to  
 12 this.  
 13 I don't have a problem with this definition.  
 14 I don't necessarily have a problem with the restaurant  
 15 facility definition either.  
 16 We've got a loop, not necessarily a hole,  
 17 but we've got to pay -- I have a concern with the way  
 18 that nightclub is listed as a use but then we're not  
 19 going to let them do what our definition says that  
 20 they should be doing.  
 21 MR. COOLEY: Yeah.  
 22 COUNCILMEMBER FLEMING: Do you understand  
 23 where I'm coming from?  
 24 MR. COOLEY: Oh, I certainly do, yeah,  
 25 because that's -- that's a Catch 22 is, you know, you

1 might be able to have by zoning, but by the alcohol  
2 license, you can't have that, so defeats the purpose  
3 of the nightclub or the use of the nightclub.

4 Right now, if I'm not mistaken, the way that  
5 that restriction -- I mean there is something about  
6 other than mixed use. And you know, right now we do  
7 not have a mixed use zone.

8 So somewhere along the line, somebody  
9 anticipated the fact that you would run into a problem  
10 of that 1,500 foot distance from a residence within a  
11 mixed use if you've got a nightclub or whatever in a  
12 mixed use project.

13 So yeah, I agree with you. It's a Catch 22.  
14 I don't think it was thoroughly thought through, and  
15 it probably couldn't have been at that point because  
16 of the zoning the way it was.

17 You know, we are trying to change some  
18 zoning. I think hopefully the Smart Code is going to  
19 address a lot of these issues, but it's going to have  
20 to be coordinated with the alcohol beverage license.

21 What we were trying to do, there was this  
22 big gap. And as you all know, there was a situation  
23 we had in town where someone was entertaining the idea  
24 of opening an events facility and nightclub, which was  
25 not allowed, and we went through the process and they

1 lot of people in the community, myself included, who  
2 would like to go to a little place, you know, on  
3 Buford Highway, but they are very few and far between.

4 And so with something like this -- And I  
5 think it's the nature of where we are. We have a  
6 wholesale problem. I mean it was a lot of -- a lot of  
7 companies came. We were known internationally for our  
8 wholesale businesses, and they're still here and they  
9 don't -- It's hard to make a transition from what we  
10 were five years ago to what we, I, want to become, I  
11 mean, and --

12 MR. COOLEY: It's a long process.

13 COUNCILMEMBER DEAN: It is a long process.  
14 And so I think that right now in order to attract,  
15 besides hiring an economic developer, we need to do  
16 what we can now to make sure that we are doing what we  
17 can to keep our area clean. And we have -- we have a  
18 lot of places that do operate and we've had -- I mean  
19 history tells us that there are places who do operate  
20 as a restaurant or under the guise of a restaurant,  
21 and somewhere around that magical hour they turn into  
22 a nightclub.

23 And so that's where I think that the music  
24 and dancing incidental thereto, I mean if that's in  
25 there, then they can say, "Oh, well, no. It was just

1 came back and put an application in for the  
2 discotheque, which they could do, the difference being  
3 is in the way the ordinance was written. Discotheques  
4 did not have that 1,500 foot distance where the  
5 nightclub did, from residential.

6 So it was withdrawn. It was a hole in the  
7 ordinance that we were attempting to fix. The attempt  
8 was to not not allow legitimate restaurants from  
9 having incidental use of music where they don't charge  
10 for people to come in. Not letting them close down in  
11 order to have events at night and rent the whole place  
12 out, because that would defeat the purpose of having  
13 it as a restaurant and then it turns into an event  
14 or a nightclub.

15 So that was included to knock that out and  
16 to allow a reasonable use and to have it where -- You  
17 know, there's a great pizza joint I go to where the  
18 guy strums a guitar out on the patio. It's very low  
19 key, it's very nice, but we can't do that here.

20 There's a lot of things like that the way it's written  
21 as strict as it is, and I understand your desire to  
22 keep some of this garbage out, because, you know, we  
23 need to keep some of this garbage --

24 COUNCILMEMBER DEAN: Well, we just have so  
25 much of it. We have so much of it. And there are a

1 incidental."

2 COUNCILMEMBER PACHUTA: Well, they still  
3 have to meet the 60 percent food/40 percent alcohol.

4 ATTORNEY McLENDON: I think one of the  
5 concerns that we had was someone comes in and says,  
6 "Yeah, I'm meeting my food sales so I'm a restaurant  
7 and I'm going to meet my food sales. But you know  
8 what? Friday night I'm going to close it down and  
9 we're going to have a show and we're going to dance  
10 and do a show."

11 And I think that part of that case that we  
12 addressed someone who was attempting to do that is Joe  
13 made an interpretation that said, "No, you can't close  
14 the doors and charge a cover and have a show, because  
15 you're not being a restaurant at that point. You're  
16 being an event facility." And I think the intent of  
17 this language is to come in and say, "If you're a  
18 restaurant, music means the guy on the porch with a  
19 guitar, strumming, music means the mariachi band who  
20 may walk around and make the kids laugh, but it does  
21 not mean I've shut the doors down and hired somebody  
22 and put posters all over the telephone poles and say,  
23 'I'll charge you 10 bucks to come and do this. I'm  
24 not serving any food.'"

25 COUNCILMEMBER DEAN: What if we have a

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1 different definition, maybe a dinner club where you  
2 can go have dinner and then dancing and music after  
3 and then put that in a different zone?  
4 ATTORNEY McLENDON: We have the  
5 entertainment facility right now. My concern to say  
6 you cannot dance: prohibition, 100 percent.  
7 People can dance. I can go to a restau-  
8 rant --  
9 COUNCILMEMBER DEAN: Well, right, right,  
10 right.  
11 ATTORNEY McLENDON: -- and dance.  
12 COUNCILMEMBER DEAN: And a lot of times what  
13 I do is I go to different cities. I go to Municode  
14 and I to different cities and I look up that  
15 definition, because all of this is completely new to  
16 me, and even trying to find the definitions of  
17 discotheques and nightclubs. The nightclubs I found  
18 were all associated or mostly associated with adult  
19 entertainment. And the discotheques, I couldn't even  
20 find discotheques.  
21 And so this is -- this is where I am. This  
22 is where I'm coming from.  
23 ATTORNEY McLENDON: So one of my thoughts is  
24 that the discotheque -- I had the same thought, as I'm  
25 thinking, discotheque? That 1970s.

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1 COUNCILMEMBER DEAN: Right.  
2 ATTORNEY McLENDON: It's an acronym.  
3 COUNCILMEMBER DEAN: Right.  
4 ATTORNEY McLENDON: Which is one reason that  
5 there's no reason for that to be in the code.  
6 COUNCILMEMBER DEAN: Right, right.  
7 ATTORNEY McLENDON: That can be stricken  
8 because those types of facilities are going to come  
9 under --  
10 COUNCILMEMBER DEAN: Right.  
11 COUNCILMEMBER PATRICK: A nightclub.  
12 ATTORNEY McLENDON: It's just they're going  
13 to overlap with each other.  
14 And Joe, feel free to dive in on this as  
15 well.  
16 MR. COOLEY: Oh, I agree.  
17 ATTORNEY McLENDON: Because that's why  
18 discotheque, when they came in and applied for it, it  
19 sort of slapped me in the face because I said, "Why is  
20 that in there?"  
21 COUNCILMEMBER DEAN: Right.  
22 ATTORNEY McLENDON: So that's one of the  
23 purposes of this agenda item is let's get that out.  
24 There's a nightclub. If they can jump through all the  
25 hoops and get there, then great.

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1 COUNCILMEMBER DEAN: Right.  
2 ATTORNEY McLENDON: You know, maybe they  
3 have a nightclub without alcohol. I don't know.  
4 COUNCILMEMBER DEAN: So just take that whole  
5 -- in the zoning ordinance, just take the whole  
6 discotheque paragraph out.  
7 ATTORNEY McLENDON: So part of this is to  
8 say let's get rid of disco because you've already got  
9 nightclubs and it just created confusion. It actually  
10 created confusion and heartburn for us. Let's get rid  
11 of it.  
12 The restaurant, the loop that that's  
13 attempting to sort of solve is somebody that says,  
14 "Yeah, I do my 60 percent but on Friday night I'm  
15 going to hire a band and close the doors and charge a  
16 cover."  
17 By the music being required to be incidental  
18 to the restaurant use -- and we could even call it an  
19 ancillary activity to the restaurant use -- to me,  
20 that means you're serving food, you're being a  
21 restaurant; you can have music but it is ancillary,  
22 incidental to the primary use. And I think that's  
23 clearer than our previous language where we had to  
24 sort of send them a letter and say, "We've made an  
25 interpretation," and there was not the code language

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1 as much to rely on.  
2 But this clearly says you can't close the  
3 doors, charge a cover and have a big party.  
4 COUNCILMEMBER DEAN: Well, here is the thing  
5 again. So many decisions I make here are completely  
6 different or would be completely different if I were  
7 in another city. Okay? Because we are -- we are  
8 unique in so many ways, and that's why this language  
9 was designed.  
10 ATTORNEY McLENDON: And where we are right  
11 now, I can tell you when the fact pattern came across  
12 the desk that said, "I'm going to meet my food sales  
13 but on Friday night I'm going to close," I wish I had  
14 had this language sitting there because I could have  
15 said, "No, you're not closing on Friday night to have  
16 a band. It says you're not having it right there."  
17 That would have been better.  
18 MAYOR PITTMAN: Okay. Ms. Fleming?  
19 COUNCILMEMBER FLEMING: I have made my  
20 statement.  
21 MAYOR PITTMAN: Mr. Patrick? Ms. Pachuta?  
22 Mr. Bates? Ms. Alexander?  
23 Okay.  
24 COUNCILMEMBER PACHUTA: So I'll go ahead.  
25 Can I make them all at once as one motion or do we

1 need it separate?  
 2 ATTORNEY McLENDON: I think so.  
 3 MR. COOLEY: It is two different sections.  
 4 One is Section 23, the other one is 910 and the other  
 5 one's 402. I don't know if it matters or not.  
 6 ATTORNEY McLENDON: Hold on.  
 7 MR. COOLEY: Yeah, that's right. It's all  
 8 in the ord- -- You're absolutely right. All that  
 9 language is in the ordinance.  
 10 COUNCILMEMBER PACHUTA: Well, I'll make them  
 11 separate.  
 12 MR. COOLEY: Good point.  
 13 COUNCILMEMBER PACHUTA: I will make a motion  
 14 to change -- to revise the definitions of the terms  
 15 "nightclub" and "restaurant" under Section 23-402 of  
 16 the ordinance.  
 17 COUNCILMEMBER FLEMING: Second.  
 18 MAYOR PITTMAN: Discussion?  
 19 COUNCILMEMBER DEAN: And what about the  
 20 discotheque language?  
 21 COUNCILMEMBER PACHUTA: Well, I was going to  
 22 do it separate.  
 23 COUNCILMEMBER DEAN: Oh, okay.  
 24 MAYOR PITTMAN: Call the roll, please.  
 25 CLERK BRYANT: Councilmember Alexander?

1 COUNCILMEMBER DEAN: Yes.  
 2 CLERK BRYANT: Councilmember Fleming?  
 3 COUNCILMEMBER FLEMING: Yes.  
 4 CLERK BRYANT: Councilmember Pachuta?  
 5 COUNCILMEMBER PACHUTA: Yes.  
 6 CLERK BRYANT: Councilmember Patrick?  
 7 COUNCILMEMBER PATRICK: Yes.  
 8 MAYOR PITTMAN: Okay. Thank you.  
 9 MR. COOLEY: Thank you.  
 10 MAYOR PITTMAN: Thank you, Mr. Cooley.  
 11 The next has being carried over a couple of  
 12 agendas. Web Site Link Policy, Ms. Fleming.  
 13 COUNCILMEMBER FLEMING: Yes. It's still on  
 14 here and we haven't gotten back to it but I still  
 15 think that we should have some type of a sign-up and  
 16 have the neighborhood groups actually sign an  
 17 application stating who they are and what they do so  
 18 that the City won't be held liable for anything. So  
 19 if there's no discussion, I want to make a motion.  
 20 MAYOR PITTMAN: Discussion?  
 21 ---  
 22 (No response)  
 23 ---  
 24 MAYOR PITTMAN: Okay.  
 25 COUNCILMEMBER FLEMING: I'd like to make a

1 COUNCILMEMBER ALEXANDER: Yes.  
 2 CLERK BRYANT: Councilmember Bates?  
 3 COUNCILMEMBER BATES: Yes.  
 4 CLERK BRYANT: Councilmember Dean?  
 5 COUNCILMEMBER DEAN: No.  
 6 CLERK BRYANT: Councilmember Fleming?  
 7 COUNCILMEMBER FLEMING: Yes.  
 8 CLERK BRYANT: Councilmember Pachuta?  
 9 COUNCILMEMBER PACHUTA: Yes.  
 10 CLERK BRYANT: Councilmember Patrick?  
 11 COUNCILMEMBER PATRICK: Yes.  
 12 COUNCILMEMBER PACHUTA: I will make a motion  
 13 to delete discotheque from Section 23-910.  
 14 MAYOR PITTMAN: Second?  
 15 COUNCILMEMBER FLEMING: Second.  
 16 MAYOR PITTMAN: Discussion?  
 17 ---  
 18 (No response)  
 19 ---  
 20 MAYOR PITTMAN: Call the roll, please.  
 21 CLERK BRYANT: Councilmember Alexander?  
 22 COUNCILMEMBER ALEXANDER: Yes.  
 23 CLERK BRYANT: Councilmember Bates?  
 24 COUNCILMEMBER BATES: Yes.  
 25 CLERK BRYANT: Councilmember Dean?

1 motion that the City entertain to set up a Web site  
 2 policy to address the various links to and from our  
 3 City Web site.  
 4 MAYOR PITTMAN: Second?  
 5 COUNCILMEMBER ALEXANDER: Including use of  
 6 the listing application?  
 7 COUNCILMEMBER FLEMING: Yes.  
 8 MAYOR PITTMAN: Second?  
 9 COUNCILMEMBER ALEXANDER: Second.  
 10 MAYOR PITTMAN: Discussion?  
 11 ---  
 12 (No response)  
 13 ---  
 14 MAYOR PITTMAN: Call the roll, please.  
 15 CLERK BRYANT: Councilmember Alexander?  
 16 COUNCILMEMBER ALEXANDER: Yes.  
 17 CLERK BRYANT: Councilmember Bates?  
 18 COUNCILMEMBER BATES: No.  
 19 CLERK BRYANT: Councilmember Dean?  
 20 COUNCILMEMBER DEAN: No.  
 21 CLERK BRYANT: Councilmember Fleming?  
 22 COUNCILMEMBER FLEMING: Yes.  
 23 CLERK BRYANT: Councilmember Pachuta?  
 24 COUNCILMEMBER PACHUTA: Yes.  
 25 CLERK BRYANT: Councilmember Patrick?

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1 COUNCILMEMBER PATRICK: Yes.  
2 MAYOR PITTMAN: Motion carried. Thank you.  
3 Okay. Next on the agenda is Ms. Dean,  
4 Ordinance Language regarding \$5,000 spending  
5 allowance.  
6 COUNCILMEMBER DEAN: The \$5,000 spending  
7 allowance that the Mayor is entitled to, I think the  
8 language is very broad, overly broad. I do not think  
9 that it was originally meant to have hiring powers in  
10 terms of hiring contract employees or contracts that  
11 exceed so many dollars per year or for the duration of  
12 the contract.  
13 So I'd like to put or change the language so  
14 that it reads, "Mayor has signing and spending  
15 authority for budgeted items not to exceed," an amount  
16 that we can discuss, "within these limits. The  
17 spending cannot be used for aggregate services  
18 including the hiring of temporary firms or employees  
19 for the City or long-term contracts."  
20 MAYOR PITTMAN: Okay. I do know that  
21 Ms. Ferguson is going to be working on our financial  
22 policies and is working on developing those.  
23 COUNCILMEMBER DEAN: This is an ordinance  
24 right now.  
25 MAYOR PITTMAN: I understand that.

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1 Ms. Ferguson is working on the financial  
2 policies which will address some of that.  
3 And there are times when you are in this  
4 position that you do need to use that money, and it at  
5 one time was far more than that. And any city manager  
6 or mayor that has to do this, has to use it  
7 occasionally to be able to keep the city running.  
8 COUNCILMEMBER DEAN: Well, that's --  
9 MAYOR PITTMAN: So --  
10 COUNCILMEMBER DEAN: See, when we hire  
11 temp -- We've hired a number of contract employees.  
12 You have hired a lot of contract employees using this  
13 money, and then you kind of enmesh them in the City  
14 and then the Council has to vote on it.  
15 And I think that that's improper because  
16 they already -- we don't send out an RFP, so we don't  
17 have choices. We have the employees who are enmeshed  
18 in our city and so there's an obligation or the sense  
19 of an obligation to go ahead and hire them. I think  
20 that's a misuse of this money.  
21 And also I was concerned because with the  
22 \$200,000 telephone contract, there was some exchange  
23 wherein you said, "Well, it's less than \$5,000 a  
24 month," and that's -- and that's not -- I don't think  
25 that that is a proper use of this either.

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1 So I'm not saying eliminate the fund that's  
2 available to you.  
3 MAYOR PITTMAN: Uh-huh.  
4 COUNCILMEMBER DEAN: I'm saying one-time  
5 deals for budgeted items only and not to be used for  
6 contract employees, because that takes away the flow  
7 of authority as it was originally meant to be given.  
8 And also for long-term contracts. Again, that's  
9 something that all of us have to vote upon, and that's  
10 not --  
11 MAYOR PITTMAN: And I appreciate that and I  
12 understand that you were not in the picture at the  
13 very beginning when I stepped into office and there  
14 were many, many issues that we had incurred such as  
15 budgetary issues and I had no choice but to bring  
16 someone in that was a contract worker. And they were  
17 the top of the line; came in and straightened out a  
18 huge mess.  
19 COUNCILMEMBER DEAN: You --  
20 MAYOR PITTMAN: Excuse me.  
21 I also had -- I also had to bring in someone  
22 that was with the -- We had no city planner, and  
23 things were stacking up to here. And to be able to  
24 keep the City functioning, there are times that we do  
25 have to -- I have to utilize that. It's never been

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1 abused, and the Council has been made aware.  
2 I do agree that probably the language does  
3 need to be cleaned up to be a little bit more  
4 definitive. But taking those particular items away, I  
5 think would be detrimental.  
6 And we are fixing to go through a transi-  
7 tion. I would expect that a city manager's going to  
8 want essentially the same type of thing to be able to  
9 do.  
10 COUNCILMEMBER BATES: So at one point, three  
11 -- I think it was three years ago, three or four years  
12 ago when we were starting to review the financial  
13 policies, Ms. Pittman actually had an agenda item that  
14 was to do this very thing: to redefine the financial  
15 policies and to take the aggregate amount and put that  
16 -- codify it as not to be part of the \$5,000; that  
17 that would be sent for RFP and bid out.  
18 So I actually agree with this. I think this  
19 is something that we need to do. It's long overdue.  
20 Because I do think that there is the potential for  
21 there to be some abuse of this, and the intent was not  
22 to go into the "Oh, well, it's only \$4,000 a month.  
23 Let's do it for 12 months."  
24 The intent was "There's something that needs  
25 to be addressed today. I've got some discretion to do

1 it." If it's a longer-term issue, then that's the  
2 responsibility of this body to make those longer-term  
3 discussions. So I do agree with this discussion.

4 MAYOR PITTMAN: I agree -- I do agree to a  
5 point. I don't agree with taking necessarily the  
6 language of what you can use it for but I do agree  
7 that the language needs to be cleaned up because it's  
8 very vague of the \$5,000 once? twice? I agree with  
9 that.

10 COUNCILMEMBER DEAN: Well, I think that the  
11 budget -- if it's for budgeted items and not to exceed  
12 blank amount of money.

13 I don't think there should be any question  
14 about whether it should not -- whether it should or  
15 should not be used for aggregate services or for  
16 temporary firms or employees that the City hires,  
17 because that's --

18 And those are my biggest concerns. As you  
19 know, when I first came in here, I had an issue with  
20 that, and I don't think that that's the way it was  
21 meant to be used, because those aren't emergency kind  
22 of situations.

23 Now in the bigger picture, it was, but not  
24 so critical that we can't call an emergency meeting or  
25 we can't have it put on the agenda for the next

1 it 10 times in one day, you know, for that matter, as  
2 long it was under \$5,000.

3 But what my feeling is at this moment is the  
4 fact that, number one, I do believe that our Charter  
5 is going to be changed big-time for the Mayor's  
6 duties. So, you know, why the correction of this now  
7 and it not get changed, and we're going to have a city  
8 manager and we're going to be writing those specific  
9 duties also and how much that person is going to be  
10 able to be spending.

11 So in regards to this, this is an item that  
12 needs to be incorporated into the correction of the  
13 Charter when we do the whole Mayor's duties and what  
14 they're allowed to do and so forth.

15 COUNCILMEMBER DEAN: Yeah. This is an  
16 ordinance, right?

17 COUNCILMEMBER FLEMING: If you start doing  
18 something on the Charter, because that's a Charter  
19 item, 2.90.

20 COUNCILMEMBER DEAN: It doesn't have to --  
21 it doesn't have to go before the --

22 Anyway, there it is.

23 MAYOR PITTMAN: Mr. Patrick?

24 COUNCILMEMBER PATRICK: The only comment I  
25 would have is if it's possible to have our Finance

1 scheduled meeting and discuss these things.

2 MAYOR PITTMAN: And I understand that. Even  
3 if you had called an emergency meeting, especially  
4 when it came to the finances, it would have made no  
5 difference because you still would have had to go out  
6 for an RFP and it would have been a delay. So there  
7 was a crucial point that we were in at that point.

8 And I appreciate what you're saying and I  
9 understand that the language does need to be a  
10 clarified and I have no problem with that.

11 Ms. Fleming?

12 COUNCILMEMBER FLEMING: I have always felt  
13 that we needed to be more specific in that \$5,000,  
14 because when I first took office, I thought to  
15 myself -- and no disrespect to any mayor whatsoever;  
16 none, no disrespect -- the Mayor could bankrupt the  
17 City in one day's time.

18 MAYOR PITTMAN: It was far more than \$5,000  
19 at one time.

20 COUNCILMEMBER FLEMING: And so because  
21 there's no time limit on there and that it could be  
22 \$5,000 every invoice, \$5,000 per day, \$5,000 the  
23 aggregate services, to me, that shouldn't be in there.  
24 To me, what's more important is for specific such as  
25 time, you know, because a person, a Mayor, could use

1 Director -- I agree with Trudy and Brian. If there's  
2 some way we could have the Finance Director take a  
3 look at something and craft something that works at  
4 other cities and perhaps bring it here to us to take a  
5 look at.

6 MAYOR PITTMAN: What does -- hypothetically,  
7 I mean what is Dunwoody's? Do you know what theirs  
8 says?

9 ATTORNEY FELGIN: Well, the city manager has  
10 a \$50,000 threshold where he can sign contracts up to  
11 \$50,000.

12 COUNCILMEMBER DEAN: Dunwoody. They have  
13 money.

14 ATTORNEY FELGIN: Johns Creek is the same  
15 thing. Sandy Springs is a different amount. I'm not  
16 sure.

17 ATTORNEY McLENDON: Sandy Springs is two  
18 fifty.

19 COUNCILMEMBER PATRICK: Wow. Want to go to  
20 Sandy Springs?

21 MAYOR PITTMAN: Mr. Bates, anything else?

22 MAYOR PITTMAN: How much?

23 ATTORNEY McLENDON: \$250,000.

24 MAYOR PITTMAN: \$250,000?

25 COUNCILMEMBER FLEMING: In no way do I

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1 feel -- and I'm going to go on record on this -- that  
2 I feel that Mayor Pittman has done anything --  
3 anything -- wrong in her decisionmaking in regards to  
4 she stepped up to the plate and had to make a very  
5 hard decision in terminating someone, and because of  
6 that position being left unmanned, immediately had to  
7 take care of all of the backlog of applications that  
8 were sitting on one's desk, and then all of a sudden  
9 we're finding ourselves in a budgetary crisis and  
10 brought in someone that was recommended by Georgia  
11 Institute of Municipality or --  
12 MAYOR PITTMAN: Carl Vinson.  
13 COUNCILMEMBER FLEMING: -- courts or -- I'm  
14 sorry?  
15 MAYOR PITTMAN: Carl Vinson.  
16 COUNCILMEMBER FLEMING: Carl Vinson  
17 Institute. So in no way do I feel Mayor Pittman has  
18 done anything wrong.  
19 COUNCILMEMBER DEAN: And this is not --  
20 nothing personal. This is business. This is just  
21 business.  
22 MAYOR PITTMAN: Understand.  
23 Ms. Alexander?  
24 COUNCILMEMBER ALEXANDER: This is something  
25 that's needed to be clarified for awhile.

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1 As Ms. Fleming stated, no offense to any  
2 previous mayors, but we got into an issue where we  
3 challenged some invoices that were being tendered, and  
4 it was -- this policy was used against us because it  
5 didn't specify multiple invoices totaling \$5,000 or  
6 some obscure thing like that. And so we were made to  
7 look like the bad guys when we were questioning an  
8 expenditure.  
9 MAYOR PITTMAN: That wasn't me.  
10 COUNCILMEMBER ALEXANDER: It's the whole --  
11 MAYOR PITTMAN: That wasn't me.  
12 COUNCILMEMBER ALEXANDER: -- "Your price is  
13 not \$20.00; it's \$19.99" rule.  
14 So this language needs to be cleaned up. I  
15 agree we're going to -- and I've unfortunately given  
16 Ms. Ferguson all of my copies of the multiple  
17 financial policies and the things that we tried to do  
18 in the past. She got a care package.  
19 So it's language that does need to be  
20 cleaned up. But I agree also that we're going to be  
21 changing the whole scheme of things, not just the  
22 financial policies but also the spending limits and  
23 who has the spending limits and everything.  
24 But that language was definitely problematic  
25 to us, that we were trying to say, "But you are

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1 spending more than \$5,000 without a contract or an  
2 RFP," and the response was, "No, we're not. Look.  
3 This invoice is only \$1,700 and this one's \$1,300," so  
4 it's been --  
5 MAYOR PITTMAN: That wasn't me.  
6 COUNCILMEMBER ALEXANDER: -- an issue  
7 before.  
8 No, it was not.  
9 MAYOR PITTMAN: And I agree that the  
10 language needs to be cleared up on the once/twice, but  
11 I'm not sure that I agree taking those things out.  
12 COUNCILMEMBER PACHUTA: I like Robert's idea  
13 of having maybe Lisa or Cecil or whoever come to us  
14 with some drafts.  
15 ATTORNEY McLENDON: If this language needs  
16 to be put into the form of an ordinance even if we all  
17 decide to move forward with it, what we could do is  
18 take this, craft an ordinance, utilize the language  
19 provided and then maybe get input from Finance  
20 Director.  
21 COUNCILMEMBER DEAN: I definitely think that  
22 the aggregate services and the temporary firms or  
23 employees for the City or long-term contracts need to  
24 stay in.  
25 ATTORNEY McLENDON: We'll do an ordinance --

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1 COUNCILMEMBER DEAN: Okay.  
2 ATTORNEY McLENDON: -- draft together, back  
3 to you, and then it'll be in your -- in you-all's  
4 ballpark.  
5 COUNCILMEMBER FLEMING: Well, my preference  
6 before you go and do an ordinance is for us to review  
7 other cities like Ms. Ferguson, like Ms. Pachuta had  
8 commented Ms. Ferguson getting some type of financial  
9 policies or other cities' comments.  
10 You know, I'd like to see some examples  
11 rather than you jumping out there saying this is what  
12 it's going to be.  
13 COUNCILMEMBER BATES: We look --  
14 ATTORNEY McLENDON: Well, my thought would  
15 have been I would -- I would sort of work with  
16 Ms. Ferguson and put forward that language, but at the  
17 same time, I think it would be appropriate to say  
18 where it came from.  
19 Frankly, if y'all wanted to take the next  
20 step of let's review it and then you tell me what  
21 language to put into an ordinance, I can live with  
22 that too.  
23 COUNCILMEMBER BATES: I was just going to  
24 say let's look at some neighboring cities and look at  
25 their best practices and come back to us with, you

1 know, Chamblee, Decatur, Norcross type of comparable  
 2 city size.  
 3 But I do agree that the aggregate, that's a  
 4 long-term issue that we need to address.  
 5 MAYOR PITTMAN: Okay. So maybe get that  
 6 language, some ideas or thoughts, and you guys get  
 7 together and maybe send it prior to the next Council  
 8 meeting?  
 9 ATTORNEY McLENDON: I'm hearing an agenda  
 10 item for Lisa to come and talk about different  
 11 approaches as opposed to an ordinance. You-all tell  
 12 me, because I'm good.  
 13 MS. FERGUSON: I'm hearing we're looking for  
 14 Cecil to write an ordinance.  
 15 MAYOR PITTMAN: And maybe get some examples  
 16 out to us before the next Council meeting.  
 17 COUNCILMEMBER DEAN: But we will -- we'll  
 18 have an ordinance by then so we'll get the language in  
 19 between and then the ordinance?  
 20 MAYOR PITTMAN: Yes.  
 21 ATTORNEY McLENDON: Y'all tell me what to  
 22 do.  
 23 MAYOR PITTMAN: So if we can put it on the  
 24 next agenda.  
 25 All right. Mr. Patrick. Propose

1 Architectural Design Standards Schedule.  
 2 COUNCILMEMBER PATRICK: So there's been a  
 3 lot of concern about Architectural Standards. Some  
 4 statements have been made that we need to get that  
 5 taken care of before we move forward with economic  
 6 development activities, and my kind of thought is is  
 7 we could probably do both at the same time.  
 8 So I had put together a proposed agenda or  
 9 time frame for the residents to look at what's --  
 10 what's here right now and then they have an  
 11 opportunity to comment back to City staff who in turn  
 12 provides input to us, and we have a work session and  
 13 talk about it; we try and resolve those issues as  
 14 quickly as possible or we get in depth and hammer out  
 15 a good product that people are proud of or happy with  
 16 for our city.  
 17 So this schedule that I put together in my  
 18 opinion is extremely flexible. I know the difficulty  
 19 of having seven people try and coordinate their  
 20 schedules for the next two or three months and so  
 21 ultimately I'm cognitive of that. I want to be as  
 22 flexible with my colleagues as possible but also  
 23 saying that we do need to get this done so that there  
 24 is confidence out there in us to move forward.  
 25 And I would love to hear any comments from

1 my Council members.  
 2 COUNCILMEMBER FLEMING: I actually -- I mean  
 3 this was one of our priorities also that we commented  
 4 at the retreat and I campaigned on also. The one that  
 5 Mr. Cooley has presented to the P.C. has been ready  
 6 for quite some time. Adding the other two versions  
 7 may have been --  
 8 COUNCILMEMBER PATRICK: Too much?  
 9 COUNCILMEMBER FLEMING: -- stretching way  
 10 back, and I don't know whether we need to try to  
 11 import two other drafts into something. So I think  
 12 I'd like to just limit going on the Web site, and I  
 13 think that's great, is going on the Web site with the  
 14 Commercial Design Standards that the P.C. has approved  
 15 back in March as well as the Design Guideline. I  
 16 think that's an impressive guideline book that would  
 17 be very useful to the public as well, and then they  
 18 can -- and then I definitely think public comments  
 19 e-mailed to Mr. Cooley and then us getting the  
 20 comments from him would be outstanding.  
 21 COUNCILMEMBER DEAN: What if we want to post  
 22 the two versions? I mean is that going to be a huge  
 23 detriment; people want to see them?  
 24 COUNCILMEMBER BATES: I think it's  
 25 problematic.

1 COUNCILMEMBER DEAN: Okay.  
 2 COUNCILMEMBER BATES: The two versions, one  
 3 of them in specific had language in there that was  
 4 just so difficult to understand.  
 5 COUNCILMEMBER PATRICK: Extremely technical.  
 6 COUNCILMEMBER BATES: It was -- it was very  
 7 technical. And I think if we try to -- That was one  
 8 of the hangups on moving forward with that was we  
 9 didn't understand it, and there was no examples of  
 10 what was being proposed for us to understand. And  
 11 when you referred to the dictionary, the glossary of  
 12 terms that accompanied it, it was circular. You know,  
 13 if you wanted to look at the definition of an  
 14 architrave, it said look at the entablature, and if  
 15 you wanted to look at the definition of an  
 16 entablature, it said it sits below the architrave.  
 17 What is that?  
 18 So the draft that Joe has put together has  
 19 got imagery to it, it's a lot more -- I don't want to  
 20 say simplified, but it's much easier to read. And  
 21 there's good examples of architectural standards out  
 22 there that people refer to. Decatur is one that I  
 23 hear frequently.  
 24 If we want to compare two different types,  
 25 let's compare the proposed draft with another city,



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1 not throw in two previous versions that are complex.  
 2 I think that overcomplicates things, and we have a  
 3 history of overcomplicating things here, and so the  
 4 simpler that we can do it, the better.  
 5 I do want to point out that in this proposed  
 6 draft, in addition to the public comments on what's on  
 7 the Web, there are two workshops scheduled --  
 8 COUNCILMEMBER DEAN: Right.  
 9 COUNCILMEMBER BATES: -- with public  
 10 comments --  
 11 COUNCILMEMBER DEAN: Right, right, right.  
 12 COUNCILMEMBER BATES: -- on here. And one  
 13 of my hesitations on moving forward with this was  
 14 based upon the discussion that we had with Caleb in  
 15 the form-based code or the Smart Code. I had a  
 16 conversation with him today, and his response was, "Go  
 17 right ahead and move forward. They are compatible  
 18 with each other. We can make the Smart Code work with  
 19 the Design Guidelines that you guys come up with.  
 20 There is no conflict." So I was reassured that we  
 21 weren't going to duplicate work effort, because that  
 22 would seem very counterproductive.  
 23 So I'm generally good with the proposed  
 24 draft, taking out the two previous versions.  
 25 COUNCILMEMBER FLEMING: And if I'm not

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1 mistaken, though Mr. Cooley got this from -- primarily  
 2 from another city, you definitely looked at our most  
 3 recent LCI to see if it was conforming with what the  
 4 residents had liked in the charrettes that all of us  
 5 looked at.  
 6 MR. COOLEY: Yes, ma'am. And it was also  
 7 trying to allow as much opportunity for good design,  
 8 creative design as opposed to saying this is how you  
 9 shall do it. Put guidelines and give options.  
 10 I've seen it, I've seen this code in place,  
 11 and it's worked really well, so, but that was the  
 12 intent.  
 13 COUNCILMEMBER PACHUTA: Yeah, and I agree.  
 14 MR. COOLEY: There's things that need to be  
 15 worked on, I'm sure. I'm sure you-all have a lot of  
 16 things.  
 17 COUNCILMEMBER PACHUTA: Yeah, and I agree  
 18 just to use the most recent version because there was  
 19 reasons why the first two didn't go anywhere.  
 20 MR. COOLEY: And --  
 21 COUNCILMEMBER PACHUTA: That's --  
 22 MR. COOLEY: -- the only thing I would --  
 23 COUNCILMEMBER PACHUTA: -- the most updated.  
 24 MR. COOLEY: -- probably add to this is this  
 25 will require -- should have a public hearing process

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1 within it. So my suggestion on the end of the  
 2 calendar here where you've got two final meetings,  
 3 November 19th for final vote and then December 3rd  
 4 absolute final action is let's go ahead and shoot for  
 5 the November 19th as the public hearing and we work  
 6 towards that as the public hearing.  
 7 Everything you've got works out really well.  
 8 It's flexible --  
 9 COUNCILMEMBER PATRICK: Okay.  
 10 MR. COOLEY: -- so it works really good.  
 11 That's the only thing I would do. We do need to  
 12 incorporate it in the public hearing process of the  
 13 Zoning Procedures Act procedures, make sure we're not  
 14 in trouble.  
 15 MAYOR PITTMAN: Okay. Ms. Alexander,  
 16 anything?  
 17 COUNCILMEMBER ALEXANDER: No. I just agree  
 18 with Council but I would rather us see the -- we can  
 19 call it the latest and greatest, because it was just  
 20 crazy for us to have to sit there and look up words  
 21 and try to figure out what they meant. And we had a  
 22 couple of neighborhood gatherings where we were shown  
 23 examples of pictures, and pictures and drawings are  
 24 always welcomed.  
 25 MAYOR PITTMAN: Mr. Bates, anything else?

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1 Ms. Pachuta? Ms. Fleming?  
 2 COUNCILMEMBER FLEMING: Other than if we  
 3 adopt, if you want to call it, or approve this action  
 4 requested by Mr. Patrick, I would like for us to be  
 5 able to put the Commercial Design Standards and the  
 6 Design Guidelines on our Web whenever Mr. Cooley and  
 7 Mr. Patrick.  
 8 MAYOR PITTMAN: Okay. Ms. Dean?  
 9 Mr. Patrick, what do you wish to do with  
 10 this?  
 11 COUNCILMEMBER PATRICK: Approve it.  
 12 MAYOR PITTMAN: Okay. You want to make a  
 13 motion?  
 14 COUNCILMEMBER PATRICK: Motion to approve  
 15 this agenda item 10 with the only version going  
 16 forward is the one that was approved by the Planning  
 17 Commission.  
 18 MAYOR PITTMAN: Okay.  
 19 COUNCILMEMBER PACHUTA: Can you also state  
 20 that November 19th will also be the public -- official  
 21 public hearing?  
 22 COUNCILMEMBER PATRICK: Yes. November 19  
 23 will be the official public hearing date.  
 24 MAYOR PITTMAN: Okay. And that we will  
 25 place this on the Web?

1 COUNCILMEMBER FLEMING: I think that's item  
2 number one.  
3 MAYOR PITTMAN: Okay.  
4 COUNCILMEMBER DEAN: Does this have to be a  
5 motion?  
6 ATTORNEY McLENDON: Not necessarily. I mean  
7 you can have a motion where this is just directing  
8 staff to move forward consistent with this motion.  
9 It's real clear what you're telling them to do when  
10 you make a motion.  
11 MAYOR PITTMAN: Yeah. Well, we got a motion  
12 and a --  
13 COUNCILMEMBER FLEMING: I'm going to second.  
14 MAYOR PITTMAN: -- and a second.  
15 Okay. Discussion?  
16 ---  
17 (No response)  
18 ---  
19 CLERK BRYANT: Councilmember Alexander?  
20 COUNCILMEMBER ALEXANDER: Yes.  
21 CLERK BRYANT: Councilmember Bates?  
22 COUNCILMEMBER BATES: Yes.  
23 CLERK BRYANT: Councilmember Dean?  
24 COUNCILMEMBER DEAN: Yes.  
25 CLERK BRYANT: Councilmember Fleming?

1 Yes, sir.  
2 MR. COOLEY: Just wanted to add the Planning  
3 Commission is tomorrow night.  
4 MAYOR PITTMAN: Tomorrow night's the  
5 Planning Commission. What time?  
6 MR. COOLEY: 6:00 p.m. here.  
7 MAYOR PITTMAN: Okay. Six o'clock tomorrow  
8 night.  
9 All right. We will now take public  
10 comments. If you could please line up at the podium  
11 and limit your comments to three minutes.  
12 MR. ABBOTT: So I just wanted a point of  
13 clarification. The information that came out from  
14 Mr. Cooley is not the design guidelines or construc-  
15 tion standards that you're now referring to; is that  
16 correct?  
17 MAYOR PITTMAN: Say that again?  
18 MR. ABBOTT: You-all got a packet of  
19 information. It had color pictures and everything and  
20 whatnot. Was that a recommendation from him but not  
21 the one that y'all are referring to now? There's one  
22 that the Planning Commission passed. There are two  
23 different things we're talking about. He gave you  
24 something you were interested in, or that's it?  
25 COUNCILMEMBER FLEMING: No, no, no, no.

1 COUNCILMEMBER FLEMING: Yes.  
2 CLERK BRYANT: Councilmember Pachuta?  
3 COUNCILMEMBER PACHUTA: Yes.  
4 CLERK BRYANT: Councilmember Patrick?  
5 COUNCILMEMBER PATRICK: Yes.  
6 MAYOR PITTMAN: Thank you, Mr. Patrick.  
7 Very good.  
8 All righty. Chief, did you have anything  
9 else you wanted to add?  
10 CHIEF KING: No, ma'am.  
11 MAYOR PITTMAN: Ms. Ferguson? Mr. Cooley?  
12 MR. COOLEY: No.  
13 MAYOR PITTMAN: I just wanted to remind  
14 everyone that there's going to be a meeting at 6:30  
15 this Thursday to discuss the CID. We will have guest  
16 speakers here.  
17 And as I mentioned earlier, I was going to  
18 mention it now but I'll mention it again that we do  
19 have two upcoming meetings next week. Monday we will  
20 be discussing -- start our discussions about the City  
21 Manager, and then on Thursday, we will be having  
22 interviews for City Clerk.  
23 And then the following Monday is a Council  
24 meeting, and then the following Monday after that will  
25 be a work session.

1 MAYOR PITTMAN: Well, that --  
2 COUNCILMEMBER FLEMING: It's one and the  
3 same.  
4 MR. ABBOTT: Okay. I wanted to clarify  
5 that. Great. So then really it'll be up on the Web  
6 site tomorrow but I've already seen a copy of that.  
7 And then the other -- Oh. I had a question  
8 for -- like now you passed an amendment to the Alcohol  
9 Ordinance tonight.  
10 COUNCILMEMBER PACHUTA: Huh-uh.  
11 MR. ABBOTT: Did you not?  
12 COUNCILMEMBER PACHUTA: Zoning.  
13 MR. ABBOTT: Zoning. I'm sorry. The Zoning  
14 Ordinance. Excuse me.  
15 When will that revised Zoning Ordinance --  
16 Mr. Attorney, you might want to pay  
17 attention. This question's probably for you.  
18 -- the revised Zoning Ordinance that was  
19 passed this evening, I'm presuming that big black book  
20 you have is probably our ordinances or our zoning  
21 stuff. I'm in the process of creating one just like  
22 that. So as I spend a lot of money on paper to print  
23 and create my own notebook, how quickly is that passed  
24 ordinance on the Municode that shows up on our Web  
25 site so that I can print a copy of it?

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1 COUNCILMEMBER PACHUTA: Nothing since last  
2 November has been updated on the Web site because we  
3 do not have a City Clerk.  
4 MAYOR PITTMAN: Municode is being -- Well, I  
5 started to say Municode is being updated.  
6 Go ahead. I'm sorry. I'll let you talk.  
7 CLERK BRYANT: I have sent all the  
8 ordinances all the way until Ordinance 60.  
9 COUNCILMEMBER BATES: Then we need to check  
10 with Municode because it's not online.  
11 COUNCILMEMBER PACHUTA: It's not online.  
12 MAYOR PITTMAN: She has been sending it,  
13 though.  
14 CLERK BRYANT: They're in the process of  
15 incorporating the new ordinance that you guys passed  
16 into the whole book.  
17 COUNCILMEMBER FLEMING: Oh, they've just  
18 done it because I looked Friday and it was 2011.  
19 COUNCILMEMBER BATES: I'm with you --  
20 COUNCILMEMBER FLEMING: Okay.  
21 COUNCILMEMBER BATES: -- because I looked on  
22 Saturday and there was no updates.  
23 COUNCILMEMBER FLEMING: Yeah.  
24 MAYOR PITTMAN: Well, they're not as -- We  
25 get it out there. They're just not as quick, so.

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1 COUNCILMEMBER FLEMING: It doesn't happen  
2 automatically, Tom. We have to send it in and they  
3 edit for spelling and do all the correction and  
4 everything and then it gets uploaded.  
5 MR. ABBOTT: So do you have a timeline? I  
6 mean if something was passed tonight, would I want to  
7 check in a week? two weeks? ten years? I just want to  
8 know -- I just want to know when I can go either find  
9 it there or be able to come to City Hall and make a  
10 copy of it so I'm not behind, because I'll be damned  
11 if --  
12 MAYOR PITTMAN: You can come --  
13 MR. ABBOTT: -- I'm going to be behind.  
14 MAYOR PITTMAN: -- to City Hall. Be quicker  
15 to come to City Hall and get a copy --  
16 MR. ABBOTT: All right.  
17 MAYOR PITTMAN: -- I'll be honest with you,  
18 and --  
19 MR. ABBOTT: So the one you passed tonight I  
20 could get tomorrow.  
21 MAYOR PITTMAN: It --  
22 CLERK BRYANT: No. I need to get signa-  
23 tures.  
24 MAYOR PITTMAN: Well, once we sign it, but  
25 that's yes. Call tomorrow.

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1 MR. ABBOTT: All right. Great. Thank you.  
2 MR. TOM HART: So much time is wasted at  
3 these meetings when you have -- you discuss for hours  
4 on end, it seems, about a subject that you have little  
5 knowledge of, or if you do, it's -- it's -- Just like  
6 this pipe problem in the park.  
7 There's other people here --  
8 Pam Fleming asked me to look into this pipe  
9 thing. I did. I went and interviewed the people at  
10 the park. I went and looked at the project. Except  
11 that I'm sitting right there, and it's like, "Well,  
12 talk to somebody that knows something about this."  
13 What is the woman concerned about? She's  
14 concerned about the erosion's so bad that the trees  
15 are falling in the creek.  
16 And then you ask Steven, and he says, "Well,  
17 there's no other sinkholes in any other park." Well,  
18 Wheeler Park, which is part of that thing for the jail  
19 sitting there, has got sinkholes all over it. It's  
20 got the same problem.  
21 The pipes were put in the City in the late  
22 '80s, around '87. They had this huge chunk of money  
23 and they decided to go in the pipe business, and they  
24 put pipes, everything. Got 2,000-foot shotgun pipes,  
25 the Pungwee wall pipe. They piped everything. They

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1 welded together trash cans; it's everything. Okay.  
2 And it all started in Drury Court. The  
3 guy's land was eroding away, and he was a friend of  
4 the Mayor's, and you know how all that goes. Okay.  
5 So we got this pipe about an inch underground. It  
6 used to be called Brook Park. It's called a little  
7 stream in the park. But it handles all the flood  
8 waters from this entire neighborhood coming off of  
9 Chamblee Tucker Road and from Shallowford Road, comes  
10 pouring down through this park and is blowing this  
11 woman's property away.  
12 If the stream bank was still there, it would  
13 have a retention pond like it originally had, it would  
14 slow the water down and save the City \$100,000. But  
15 again, you guys meander around for an hour discussing  
16 something you have no knowledge of. It's what's  
17 costing this City.  
18 Architectural Standards. Y'all voted on it.  
19 You see the result of that. They're on the books now,  
20 metal building, glass, all that sort of thing. Look  
21 at the nail mall. Tell me how that meets any --  
22 I mean that's -- that's the idea, the  
23 planner's idea of a building? Pam, is that your idea  
24 of what --  
25 MAYOR PITTMAN: Sir, I'm --

1 MR. HART: -- the city's going --  
 2 MAYOR PITTMAN: -- not going to --  
 3 MR. HART: -- to look like?  
 4 MAYOR PITTMAN: Sorry.  
 5 MR. HART: Oh, okay. Well, Thom Abbott can  
 6 ask questions; I can't. I'm sorry.  
 7 MAYOR PITTMAN: You can ask questions but  
 8 we're not going to attack our --  
 9 MR. HART: Well, that was a question.  
 10 MAYOR PITTMAN: Sir, go ahead.  
 11 MR HART: Okay. And throughout the meeting  
 12 we have zoning appropriateness. "Well, we don't have  
 13 that form. Oh, that got lost." It got lost the day  
 14 that the Mayor fired the planner.  
 15 And then the Mayor went and took her \$5,000  
 16 and hired another planner. Well, the other planner  
 17 just okayed all kind of stuff. You know, the six-  
 18 month rule, that didn't apply when they were there.  
 19 You got a transmission shop; that shop was empty for  
 20 two years. Ended up with a transmission shop that  
 21 doesn't belong in C-2. You got a body shop that was  
 22 empty for two years. We ended up with a body shop.  
 23 You know, we hear all this stuff about six-month  
 24 rules.  
 25 MAYOR PITTMAN: Thank you.

1 MR. HART: Thank you.  
 2 MR. BEN CRAWFORD: Ben Crawford, Oakcliff  
 3 Estates.  
 4 First of all, I want to thank City Council  
 5 for starting to move in the direction of architectural  
 6 standards, but also I like Brian's idea of comparing  
 7 it to another city and Maria's also not using the old  
 8 stuff and offer any kind of confusion. But why not  
 9 also put it on the Web site and say, you know, what  
 10 the architectural standards, what city or town it was  
 11 modeled after and then maybe put a link for Decatur's  
 12 architectural standards on our Web page at the same  
 13 time so we could compare two things at one time. I  
 14 think that would be a good idea.  
 15 Thank you.  
 16 MAYOR PITTMAN: Thank you.  
 17 Motion to adjourn?  
 18 COUNCILMEMBER ALEXANDER: So moved.  
 19 MAYOR PITTMAN: Second?  
 20 COUNCILMEMBER DEAN: Second.  
 21 COUNCILMEMBER BATES: Second.  
 22 MAYOR PITTMAN: Discussion?  
 23 COUNCILMEMBER PATRICK: I have just one  
 24 comment. So now people can dance in the city? Kevin  
 25 Bacon will come here; is that correct?

1 COUNCILMEMBER PACHUTA: Yes.  
 2 MR. ABBOTT: No. He's already probably done  
 3 his thing. Sorry.  
 4 COUNCILMEMBER PATRICK: Okay. Thank you.  
 5 MAYOR PITTMAN: Okay. Call the roll,  
 6 please.  
 7 CLERK BRYANT: Councilmember Alexander?  
 8 COUNCILMEMBER ALEXANDER: Yes.  
 9 CLERK BRYANT: Councilmember Bates?  
 10 COUNCILMEMBER BATES: Yes.  
 11 CLERK BRYANT: Councilmember Dean?  
 12 COUNCILMEMBER DEAN: Yes.  
 13 CLERK BRYANT: Councilmember Fleming?  
 14 COUNCILMEMBER FLEMING: Yes.  
 15 CLERK BRYANT: Councilmember Pachuta?  
 16 COUNCILMEMBER PATRICK: Yes.  
 17 CLERK BRYANT: Councilmember Patrick?  
 18 MAYOR PITTMAN: Thank you.  
 19 COUNCILMEMBER PATRICK: Yes.  
 20 MAYOR PITTMAN: Meeting adjourned.  
 21 - - -  
 22 (Meeting adjourned at approximately 9:45 p.m.)  
 23 -o0o-  
 24  
 25

1 C E R T I F I C A T E  
 2 STATE OF GEORGIA]  
 3 COUNTY OF DEKALB]  
 4 I hereby certify that the foregoing transcript  
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 13 parties, nor financially or otherwise interested in  
 14 this matter.  
 15 This the 12th day of September 2012.  
 16  
 17  
 18 Theresa Bretch, CCR  
 19 Permit No. B-755  
 20  
 21  
 22 [SEAL]  
 23  
 24  
 25

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