In The Matter Of:

City Council Meeting
City of Doraville, Georgia

Before Mayor Ray Jenkins
February 2, 2009

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

Transcript of the proceedings held in the City Council Room at Doraville City Hall, 3725 Park Avenue, Doraville, Georgia, Mayor Ray Jenkins presiding, before Theresa Bretch, Certified Court Reporter, commencing at 6:35 p.m. on Monday, February 2, 2009.

* * *

APPEARANCES:
Doraville City Council:
Hon. Ray Jenkins, Mayor
Councilmember Maria Alexander
Councilmember Brian Bates
Councilmember Robert Spangler
Councilmember Donna Pittman
Councilmember Bob Roche
Councilmember Pam Fleming

Murray J. Weed, City Attorney

Ms. Rhonda Blackmon, City Clerk

P R O C E E D I N G S

MAYOR JENKINS: Meeting come to order. Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Here.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Here.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Here.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Here.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Here.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Here.

ATTORNEY WEED: Mr. Mayor, if I might, just to perfect the record so to speak, if you could give a brief summary of the items that were discussed for the transcript, I think that would be appropriate.

MAYOR JENKINS: Okay.

ATTORNEY WEED: You're under no legal compunction to have a transcript of the meeting.

You all know that. However, you've elected to do that. So I would advise that you make a brief summary of the items that occurred off the record.

MAYOR JENKINS: Okay. The first item that occurred off the record was Ms. Chris Avers gave an update on the citizens group for John King reception.

And Donna Pittman, Item No. 15, Define RFP Ordinance, we put that off, and No. 16 we took off, which was Define Sole Source Vendor.

We discussed Arbor Day, am I correct?

COUNCILMEMBER PITTMAN: Yes, sir.

MAYOR JENKINS: We also discussed sidewalks. Mr. Hart has finished his sidewalk.

And can you think of any more?

COUNCILMEMBER FLEMING: Tornado drills.

COUNCILMEMBER SPANGLER: No. 17, we also discussed.

MAYOR JENKINS: Did you finish it?

COUNCILMEMBER PITTMAN: Yes, sir.

MAYOR JENKINS: Okay. So 17 is finished.

And at 7:00 p.m., we will go into -- we will take No. 4 off because Scott Haeberlin's

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not here.
And I believe that's all. Can you think of any more, Murray?
ATTORNEY WEED: No, sir. I think that's pretty accurate.
MAYOR JENKINS: Okay. I want to approve the minutes of January the 20th, '09. Do I have a motion?
COUNCILMEMBER BATES: I'll so move with the supplemental addenda, a Summary of Motions that was provided to us.
MAYOR JENKINS: Second?
COUNCILMEMBER ROCHE: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.

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CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: Okay. Would you come up to the microphone, sir?
I want to give an update on the 911 building. We had it updated for all the handicapped access, and we have discussed this with the gentleman before. They want to put a coffee shop and a hot dog stand in there.
So he's going to give us his update tonight, and we'll decide what we're going to do.
Go ahead. Give your name, please, sir.
MR. BART: Okay. My name is Eric Bart (spelling) B-a-r-t.
And I put together this proposal right after I served the Mayor this afternoon. A couple things that got left off were for handicapped, such as fixing the sidewalk so it's level, putting the ramp in so people can get up the ramp into the building and the handicap signs that need to be placed.
Other than that, this is what we propose to do for the rent based on the economic

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situation and so forth which is spelled out there. Twelve items are things that were still on the list that hadn't been done yet. Once those are done, then we can get in and do our thing to bring the building up so we can get operating.
One of the other things that we are trying to do is we're trying to get the Atlanta Rhythm Section to possibly do a concert in April, coordinate with the grand opening for us, which I think would be really good for the city since their hit song was "Doraville," and their third album was called "Dog Days," which is apropos to the name of the business. So we're trying to make the connections with those folks, and hopefully that'll work out.
And attached to the main part is what we're going to serve for breakfast and what the lunch and the dinner menu is going to be.
COUNCILMEMBER ROCHE: When did this get turned in to the City Planner?
MR. BART: Originally, it was back in November.
COUNCILMEMBER ROCHE: Yeah, I remember that.

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MR. BART: And you were going to have the next meeting on the first of December, and I was out of town so I couldn't make that meeting.
COUNCILMEMBER ROCHE: Right.
COUNCILMEMBER PITTMAN: Can you refresh our memory again? What were the times that you were --
MR. BART: Six o'clock -- actually, 5:30 in the morning until approximately seven or eight o'clock at night, be closed on Sundays.
MAYOR JENKINS: We just took the tub out of that one handicap because of the business. You said install ceramic tiles in both bathrooms.
MR. BART: There's no tile, yeah. There's nothing on the floors now except bare wood. The fixtures haven't been installed.
MAYOR JENKINS: We haven't finished it, sir.
MR. BART: Right. I understand that.
MAYOR JENKINS: You said install bath fixtures in both bathrooms?
MR. BART: That's the toilet seat and the sink.
MAYOR JENKINS: We haven't finished it.

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MR. BART: I know. I was just making a list.

MAYOR JENKINS: You originally said you would do the floors and the walls.

MR. BART: Right. Yeah. We're going to take all the carpeting out because the health department will not allow you to have carpeting in the kitchen. We'll put VCT in there with a rubber-coat base. All the other rooms, the carpeting will be torn out and we're going to refinish the wood floors. And we'll sand the cracks in the stucco walls and repaint and put crown molding up in all the rooms except the kitchen.

COUNCILMEMBER BATES: Is there a cost estimate to do all this work?

MAYOR JENKINS: I haven't got it yet. We're working on --

MR. BART: Yeah, Scott was working on that.

MAYOR JENKINS: -- what we've spent on it.

COUNCILMEMBER ROCHE: What did we used to charge for rent for that building? Wasn't it five hundred?

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MAYOR JENKINS: Fifteen.

COUNCILMEMBER ROCHE: It was fifteen hundred?

COUNCILMEMBER FLEMING: Mayor, is it nec- --

MAYOR JENKINS: That was the downstairs also. And of course for this price, we couldn't let him have the downstairs too.

COUNCILMEMBER FLEMING: I noticed that he's indicating that the meter needed -- a separate meter is needed but yet access would be needed for the downstairs.

MR. BART: That's because the water heater and the air conditioning and the furnace are in the downstairs part of the building. The downstairs is not accessible to store anything in there for us to use it. So our original plan was just to take the top part of the building and the City was going to use the bottom part for a training room. So if they were going to do that, there would have to be a separate meter for the times that they were actually in there using electricity, and the bathroom that's down there, for the water.

COUNCILMEMBER FLEMING: Mayor, is that

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--

MAYOR JENKINS: Well, those things can be worked out. That's no big deal.

But he would not have access to the whole downstairs unless he rented the whole building.

MR. BART: Okay. But if the water heater and the furnace needed work on it, how would we handle that?

MAYOR JENKINS: Well, I think that could be handled.

We haven't worked out a deal yet, now.

MR. BART: Okay.

COUNCILMEMBER ALEXANDER: I guess --

MAYOR JENKINS: I think this is just a discussion. My main objective for bringing this up tonight was, does the Council want to rent the building or do we want to hold onto this facility for an override on our office space? That was my main reason for bringing it up, even though we had talked to this gentleman before and we certainly want to give him an option one way or the other, but --

COUNCILMEMBER SPANGLER: How long has the building been vacant?

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MAYOR JENKINS: A long time.

COUNCILMEMBER SPANGLER: So how much revenue have we lost since the DUI school went out? Any idea, Ms. Blackmon?

CLERK BLACKMON: A year and a half?

MAYOR JENKINS: Maybe a year, year and a half. I'm guessing.

He paid rent up until I believe it was the end of '07 even though he had moved.

I would like to see something go in there, but I mean we'll have to do some more negotiating.

This wouldn't work like you got it here, not as far as I'm concerned. We have six other people. $500 is just not -- not for three years, especially. Of course this is my opinion. We could go a short period of time at $500, but not for the year.

MR. BART: Well, that's what it was. It was a proposal, so --

COUNCILMEMBER SPANGLER: Mayor, I was just going to ask, what would he be offering to do in addition to the things we're fixing? What is he going to do in order to be able to rent the facility for $500 a month? What

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[1] improvements is he going to make?
[2] **MAYOR JENKINS:** He mentioned that he's
[3] going to take the carpet up and sand the floors,
[4] and it's got -- it don't have sheetrock in it.
[5] It's plaster and it's cracked. He'll take some
[6] time and work on it.
[7] **MR. BART:** That's correct.
[8] **MAYOR JENKINS:** And I don't know what
[9] you mentioned. Change the front door to a
[10] commercial door?
[11] **MR. BART:** Yeah. That would be the one
[12] that, you know, a glass just like a regular
[13] office door like you have here at City Hall. It
[14] would have --
[15] **MAYOR JENKINS:** Well, I really think we
[16] need another time and another discussion on this
[17] and let the Council look at this.
[18] **MR. BART:** Okay.
[19] **MAYOR JENKINS:** Wouldn't that be a good
[20] idea?
[21] **COUNCILMEMBER ALEXANDER:** I had some
[22] concerns -- no offense -- when I read your
[23] business proposal.
[24] On your financial backing, it basically
[25] looked like you had some friends that were going

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[1] to do your financial backing. You just referred
[2] to them as personal investors.
[3] You didn't list any of your personal
[4] business experience as far as if you're employed
[5] by someone else or if you've owned previous
[6] businesses or things of that nature.
[7] So I had concerns about your business
[8] proposal, your business plan, if you will,
[9] because that's one of the things that we had
[10] asked you to submit to us.
[11] **MR. BART:** Uh-huh.
[12] **COUNCILMEMBER ALEXANDER:** And you went
[13] into detail about you came up with the idea
[14] after seeing a PBS special and things of that
[15] nature. And as everyone in this room knows,
[16] with these economic times, we would be taking a
[17] chance on you, and I guess I wanted a little bit
[18] more about your business history.
[19] We did agree as a council that that
[20] building was going to need to be ADA-compliant
[21] before it was used for any use, and I believe
[22] that's how all of these improvements got
[23] started. I don't necessarily think we agreed to
[24] do these improvements based on this particular
[25] gentleman. I think Mr. Spangler asked.

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[1] **MAYOR JENKINS:** Right.
[2] **COUNCILMEMBER ALEXANDER:** It was going
[3] to have to be updated no matter what.
[4] **MAYOR JENKINS:** That's right.
[5] **COUNCILMEMBER ALEXANDER:** And so I
[6] guess that's --
[7] **MAYOR JENKINS:** Whether we use it or
[8] not, it's got to be --
[9] **COUNCILMEMBER ALEXANDER:** Correct.
[10] **MAYOR JENKINS:** -- brought up.
[11] **COUNCILMEMBER ALEXANDER:** Exactly,
[12] because it's not ADA-compliant.
[13] **COUNCILMEMBER FLEMING:** But not all of
[14] the items that are listed here; correct?
[15] **COUNCILMEMBER ALEXANDER:** That's
[16] correct.
[17] **COUNCILMEMBER BATES:** That's why I
[18] wanted to know what the estimated cost for doing
[19] this amount of work was going to be.
[20] **MAYOR JENKINS:** I should have that by
[21] next week. But we've even made a handicapped
[22] access from the front room to the back without
[23] going through the kitchen, so that's cost us a
[24] little bit.
[25] **COUNCILMEMBER ROCHE:** Yeah. If I

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[1] remember it correctly, that's how we left it at
[2] the November meeting. The next thing that was
[3] going to happen was we were going to get those
[4] costs.
[5] **MAYOR JENKINS:** Yeah. Like I say,
[6] we're not completed yet, so I think we need to
[7] have another discussion on it.
[8] **MR. BART:** Okay.
[9] **MAYOR JENKINS:** Maybe sometime we'll
[10] sit down with the whole Council and talk about
[11] it.
[12] **COUNCILMEMBER BATES:** Are you
[13] incorporated? Do you have a business license?
[14] **MR. BART:** Yes, I do. I have a Fed
[15] I.D. number, a State I.D. number, the whole
[16] works.
[17] **COUNCILMEMBER BATES:** And is it under
[18] Dog Days Hot Dogs --
[19] **MR. BART:** Yes, it is.
[20] **COUNCILMEMBER BATES:** -- with the
[21] Secretary of State?
[22] **MR. BART:** Uh-huh.
[23] **COUNCILMEMBER PITTMAN:** Did you say you
[24] had another one of these somewhere else or is
[25] this the first one?

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MR. BART: No. This will be the first one. And if it's successful, of course we're going to expand.

But it's something that from the information I've -- when I've talked to people on the outside and tell them what the plans are, I've had everybody say, "When are you opening? When are you opening? We can't get a good hot dog here," or "There's no place to go get coffee and a good Danish or a bagel close by." And I say, "Working with the City." The response has been very positive. There hasn't been any negatives at all.

COUNCILMEMBER ROCHE: Yeah, since Jay's Doughnuts closed down.

MAYOR JENKINS: That's right.

Well, let's get together again. As soon as we complete this, we'll get together with you again on this list, see what you need. I hope we can lease it to you, but, you know, we are out of space here, but we have to determine it. Okay?

MR. BART: Okay.

MAYOR JENKINS: Thank you. We've already had the report on the Citizens Group so

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we're going to move right on down to --

Donna, you're finished on that first part?

COUNCILMEMBER PITTMAN: Yes, sir.

MAYOR JENKINS: No. 4 will be brought up slightly after 7 o'clock.

No. 5, Planning Commission Ordinance.

COUNCILMEMBER ROCHE: Oh, yes. This is mine. At the January 5th meeting, we added a motion to put this on the agenda.

There's a lot of confusion as to what the Planning Commission actually reviews -- whether they review variances, whether they review text changes, map changes, et cetera, et cetera. Up until very recently, basically the Planning Commission's pretty much reviewed everything. And apparently there were some -- there were several ordinances passed in 2006. They were passed, they're signed, but apparently they hadn't been advertised. And because they weren't advertised, they apparently don't have force of law. I think they dealt with variances.

So anyway, a motion was made January 5th to add the agenda item of authorizing the

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City Attorney to investigate City Codes in anticipation of amending Section 2-40 to allow the Planning Commission to make nonbinding recommendations on variance requests, changes to zoning ordinances, and all that they were chosen to do when the Planning Commission had begun, and that motion did pass 4 to 2.

And we made a motion to actually do that, and that also passed 4 to 2.

Well, since then, I've received a draft copy of an ordinance which essentially expands the definition of 2-40, the idea being instead of trying to go back and identify all of the ordinances that were passed back in 2006 and that were signed, that, because they weren't advertised, they're not -- don't have force of law. Apparently, they were mishandled. Instead of trying to fix all of those, we would just modify Section 2-40 which is in the regular ordinance. And I won't read the whole thing, but basically what it said before was that they could review zoning proposals.

Now, depending on how you look at that, zoning proposals could be a very broad thing, I guess, and I guess the attorney will -- Attorney

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Weed will discuss that.

Basically, the whole point of the motion that was passed was to just change that part of the ordinance, and that's what we're trying to do here.

So the new text says a zoning proposal shall mean any application, request for rezoning, zoning ordinance text amendments, zoning map amendments, conditional uses and permits and special use permits. And again, that's what the motion was about.

There have been a few other things that have been added to this proposed ordinance that I didn't ask for. It was never put on the agenda. It was never brought up. It was never discussed here at the Council meeting. No motion was made. And I've made several requests to have that removed from this ordinance because, as far as I'm concerned, it's not germane to the original ordinance, and I still request that that happen.

The additional things have to do with the Planning Commission being required to attend certain training. The Planning Commission would report their recommendations to the City Planner

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[1] instead of City Council. And I think there was
[2] one other one here somewhere.
[3] **COUNCILMEMBER FLEMING:** 30 days.
[4] **COUNCILMEMBER ROCHE:** Was that added or
[5] was that --
[6] **COUNCILMEMBER FLEMING:** It's still in
[7] here.
[8] **COUNCILMEMBER ROCHE:** But I didn't know
[9] if the --
[10] After 30 days, if we don't get some
[11] kind of recommendation from the Planning
[12] Commission on a particular thing, when 30 days
[13] elapse, it's automatically considered to be
[14] approved by the Planning Commission.
[15] Now, those three items, I'm not saying
[16] they are good or bad. I'm not debating the
[17] merits of it. All I'm saying is they weren't
[18] brought up, and they would need to be handled as
[19] separate things, so.
[20] And that's what I asked to do. I asked
[21] to have those three other things taken out of
[22] this proposed ordinance for now. If someone
[23] wants to bring up -- make a motion to add
[24] something else to the agenda to discuss training
[25] or whatever, we can certainly do that. But I

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[1] ask that the proposed ordinance be modified to
[2] match the motion that was passed back on January
[3] 5th.
[4] Do I have to make a motion to do the
[5] same thing we did in another motion? because I'm
[6] not sure exactly how that works.
[7] **COUNCILMEMBER FLEMING:** Maybe you
[8] should make a motion for us to be able to
[9] discuss this planning ordinance or the Planning
[10] Commission ordinance that we have in front of
[11] us.
[12] **COUNCILMEMBER ALEXANDER:** I don't think
[13] there's a need for a motion to discuss it. It's
[14] already on the agenda. This is workshop.
[15] **ATTORNEY WEED:** You can discuss away.
[16] **COUNCILMEMBER ROCHE:** Well, again, my
[17] only plan here was to add the additional changes
[18] to allow the Planning Commission to be able to
[19] review these additional things.
[20] All this other stuff, again, I think
[21] they confuse the issue. I think that they were
[22] added. No one's brought this up. Like I said,
[23] unless someone wants to make a separate motion
[24] and that separate motion passes for the training
[25] and for the other stuff, then I don't think it

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[1] belongs in the proposed ordinance at this point.
[2] **COUNCILMEMBER BATES:** Well, and as I
[3] shared with the Council, we retain a city
[4] attorney and a city planner to provide us with
[5] their recommendations and expertise based upon
[6] their experience, their knowledge, their
[7] education and their training to provide us with
[8] the most practical, plausible and legal
[9] ordinances without regard to literal motions
[10] that have been made.
[11] I respect and would like to encourage
[12] us to maintain relying upon our staff and
[13] vendors to provide us with recommendations based
[14] upon their history, and experience and knowledge
[15] to make sure that we're doing what's in the best
[16] interest of the City.
[17] To do a literal interpretation of
[18] motions I think can in some instances hamstring
[19] the professionalism and the input from our staff
[20] and to some extent prevent or preclude them from
[21] feeling in power to make recommendations.
[22] **COUNCILMEMBER ROCHE:** Well, we're kind
[23] of here because we're taking a literal look at
[24] the laws, because literally, like I said, the
[25] letter of the law said that the Planning

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[1] Commission, even though they've been doing it
[2] for all this time, cannot review variances.
[3] **COUNCILMEMBER BATES:** Well, there's --
[4] **COUNCILMEMBER ROCHE:** So we're taking a
[5] literal interpretation of the law, but you say
[6] it's not that --
[7] The whole issue here is, first of all,
[8] I'd like to ask the City Attorney a question.
[9] Where did these other changes come
[10] from? Did they just materialize, I mean?
[11] **ATTORNEY WEED:** No, sir.
[12] **COUNCILMEMBER ROCHE:** Did another
[13] Councilperson ask to have these put on or what?
[14] **ATTORNEY WEED:** No, sir.
[15] When you refer to the ordinance, I am
[16] the principal author of the entirety of the
[17] ordinance. I have discussed the entirety of the
[18] ordinance with the Planner, Scott Haeberlin. He
[19] concurs with the language that's in the
[20] ordinance version that you have. The last
[21] version was sent out January 29th of 2009.
[22] I haven't received recommendations from
[23] any Council member other than communications
[24] from you. I had communications I believe from
[25] Mr. Bates to you, but I don't think Mr. Bates

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[1] communicated directly to me about items in the
[2] ordinance at all.
[3] What I have done is try to exercise my
[4] best professional judgment to arrive at what I
[5] believe is a legal ordinance. If the Council
[6] doesn't like any part of it, within the context
[7] of the law, you may remove it, modify it, change
[8] it at will. And I will defend whatever you do.
[9] That's my job.
[10] **COUNCILMEMBER SPANGLER:** Well, my
[11] question to you, Mr. Weed, is with all this
[12] information you put in these ordinances, does
[13] that cost the City more money?
[14] **ATTORNEY WEED:** No, sir. And in fact,
[15] I would call it a bargain. You're getting the
[16] advantage of my 18 years of experience and my
[17] best judgment, and hopefully I'm preventing
[18] errors and mistakes from happening now that
[19] you'll pay more for in litigation later.
[20] **COUNCILMEMBER SPANGLER:** Okay. But
[21] what I'm saying is, and what I asked you was,
[22] the more you put into an ordinance, the more
[23] physical dollars it costs us for that ordinance.
[24] **ATTORNEY WEED:** No, sir.
[25] **COUNCILMEMBER SPANGLER:** So it doesn't

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[1] take anymore time for you to add something that
[2] we did not have any knowledge or feedback to
[3] you.
[4] **ATTORNEY WEED:** Mr. Spangler, if you're
[5] asking me if I should have taken a seven-word
[6] motion and created an entire ordinance based
[7] upon seven words, I think that the City would be
[8] cheating itself to do that, and that would
[9] defeat the purpose of having a city attorney or
[10] anyone else write the ordinance.
[11] It is my honest, best opinion that
[12] actually drafting the ordinance using the best
[13] skill that I can employ saves the City money in
[14] the long run.
[15] **COUNCILMEMBER SPANGLER:** But it still
[16] costs the City more money when you -- when you
[17] draw up an ordinance and it takes 26 pages.
[18] Okay? You charge by the hour; correct?
[19] **ATTORNEY WEED:** That is correct.
[20] **COUNCILMEMBER SPANGLER:** Okay. So if
[21] we could have made that same ordinance and been
[22] just as effective in 13 pages, it would have
[23] been half the cost.
[24] **ATTORNEY WEED:** You know, Mr. Spangler,
[25] it all depends on if you think you could have

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[1] gotten a better ordinance of 13 pages. And if
[2] you think you could get a better ordinance of 13
[3] pages, maybe you need to hire a different city
[4] attorney.
[5] **COUNCILMEMBER SPANGLER:** Well, my
[6] question -- or I guess this kind of leads into
[7] the next thing.
[8] **A** few meetings ago, and it's been at
[9] least two meetings -- it's on record -- I have
[10] asked for all information to be sent to me
[11] through a particular email address, and I'm not
[12] receiving that through that email address.
[13] Okay? So when I don't reply back, it's because
[14] I don't have the information to reply back to
[15] you. Okay?
[16] **ATTORNEY WEED:** Mr. Spangler, in my
[17] office, we've done everything within our power
[18] to use the correct email address every time. If
[19] that's still not happening, perhaps we need to
[20] come up with some other alternative method of
[21] communication.
[22] **COUNCILMEMBER SPANGLER:** Well --
[23] **ATTORNEY WEED:** I will be glad to have
[24] the documents delivered to your home and I will
[25] do that at my cost if that would be helpful.

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[1] **COUNCILMEMBER SPANGLER:** No, sir. I
[2] didn't ask you for any favors. I'm just saying
[3] that this is at least the third time that I've
[4] requested my BellSouth email.
[5] Now, if you want to be on the safe
[6] side, if you can't deliver it to that, just make
[7] sure I get a copy in my box. When everybody
[8] else gets their email, whatever time, make sure
[9] there's one in my box here at City Hall --
[10] **ATTORNEY WEED:** And we send --
[11] **COUNCILMEMBER SPANGLER:** -- because I
[12] would like to review the same information
[13] everybody else has.
[14] **ATTORNEY WEED:** We send all the
[15] documents to the City Clerk at City Hall, and
[16] she has an expectation -- and she can speak for
[17] herself -- that, you know, she gets it and so
[18] it's here.
[19] If I send an email to Council, I send
[20] it to City Hall virtually every time, unless
[21] it's about Rhonda, which I don't think that's
[22] happened except for one or two occasions. But I
[23] have no problem there.
[24] **COUNCILMEMBER ROCHE:** Mayor, I think
[25] what Councilman Spangler was getting at and what

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I've been trying to get at is essentially all the motion has asked for was to make a change to one section of this ordinance, 2-40. That's all it did. All it did was just say expand the definition, I guess, of a zoning -- zoning proposal. That's all. We didn't talk about training. We didn't talk about what happens after 30 days. You know, we didn't talk about all these other things.

If the City Planner had thought it was a good idea for all the people on the Planning Commission to be required to take training, then I would hope the City Planner would bring it up to either the Mayor or to a City Councilperson, and we would put it on the agenda, and the City Council would discuss it and then either make a motion or not make a motion. If the City Planner wanted us to do, you know, any of these other things, it's certainly well within their right to make recommendations to City Council members so we can bring it up and discuss it in public on the record.

I mean if I hadn't looked at this ordinance, if I had just looked at the first part of the ordinance and thought, "Okay.

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There's our change based on the motion that we made and was passed," and didn't look at the rest of it, who knows what else could be in there?

What this means now is that we've got to go over every single ordinance that's presented to us with a fine-tooth comb and make sure that whatever we voted for is in there and what we didn't vote for is not in there. And I have a problem with that.

ATTORNEY WEED: Councilman, I'm not here to debate you. I work for you.

COUNCILMEMBER ROCHE: Well, I wish you would just do what we ask you to do.

ATTORNEY WEED: Yeah. And I believe that I have, sir. I understand --

COUNCILMEMBER ROCHE: Well --

ATTORNEY WEED: -- that you don't agree with that.

COUNCILMEMBER ROCHE: -- that went beyond the scope of it. And there were several emails all day long, back and forth. All that costs money, too, you know.

COUNCILMEMBER SPANGLER: And what we're looking at, we had $150,000 in the budget for

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City Attorney. We've already blown that out of proportion.

ATTORNEY WEED: Councilman, I have to tell you that I believe every dime you've spent on my office has been a dime wisely spent.

COUNCILMEMBER SPANGLER: Well, it may have been, Mr. Weed. But you know, as to what Mr. Roche is saying, we're getting a lot more than what we ask for whether we need it or not or whether we approve it or not. Okay?

ATTORNEY WEED: Councilman, I --

MAYOR JENKINS: We're getting off track. Let's get back to what you have on the agenda.

COUNCILMEMBER ROCHE: Okay. What I have on the agenda, and I'll stick with it, is the motion that was made on January 5th. Therefore, the first paragraph under Chapter 23 Zoning, this first section (a), Definitions 1. "Zoning proposal shall mean any application or request for rezoning," et cetera, et cetera, that's the only change I've requested, that's the only change the City Council had voted for, and that's the only change I want in this proposed ordinance.

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If any other Councilperson wants to bring up any other stuff to change in the ordinance, that's their right just like I brought this up.

MAYOR JENKINS: Does any other Councilman have any changes to make on it?

COUNCILMEMBER ALEXANDER: And how did your motion read again? because I thought it said something like "and whatever else."

COUNCILMEMBER ROCHE: Okay. It said whatever else --

COUNCILMEMBER ALEXANDER: Okay.

COUNCILMEMBER ROCHE: "A motion was made by Councilmember Roche to add the agenda item . . . "

I'll go to the next one.

"A motion was made by Councilmember Roche to authorize the City Attorney to begin the process of amending City Ordinances to include allowing the Planning Commission to make nonbinding recommendations on variances, zoning ordinances, whatever they do not review at this time. The motion was seconded by Councilmember Spangler.

COUNCILMEMBER ALEXANDER: What's the --

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COUNCILMEMBER ROCHE: "The motion was passed by --

COUNCILMEMBER ALEXANDER: -- definition of that?

COUNCILMEMBER ROCHE: -- "a 4-2 vote, with dissenting votes from Councilmember Alexander and Councilmember Bates."

COUNCILMEMBER ALEXANDER: What's the definition of that: whatever else they don't review at this time?

COUNCILMEMBER ROCHE: That's what we discussed. That's what was changed: zoning ordinance text amendments, zoning map amendments, conditional uses and permits and special use permits.

COUNCILMEMBER BATES: Which is not what was authorized in 6-22. 6-22 only authorized the Planning Commission to review variances. It did not talk about text amendments, did not talk about administrative variances. In fact, administrative variances were specifically excluded under 6-22.

COUNCILMEMBER ROCHE: But that's not what the motion says. The motion doesn't even reference 6-22. The motion references exactly

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what is in Definitions, paragraph 1, period.

MAYOR JENKINS: I will get to the sign-up sheet in a few minutes. Do you want on it, Ms. Sherlock?

COUNCILMEMBER ROCHE: So what's the point? I mean that's what the motion says.

Like I said, if you want to add something else, make a motion. We can debate it and the motion can pass or fail. But adding all this other -- sneaking all this other stuff into this ordinance is just --

MAYOR JENKINS: I don't understand --

COUNCILMEMBER ROCHE: It's bad government.

ATTORNEY WEED: Councilman, listen. I work for you, but I have to tell you that I resent the use of the term "sneaking."

Obviously, it's hard to sneak something that comes before a public meeting at a public workshop that's been sent, dozens of copies, to the Planning Commission and everyone else.

COUNCILMEMBER SPANGLER: Yeah, but what else --

ATTORNEY WEED: Within the con- --

COUNCILMEMBER ROCHE: I'll take back

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the word --

- - -

(Overspeaking)

- - -

ATTORNEY WEED: Within the confines of the law, I'll write anything you want me to write.

COUNCILMEMBER ROCHE: Okay. That's all I asked for.

COUNCILMEMBER SPANGLER: Mr. Weed --

COUNCILMEMBER ROCHE: So paragraph 1 --

COUNCILMEMBER SPANGLER: -- you said you sent it to everybody. I'm not getting it.

COUNCILMEMBER ALEXANDER: Well, I have a problem with --

ATTORNEY WEED: Well, Mr. Spangler --

COUNCILMEMBER ALEXANDER: -- their email too.

ATTORNEY WEED: -- I cannot answer that.

COUNCILMEMBER ALEXANDER: I had to give -- talk to Rhonda about that.

COUNCILMEMBER SPANGLER: You've had trouble sending something to me on my BellSouth?

COUNCILMEMBER ALEXANDER: I've had

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trouble getting through with email with Mr. Spangler also.

COUNCILMEMBER SPANGLER: Well, I suggest from now on, anybody that has a problem getting a hold of me at my BellSouth email address, and I don't think Ms. Fleming or Ms. Pittman or Mr. Roche ever has had a problem or Ms. Blackmon. But I have a mailbox here at City Hall, so that same email can be shot into my mail box and I can pick it up here. I mean nobody else -- the only three people that I have heard from that they can't get in touch with me at that email would be you, Mr. Weed, you, Ms. Alexander, and you, Mr. Bates.

COUNCILMEMBER ALEXANDER: And Mr. Haeberlin.

COUNCILMEMBER SPANGLER: Well, Mr. Haeberlin didn't even have the right address. Okay? I think Mr. Roche had given it to Mr. Haeberlin, and he still hasn't sent it to me. And so I asked Mr. Haeberlin to please try again to send it to me and also give me a copy in my box to be on the safe side to where I can get this information, and I think I also made a comment to Ms. Blackmon or a request to make

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sure that happened.
CLERK BLACKMON: Uh-huh, and I did go over it with Scott.
ATTORNEY WEED: Mr. Spangler, can we just have an understanding that since I already copy City Hall on everything, that Rhonda, make sure that you put a copy of everything we have into Mr. Spangler's box?
CLERK BLACKMON: Yes.
COUNCILMEMBER SPANGLER: Well, another thing is, you know, this information, we're supposed to receive it in time to review it before a meeting. Okay. Well, some of this information, I just got today.
COUNCILMEMBER ALEXANDER: Rhonda put it in Saturday night.
CLERK BLACKMON: Saturday night.
COUNCILMEMBER SPANGLER: I work on Saturdays. You know, I don't come over here every Saturday. So even if I'd come over Sunday, which I didn't because I was sick this week and I had something else that I was doing, that's still not a lot of time.
I mean if I'd have got it on Thursday afternoon or Friday, I would have had more time

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to review it.
CLERK BLACKMON: The packets are normally done on Friday.
ATTORNEY WEED: The good news, Mr. Spangler, is that nothing can really be done about this ordinance, voting it up or voting it down, until the 23rd, anyway, so hopefully that will give you plenty of time between now and the 23rd to make whatever changes you need to make.
MAYOR JENKINS: This won't be voted on tonight?
COUNCILMEMBER ALEXANDER: No.
ATTORNEY WEED: No, sir.
COUNCILMEMBER FLEMING: No.
CLERK BLACKMON: It's stated as a workshop only. It was not meant to vote on tonight.
MAYOR JENKINS: Well, do we need to go into all the discussion?
ATTORNEY WEED: No, sir. I think that it's a workshop for this purpose. I'm delighted to hear these comments.
MAYOR JENKINS: Okay. Do you need to bring up this No. 4 item or can you do it?
ATTORNEY WEED: We can move on to 4

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real quick and then we'll come back to --
MAYOR JENKINS: That's what I was saying. Let's go ahead. Being as it's a 7 o'clock schedule, you go ahead, Murray.
ATTORNEY WEED: Well, Mr. Mayor, I was going to advise you, Item No. 4, Mr. Mayor and members of the Council, is an actual hearing with regard to certain tracts underneath the Zoning Procedures Act that are being considered.
What I would advise you to do is open up that hearing and then recess it to a date certain, that date being February the 23rd at 6:00 p.m.
MAYOR JENKINS: Okay. I'm going to open up the hearing on Item No. 4 and ask for a motion to postpone it or --
ATTORNEY WEED: Just recess it until --
MAYOR JENKINS: -- reset it on the 23rd.
COUNCILMEMBER BATES: So moved.
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Call the roll, please.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.

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CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Here. Yes. I'm sorry.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: Thank you. Thank you.
Okay. We'll open up the discussion on this, on Item No. 5, and the first one I have is Stuart Anderson.
- - -
(Brief recess)
- - -
MAYOR JENKINS: Come on up to the microphone.
MS. SHERLOCK: Hi. My name's Cat Sherlock. I'd like to speak to the question before y'all about the changes in the Planning Commission reporting to staff, having not

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[1] advertised, and needing education.
[2] I was on the Planning Commission when
[3] it was first enabled, and the original
[4] legislation recommendation was that we only gave
[5] recommendations, that we are not decisionmakers
[6] and therefore there's no need to advertise.
[7] That's written in the original mandate that
[8] y'all gave us. And so from my viewpoint, this
[9] is a moot point. Legal entities need to
[10] advertise before decisionmaking, and we were
[11] strongly encouraged not to think that we were
[12] the decisionmakers, that our job was to make
[13] recommendations and basically do research for
[14] the Council and for the Mayor so that y'all
[15] could make educated decisions.
[16] From my viewpoint, it's redundant for
[17] the Planning Commission to report to staff,
[18] Planning Commission [sic] staff, since hopefully
[19] one of the benefits of a citizen planning
[20] commission is to explore and look at this from
[21] viewpoints of the residents, to get feedback
[22] from the residents about their views on issues
[23] that are being decided by the City Council --
[24] which I have to tell you, sometimes planning
[25] staff's not wild about doing -- and to look at

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[1] it from perspectives that are not always city-
[2] wide from a development position.
[3] The last City Council meeting I was at,
[4] it seemed to me that it was pretty clear that
[5] there had been some decisions made about our
[6] development that didn't -- that ignored or
[7] scorned citizen input after we had spent two
[8] years on that citizen input. And my concern is
[9] if you have the Planning Commission
[10] reauthorized, remandated and whatever, you're
[11] just, I'm sorry, but wasting time on something
[12] that you've already done. We were not
[13] decisionmakers, we didn't need to advertise,
[14] and, indeed, we did advertise but we didn't need
[15] to for any meeting -- any meeting at all -- and
[16] all of our meetings were open to the public,
[17] because we made recommendations, we did not make
[18] decisions.
[19] We did go and get education. As a
[20] matter of fact, we dragged some City
[21] Councilpeople with us in that free education.
[22] And we made every effort we could to help the
[23] City Council know what our sources were, what
[24] our background was, and what our efforts were to
[25] educate ourselves.

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[1] At that time, we did not have a staff
[2] member. We had a contract company who may have
[3] had divided allegiances. That's the nicest way
[4] I can think of to put that.
[5] So thank you for allowing me to give
[6] y'all my view.
[7] **COUNCILMEMBER FLEMING:** Thank you.
[8] **COUNCILMEMBER PITTMAN:** Thank you.
[9] **MAYOR JENKINS:** Stuart?
[10] **MR. ANDERSON:** I apologize, Cat. Under
[11] 50-14-1, the Planning Commission is an
[12] authorized agent and it is supposed to have
[13] meetings or it is supposed to publish its
[14] meetings.
[15] First off, Bob, what documents were you
[16] referring to that weren't advertised? The 06-06
[17] that formed the Planning Commission and 06-22
[18] that gave it variance or some other documents?
[19] **COUNCILMEMBER ROCHE:** There was a list
[20] of them. I think the City Attorney gave it to
[21] us.
[22] **MR. ANDERSON:** But there's some
[23] variance passed, then. It's not those two that
[24] I mentioned?
[25] The reason I ask that -- the reason I

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[1] ask that, and you can look that up if you would,
[2] is that 06-06 was passed early in '06, and
[3] 06-22 giving the Planning Commission variance
[4] review was passed in I believe August of '06.
[5] If somehow you decide that the Planning
[6] Commission was not legal to begin with, all the
[7] variances and all the zoning hearings and things
[8] that we've had since then have been illegal.
[9] And I reiterate that the Planning
[10] Commission is an authorized agent under 50-14-1.
[11] Subsequently, it was supposed to have -- and
[12] there was a bunch of things going on about
[13] minutes and whatnot -- it was supposed to have
[14] its minutes taken and it was supposed to have
[15] legal counsel so that being an authorized agent
[16] under 50-14-1 through -5, it could have
[17] executive sessions legally. So the City has
[18] been out of register in that as well.
[19] As far as 06-06 forming the Planning
[20] Commission, it didn't need to be advertised. It
[21] wasn't a change in the zoning book. 16-01 of
[22] the zoning book says that if you're going to
[23] change this zoning book, you have to advertise
[24] something for variance and zoning changes,
[25] rezoning, et cetera.

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But forming the Planning Commission, just like the forming of the City Council, is an authorized agent. You guys are the governing body. The Planning Commission and the Ethics Committee are authorized agents by you under 50-14-1 just as you are.

The zoning book -- if you change the variances requirements or the zoning requirements, those changes go into the zoning book for the City of Doraville. They don't go into the mandate for the Planning Commission. They don't go to the mandate for the City Council. The City Council and the Planning Commission refer to the zoning book when they make their decision.

When the Planning Commission decides to make a recommendation, it has a public hearing, which it's supposed to have. It will have -- just as we do here, it will hear from the applicants and the pros and the cons, et cetera, et cetera. Then it gives its recommendation to you.

You look in that same book. The things that Murray is putting in this -- I guess I haven't seen them, so I don't know, but I've

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heard some of it here -- these things are not part of the formulation of the Planning Commission. The Planning Commission is an entity. It's an entity that you create under 50-14-1. They're standalone groups and they take their instruction. As you change the zoning book, then that instruction goes to -- from the book to you. You look at that for that. It's not -- you can't group these things together.

MAYOR JENKINS: Okay, Stuart. Thank you.

I have a bunch to say about variance and some other items as well.

MAYOR JENKINS: Susan Crawford?

MS. CRAWFORD: Yes?

MS. FRAYSSE: Is it Susan F.? Susan Fraysse?

MAYOR JENKINS: It says Crawford, to me.

MS. CRAWFORD: I'm sorry. Ben --

MAYOR JENKINS: Susan Fraysse is on here also.

MS. CRAWFORD: Let me think of something.

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MAYOR JENKINS: You signed up too.

MS. CRAWFORD: Ben signed me up and left.

MAYOR JENKINS: Go ahead, Susan.

MS. FRAYSSE: My understanding of 06-06 is the understanding that is in 2-40. That is what we agreed in January would be the Planning Commission's duties. It does not include variances. That's why the attorney didn't find variances in there.

We went through later in the year. There was a lot of effort. Tom Hart was big about expanding the role of the Planning Commission. People here tonight have said, you know, they've been doing everything.

They have not been doing everything. They had a limited role, and they were really stifled and it was difficult for the first couple of years to get their work and to do things.

But one distinction people need to understand, this is not a loophole. 06-06 is entirely in 2-40. It's there. That's what the Planning Commission was charged to do, and that was with zonings.

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And 06-22 was illegal because -- and this is why you need a good, alert attorney: to stop you from doing things that won't hold up over time. It was illegal because in the minutes, when you look at those minutes, it says that this was an amendment of the zoning ordinance. You cannot -- the City Council cannot amend the zoning ordinance at a meeting by passing a resolution. It has to follow State law on zoning.

So I think that is my understanding of the confusion, and I hope the attorney will, you know, clarify more about that.

I have several comments. One, I'm interested to hear the expanded ordinance for the Planning Commission. I would love to see it posted, the draft posted on the Web site so that we can all look at it and see what has been added. I don't see anything wrong with including some training, reporting to the Planner, having 30 days to approve if there's no action taken, because we talked about this. This could create more logjams. If everything has to go through the Planning Commission and we're expanding it to be everything that's not

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[1] already there, you know, it could be quite a
[2] logjam.
[3] I'm very interested in knowing what
[4] Scott thinks. He's a professional, he's
[5] trained, he has experience. I assume that his
[6] work was incorporated in with the work with the
[7] attorney, and that would have a lot of sway with
[8] me.
[9] I would want to know why we would want
[10] to include variances. Most other cities don't.
[11] We've had that explained. There's not any good
[12] reason to, that I have heard. If you want to
[13] create a separate board, as Bonita said at the
[14] last meeting, you know, that might be something.
[15] But maybe we should work with what we
[16] have and work with the professional staff that
[17] we've already got on board.
[18] And I want to correct. It is not true
[19] that up until recently. That's a myth. That's
[20] the kind of thing that happens in Doraville. If
[21] you repeat it three or four times, people
[22] believe it. It has been very muddy, it's been
[23] very unclear.
[24] But let's start out simple and clear
[25] and clean-cut and have a record of success.

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[1] Especially if we're going to be rotating some
[2] people off the Planning Commission, we don't
[3] want to load on a lot of extra duties now at
[4] this point.
[5] So I support the ordinance as I've
[6] heard it discussed tonight and I'd like a chance
[7] to see it on the Web site before the next
[8] Council vote.
[9] **MS. CRAWFORD:** Susan Crawford.
[10] I beg to differ. I believe they were
[11] handling variances -- or not handling, but the
[12] whole idea of the Planning Commission was just
[13] to be a sort of screening process to assist you,
[14] and it was --
[15] Actually, I'm the one who wrote the
[16] petition that had 700 signatures, and, at the
[17] time, we did not have a city planner so things
[18] were quite different. And it was actually
[19] supposed to go two ways: It was supposed to be
[20] assisting you and it was also supposed to be
[21] segueing to you from the community, and that
[22] part was unfortunately cast aside.
[23] But I would like to say that they have
[24] been handling quite a few things that you
[25] dispensed them to do. And they were not just

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[1] zoning. They were variances too.
[2] Maybe I'm reading this wrong, but right
[3] here under the 2-40 it says, Planning Commission
[4] shall with respect to each zoning proposal
[5] investigate and make a recommendation with
[6] respect to each of the matters enumerated in
[7] this section as well as carry out any other
[8] duties with which the Planning Commission is
[9] charged by the City Council.
[10] Would not this be the variances that
[11] you charged them to look at? Seems to me that
[12] would be inclusive.
[13] **MAYOR JENKINS:** Did Ben leave? Ben
[14] Crawford?
[15] **MS. CRAWFORD:** He's gone.
[16] **MAYOR JENKINS:** Okay. Bonita?
[17] **MS. HOFFMEISTER:** Bonita Hoffmeister,
[18] Oakcliff.
[19] Honorable Mayor and City Councillors, I
[20] really am confused. I am hoping you are fixing
[21] the ordinances so that we do have our Planning
[22] Commission. And yes, I do remember when Mr. Tom
[23] Hart did make the motion that the Planning
[24] Commission do variances and do review of
[25] ordinances.

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[1] I think review of ordinances is very
[2] appropriate. I, as stated in the last meeting,
[3] would like to see a variance committee same as
[4] what we have for the zoning, rezoning petitions,
[5] simply because history has proven that we do
[6] have things stated during the reviews that can
[7] be legally damaging to us, and, therefore, the
[8] variance should be reviewed separately.
[9] I think Scott -- what is his last name?
[10] **COUNCILMEMBER FLEMING:** Haeberlin.
[11] **MS. HOFFMEISTER:** -- Haeberlin made
[12] some excellent recommendations to the City
[13] Council at the last meeting. I would hope that
[14] you would go forward.
[15] I'm not a lawyer, so I really don't
[16] understand what all the arguments are here, but
[17] I would like to make one comment on the
[18] education. It is not always easy for a
[19] volunteer citizen to go get the education. I
[20] know Dekalb, when I'm on their board, have
[21] various discussions about it. You should
[22] probably allow a year to 18 months because it is
[23] difficult for the individual to quit their job
[24] -- you know, take a leave of absence from their
[25] job and go to training or pick up free education

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or pay for it. And if you put a restraint like six months, you should then be willing to pay for the education because free education is not always that available. Thank you.

I cede my time to Stuart Anderson.

MAYOR JENKINS: Thank you.

COUNCILMEMBER FLEMING: She left the rest of her time to Stuart.

MAYOR JENKINS: Now, wait just a minute, Stuart. I always give you your time, sir.

COUNCILMEMBER FLEMING: Bonita said that she was giving the balance of her time.

MAYOR JENKINS: Okay.

MR. ANDERSON: I don't know what else to say that I didn't say before. 06-06, which is 2-40 -- which became 2-40; 2-40 was modified by the existence of 06-06 -- both gives the Planning Commission the duty of rezoning -- looking at rezonings and zoning discussions, and it gave the Planning Commission anything else that the City Council wanted to give it, which was the zoning rewrite by The Pond Company, primarily, and a couple other concerns that you've had for us. I speak as if I'm still on

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it. I'm not still on it.

In like I say, August or so of '06, 06-22 was passed, voted on. It didn't need to be -- didn't need to be advertised, and it gave variance, and we've done variances since then.

And like I say, any decision that this has been an illegal group puts the City at distinct legal disadvantage because everything that's been done would be illegal at that point.

MAYOR JENKINS: Pam?

COUNCILMEMBER FLEMING: I wanted to discuss just briefly the Planning Commission but I needed to ask Mr. Weed a couple of questions in regards to land use variances.

How many public hearings are required?

ATTORNEY WEED: With regard to zoning or with regard to the variances?

COUNCILMEMBER FLEMING: Land use variances.

ATTORNEY WEED: Okay. In the context of -- there are cases indicating that variances might not have to have zoning advertisements under the Zoning Procedures Act at all. However, in your Code currently your variance section is squarely within your zoning code. It

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isn't in a separate section at all. It is part and parcel of zoning. Therefore, at a minimum, it depends upon the wording of your actual code.

In this case, under the Zoning Procedures Act, the only required advertisement would be one advertisement issued no less than 15 or more than 45 days before the actual hearing. You have to have a public hearing. You have a public hearing and the Council would vote on the variance and vote it up or down.

COUNCILMEMBER FLEMING: At that specific meeting?

ATTORNEY WEED: Yes, ma'am.

Or you could, once again as you've done tonight, recess it to another date specific. Let's assume, for example, that you weren't able to come to a conclusion that night. You need to either recess the meeting to some other date. That would be possible, too.

COUNCILMEMBER FLEMING: Okay. My second question in regards to that or that goes along with that is can you tell me or explain to me when we have or should have or it is required to have first and second readings?

ATTORNEY WEED: Yes, I can.

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Your Charter requires first and second readings. That can be done instantaneously depending upon whether or not you want to waive the first reading. And ordinarily, our ordinances never appear simply on one meeting agenda. They usually appear on two or three agendas. That's perfectly acceptable that those constitute first readings.

So the only additional layer of bureaucracy so to speak in the zoning world is the application of the Zoning Procedures Act. So the second reading -- arguably, you could do first and second reading before you ever had the actual hearing where you adopted the ordinance. You could do that. But at a minimum, you want to -- you have to have some public hearing under the Zoning Procedures Act.

COUNCILMEMBER FLEMING: So for variances -- not necessarily rezonings but land use variances -- based on our Code, we should have a public hearing based on our Code presently? Is that correct?

ATTORNEY WEED: That is my opinion, yes.

COUNCILMEMBER FLEMING: And therefore,

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it would need a first and second reading; is that correct?

ATTORNEY WEED: At some point, yes.

COUNCILMEMBER FLEMING: Okay. Thank you very much for giving me the information I needed on that.

I am very much in favor of the Planning Commission in that I need to be able to rely on them for a citizen opinion. I have all confidence in Scott Haeberlin. He is an outstanding employee, he's a wonderful city planner, and I value all of his opinion, but I want to be able to hear from the Planning Commission.

I want to say that and then refer back to the December 15th meeting on a land use variance for 3604 Walton Avenue where the Planning Commission did not hear this or it did not come before them prior to that proposal coming to us.

I want to apologize to Mayor, Council and all the residents. So many red flags went up that night for me, but yet I voted yes, so I'm apologizing to all of you now: that I should have never voted yes.

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The first -- the very first red flag was the fact that we did not get the information until that evening, handed to us when the proposal came up to us.

Secondly, on page 148 of this particular minutes, I made the comment to the gentleman, so you're requesting a variance to -- and he inserted, subdivide the lot. And I said, to subdivide the lot for a 10-year plan down the road? Red flag number two: 10-year plan down the road.

Red flag number three was Mr. Bates brought up the fact that -- asked Mr. Weed, are there sunset provisions on the variances that are passed, based upon do they expire after a certain period of time . . .

No, they don't. That lot can remain without construction on it for the lifetime of this earth, for that matter. That's like I said, red flag number three.

And then of course Ms. Crawford made the comment or asked the question, so does that mean that I can subdivide my lot? And the answer was no, not necessarily.

Then after all of this, Mr. Weed says

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on page 157 -- Ms. Crawford asked him, what makes this place different than for mine if I have the same size lot?

And Mr. Weed said, Section 14-02. In each case, the Council applies 1 through 7 of the subsections of 14-02, which are the standards, and every case stands on its own. Each case is fact-specific, and each case, I'll instruct the Council that they've got to find on each count of 1 through 7.

I stand to be guilty of voting on this variance because of an illness of the father, because he needed to go ahead and do the design for the area.

And so again, I will never again say yes to something with so many red flags and I will never again say yes to waiving the first reading without reading every single word in any ordinance that we have or any resolution. And again, I apologize. Thank you.

COUNCILMEMBER SPANGLER: I just want to say I agree a hundred percent with Ms. Fleming. I think that there should be a policy or a resolution, whatever we need, to stop having to vote on an ordinance or any other issue that

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comes before us within a few minutes or a few hours of a meeting.

MAYOR JENKINS: I'll add a little bit to that. That's the reason we had work sessions and --

COUNCILMEMBER SPANGLER: It wouldn't have made any difference --

MAYOR JENKINS: Yes, it would have.

COUNCILMEMBER SPANGLER: -- if we had a work session. I still would like to have the opportunity to actually -- if an ordinance is redone and there are any changes made and it's a 13- or 14- or 26-page ordinance, you can't tell me that you've got enough time to sit here and read through that to make sure the changes are correct or there wasn't something else added into it. Now, that's my opinion.

COUNCILMEMBER ROCHE: Well, I guess to bring it back to where we are on the agenda, I mean I understand what both of you guys are saying, and I felt the same way. That's why I made such a point of bringing this up at the very next meeting that we could and getting this on the agenda so we could make it very clear what the Planning Commission did and didn't do,

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because there was --

I mean I, too, found out a lot of information afterwards, that if I had known at the time, I don't know that I would change my mind, but, you know, I think I should have had that information. I believe that if it had gone through a review of the Planning Commission, then we would have had that information.

So again, here we are back again. The only change I can see we should make as a result of that motion would be to perhaps, since we're using a very strict interpretation of this ordinance now, zoning proposal, there's a definition that says zoning proposal shall mean any application or request for rezoning of land by the City or any other party, zoning ordinance text amendments, zoning map amendments, conditional uses and permits and special use permits.

I think we should add this paragraph to the current, and any other changes should have to be brought up, put on the agenda and dealt with just like everything else, and that's what I ask us to do.

I don't know if we need to make a

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motion to do what we said we were going to do in the original motion, but that's all I -- that's all we ever needed. We just need that one paragraph to define this and then we're done as far as I'm concerned.

COUNCILMEMBER BATES: I'm sorry. Your original motion on the 5th, did that include definitions?

COUNCILMEMBER ROCHE: No. It just said -- I'll read it again. A motion was made by Councilmember Roche to authorize the City ... to begin the process of amending City Ordinances to include allowing the Planning Commission to make nonbinding recommendations on variances, zoning ordinances, whatever they do not review at this time.

And we had a discussion on the phone that was Attorney Weed and the City Planner, and they said these are the four things, I think, or five things that it could be, and they listed all five and they said that's it exactly. We add that and then we're done.

All the other changes, if you want all the other changes, fine. You know, we can bring that up, too. But again, let's stick with what

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this motion was. It was duly passed. And then we'll save all the other stuff for, you know, another time, or if you want to add -- like I said before, if you want to discuss this stuff, I will even support a motion to add this other stuff to the agenda and discuss it tonight.

COUNCILMEMBER ALEXANDER: Well, I think all of this stuff is covered under Agenda Item No. 5, Planning Commission Ordinance. It's all in the body of the ordinance.

COUNCILMEMBER ROCHE: Well, I disagree because --

COUNCILMEMBER ALEXANDER: Okay.

COUNCILMEMBER ROCHE: -- this is what the ordinance was for, and this is the only change that was requested of the Planning Commission ordinance.

COUNCILMEMBER BATES: Well, I --

COUNCILMEMBER ALEXANDER: If I may continue, please.

And maybe perhaps Mr. O'Connor and Mr. Ambrose can answer this question. In reading the terms of your -- your appointments on the board, I know that there's some dates in here.

Can you explain to me -- I assume your

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terms are staggered. Can you explain to me how that works?

MAYOR JENKINS: Joe?

MR. O'CONNOR: Joe O'Connor.

MAYOR JENKINS: Come on up.

MR. O'CONNOR: Just as the City Council meets the first Monday, thereafter, we meet the first Thursday of the month following the first Monday. In other words, we want the City Council to have a meeting, and if they have something to refer to us, that we would be getting it within three days on the following Thursday.

COUNCILMEMBER ALEXANDER: Okay. Now, your terms are for two years at a time or for four years?

MR. O'CONNOR: Four years.

COUNCILMEMBER SPANGLER: It's four years at a time.

COUNCILMEMBER ALEXANDER: Four years?

MR. O'CONNOR: Two of them -- yeah, now they're in for four years.

MR. AMBROSE: Two to four years staggered. Two consecutive four years staggered.

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COUNCILMEMBER SPANGLER: The reason they were staggered, Ms. Alexander --

COUNCILMEMBER ALEXANDER: That's fine. If you don't mind.

MR. AMBROSE: Four years staggered.

COUNCILMEMBER ALEXANDER: Four years staggered? Okay.

And so you have two members that are going to rotate off this year?

MR. O'CONNOR: No. They just got appointed.

COUNCILMEMBER ALEXANDER: They just got appointed?

MR. O'CONNOR: Richard Ballantyne got reappointed and Gene Ellis got reappointed as the other.

ATTORNEY WEED: Mr. Mayor, if I could, I'd like to kind of maybe clear up some misunderstanding and some confusion that seems to be in the public.

First off, we live in a representative democracy; therefore, I communicate with the Mayor and Council. The problem with living in a representative democracy is that sometimes the public may not be aware of the communications

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that I've had with you. Obviously, I don't get to control that. That's something that the Council controls, not the attorney, because you hold the privilege; the attorney does not.

To clear up a few things, the short version of the story, as short as can be made, is essentially what Ms. Fraysse had to say is correct.

The problem with what was attempted was the fact that the creation of the Planning Commission is actually in 2.16 of the Charter, and what 2.16 essentially says is that the duties, et cetera, can be further elucidated in an ordinance. That was done when it became 2-40. That is still on the books, as Mr. Anderson said. He is quite correct about that. That was ordinance 2006-06.

The problem was another ordinance. The other ordinance in '06 didn't comply with the Zoning Procedures Act or at least the Planner and the Clerk have failed to -- they have not been able to find, after contacting the newspaper, any evidence whatsoever that the Zoning Procedures Act was ever complied with.

What does that mean? That ordinance

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attempted to adopt a change in your zoning code -- not in 2-40, which was never in your zoning code, but in Section 1400, et cetera, clearly in your zoning code -- which would clearly constitute a zoning modification, a zoning change.

Because that didn't occur, the attempt of the Planning Commission by virtue of the Council -- I should say the Council, not the Planning Commission, to grand nonbinding recommendation over variances to the Planning Commission in my opinion was not valid.

That was discussed, and the point was to rectify that situation.

The other problem is twofold. The term "zoning proposal" in the zoning ordinance -- pardon me. The term "zoning proposal" in 2-40 was never defined until I have drafted a definition for review tonight. It was never defined what a zoning proposal meant. Therefore, you have to look at the remainder of the Code to try to figure out what was the intent.

What you look at would be the standards that the Planning Commission would apply to a,

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quote/unquote, zoning proposal. When you look at those standards, the argument can be made that the standards really don't apply to zoning maps, they don't apply to text amendments. What they really apply to is an actual change of zoning on a particular piece of property. And when you read the standards, it's clear that was the intend of those particular standards.

With regard to a zoning variance, a variance was never defined in any -- in the previous applicable code with regard to what the Planning Commission would hear. For example, the word "variance," there's some exceptions to that. The Mayor can grant some administrative variances.

So the Planner and I felt like we needed to do two things: further define "zoning proposal," which we've done, and apparently we've done that to the satisfaction of the majority of Council -- at least I haven't heard otherwise -- and then we've defined "zoning variance."

So that's the origin of this ordinance.

With regard to other matters, the Planner suggested to me, and I concurred, that

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we want to keep the process moving. Therefore, that's where the language of if no decision is made within X-amount of time, something will happen.

It doesn't matter to us what happens, but something would happen.

With regard to training, the Planning Commission, when I came on board, I believe there were only two sitting members that had actually been to the ROC training. I highly recommend that training. I've been to that training myself. I've recommended that to every planning commission that I've ever worked with, and also I think that's a good thing to have. But if you don't want to do that, that's perfectly fine.

So that's the origin of where these changes came from. And once again, as long as it's within the confines of the law, I'm happy to draft anything you want. I'm happy to edit anything you want edited.

I'm hoping that will alleviate some of the confusion.

And I would like to say that I'm a huge fan of planning commissions. I do not know how

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Mr. Haeberlin -- what he thinks of planning commissions. I haven't discussed that with him directly. I'll let him speak for himself.

Every city I've ever worked with has had a planning commission. It's a huge responsibility to be a planning commission member. It's the hardest-working board that there is. And I'm proud of them, and they can do -- if they're willing to do the work, that's terrific. I couldn't admire them more.

COUNCILMEMBER SPANGLER: Mr. Crawford has returned if you would like to give him his opportunity to speak.

MAYOR JENKINS: Come on up, Ben.

MR. CRAWFORD: I was called away for a few minutes.

Mayor and City Council, Ben Crawford, 3959 Red Oak Drive.

Basically a couple of things. First of all, it was my understanding, I guess it was erroneously, that the City Council asked the City Attorney to look at the one that wasn't -- that didn't go with the public hearing. And I understand that was a major problem with the one that the City Council did adopt, I believe it

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was in 2006 at some point.

Is that correct, Mr. Weed? There's a problem with that one, that it wasn't -- it wasn't posted? It wasn't put in The Champion?

ATTORNEY WEED: Yeah; to my knowledge.

MR. CRAWFORD: Okay.

ATTORNEY WEED: And if you know something better --

MR. CRAWFORD: No, I know nothing.

ATTORNEY WEED: -- I'd love to see that happen.

MR. CRAWFORD: Okay. So there was no ad.

ATTORNEY WEED: Let me tell you --

MR. CRAWFORD: There was no ad then; right?

ATTORNEY WEED: We've done everything we could as staff members to find the ad. If it's out there, no man would be happier than I would be to see that ad.

MR. CRAWFORD: No. I understand that.

So for approximately, I guess, a two-year period, roughly, the Planning Commission erroneously heard variances, nonadministrative or the Mayor's variance, that came before us. I

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could say that that's correct. Maybe not all of them but a lot of them were sent our way. Zoning changes were sent our way also. And I believe the Planning Commission did justice to the community in trying to do a good job and also for the tasks that City Council gave before us.

One thing I'm a little confused about is we had -- and maybe you can enlighten me on this without elaborating a lot on it because everybody's, you know, kind of tired -- but we were told at a meeting that we should not be reviewing variances. Is that correct? I think that was when -- I think her name was -- is her last name Dana, from your office?

ATTORNEY WEED: Are you asking me --

MR. CRAWFORD: Yes.

ATTORNEY WEED: -- Mr. Crawford?

MR. CRAWFORD: Yes, Mr. Weed.

ATTORNEY WEED: Yes. Dana Maine.

MR. CRAWFORD: And Dana, yourself -- Dana Maine, yourself, and Scott.

ATTORNEY WEED: At the Mayor's and Council's request, we were asked to provide some training --

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[1] **MR. CRAWFORD:** Okay.
[2] **ATTORNEY WEED:** -- for the Planning
[3] Commission.
[4] **MR. CRAWFORD:** Okay. I understand
[5] that.
[6] At that point, you brought up that we
[7] shouldn't be -- we shouldn't be hearing the
[8] variances at that point.
[9] **ATTORNEY WEED:** That is correct.
[10] **MR. CRAWFORD:** Okay. That was brought
[11] up. Let me finish.
[12] **ATTORNEY WEED:** Basically --
[13] **MR. CRAWFORD:** So I --
[14] **ATTORNEY WEED:** -- the idea --
[15] **THE REPORTER:** One at a time, please,
[16] gentlemen.
[17] **MR. CRAWFORD:** Okay. I'll slow down.
[18] Okay. But I understand that that's
[19] when it was brought up then. I'm just
[20] establishing that.
[21] **ATTORNEY WEED:** And I'd like to finish
[22] my answer.
[23] **MR. CRAWFORD:** Okay. Go ahead.
[24] **ATTORNEY WEED:** And my answer is that
[25] based upon the fact that we couldn't find any

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[1] authority, legal authority to allow the Planning
[2] Commission to make a nonbinding recommendation
[3] on a variance, my advise to the Planning
[4] Commission during their training was I didn't
[5] think you ought to be doing that.
[6] **MR. CRAWFORD:** Correct. Okay.
[7] Understood.
[8] Okay. Right after that, the next
[9] package that we got, which is actually on the --
[10] I think it's -- let's see. It's Item No. 4 of
[11] old business, without getting into it, which is
[12] not for public hearing. The first item was a
[13] zoning and variance; correct? And then the
[14] other four -- well, I'm just saying.
[15] **ATTORNEY WEED:** Mr. Crawford, I
[16] wouldn't know.
[17] **MR. CRAWFORD:** Okay. I would know.
[18] For the public record --
[19] **ATTORNEY WEED:** You haven't shown me
[20] any document.
[21] **MR. CRAWFORD:** Okay. I don't need to.
[22] It's a public record. Just take my word for it,
[23] and it can be researched. But hold on. And the
[24] other members of the Planning Commission are
[25] here, too. They can vouch for what we did

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[1] review and the results that we gave to the City
[2] Planner.
[3] But one was a combination zoning and
[4] variance and the other four were zoning changes
[5] on properties on Peachtree Industrial Boulevard.
[6] So right after we were told we couldn't do it,
[7] it wasn't legal that we could do it, we were
[8] given a package that included it. So I'm a
[9] little confused.
[10] **ATTORNEY WEED:** Well, maybe I can
[11] answer your question if it's really a question.
[12] **MR. CRAWFORD:** It is a question.
[13] **ATTORNEY WEED:** One, we can play stump-
[14] the-lawyer all night.
[15] Two, the other answer, Mr. Crawford, is
[16] all I do is give advice. That's all I do.
[17] Whether my advice is taken or exercised or acted
[18] upon, I have no control over it.
[19] **MR. CRAWFORD:** Okay. I understand
[20] that. And it's not stump-the-lawyer. I'm just
[21] asking some simple questions and I expect to get
[22] simple answers. That was it.
[23] **ATTORNEY WEED:** I'm attempting to do
[24] that.
[25] **MR. CRAWFORD:** Okay. And like I said,

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[1] it wasn't stump-the-lawyer, to reiterate that.
[2] Just questions asked, questions answered.
[3] Okay. The other thing is is that back
[4] when the City Council passed the first Planning
[5] Commission, you know, that was done, and then
[6] they came back later and they wrote one up that
[7] didn't -- wasn't done legally. They gave us the
[8] right to review variances and I think it's any
[9] other duties assigned by the Council.
[10] I'll be brief, Mayor. I see your hand.
[11] And I guess tonight you pointed out
[12] there were some legal problems with the way that
[13] one was written. So we went back, and there was
[14] a rewrite. We've got the first rewrite, and
[15] that's -- and then we've got the second rewrite.
[16] And then earlier this evening -- and this is not
[17] stump-the-lawyer, because I think that your
[18] feelings are hurt tonight, but --
[19] **ATTORNEY WEED:** I'm a lawyer,
[20] Mr. Crawford.
[21] **MR. CRAWFORD:** Okay. All right.
[22] **ATTORNEY WEED:** I no longer have any
[23] feelings.
[24] **MR. CRAWFORD:** Okay. Neither do I, all
[25] right?

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So anyhow, so we got the first one. And you mentioned tonight that you got no response from City Council. And I might be incorrect, because I did talk to Joe -- and Joe, correct me if I'm wrong -- I thought we responded to you when you sent that to us. Did we not?

ATTORNEY WEED: I don't believe I said I got no response from the Planning Commission. I --

MR. CRAWFORD: Well, you just said --

Well, you didn't comment at all. You were commenting on who responded.

We did respond, though. I'd like to add to the record tonight.

ATTORNEY WEED: I don't deny that, and I don't think I said that.

ATTORNEY WEED: No. Mr. Weed, I didn't say that.

What I'm saying is when you talked about the responses you had got on this draft proposal, the one party that was a part of it, because we got copied on it, we did review it -- all of us reviewed it, and we did respond is all I'm saying, just for the public record.

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That was all. I just wanted to make that comment. That was all. It wasn't an accusation or anything else.

MAYOR JENKINS: All right, Ben.

MR. CRAWFORD: I'm finished, Mayor. Two more seconds. Okay?

I guess my point is that, you know, if there were so many things wrong with it, it was one draft proposal. Now there's another draft proposal. I personally, being on the Planning Commission, don't have a problem with going for the training.

It could be somebody like Mr. Ellis -- actually, I believe he was an architect -- may not need to go to further training, and he could, you know, maybe not need to do that. I have some background in different areas that may not need me to be required to go to as extensive training as some other people. I don't know.

So that's something that should probably be conditional upon City Council's review. All of us could benefit from further training if the City's willing to pay for it. I have no problem with that, and I'm sure no other members of the Planning Commission have any

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problem with that.

But I still would like to think it betters the community, betters the city if we review the nonadministrative Mayor variances, if we review those variances, and also if we review the zoning changes within the city. And if City Council deems it fit -- and I think the community would like to see us do it -- is to review zoning rewrites and stuff like that.

We did not say we wouldn't want to do it. We were tired the other night. That's all. And I think Joe responded in that e-mail.

And thanks for your time tonight.

COUNCILMEMBER FLEMING: Thank you, Ben.

COUNCILMEMBER ROCHE: I mean if we can possibly wrap this up, I would just like to say, insert paragraph A, definitions, and, for now, that's it.

COUNCILMEMBER ALEXANDER: I would like to go ahead and just get this whole thing taken care of, not just do it piecemeal and incur more expenses with the attorney on this.

COUNCILMEMBER ROCHE: Well, do you want to bring up -- do you want to add new stuff to the agenda?

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COUNCILMEMBER ALEXANDER: Again, I think it's all covered under Planning Commission Ordinance - workshop only.

COUNCILMEMBER ROCHE: Well, that's not what we're doing here.

COUNCILMEMBER ALEXANDER: Are you arguing with the way the agenda is worded?

COUNCILMEMBER ROCHE: I am. What I'm saying --

COUNCILMEMBER ALEXANDER: Okay.

COUNCILMEMBER ROCHE: -- is that the whole point of bringing this up was to try to straighten out what happened under the original ordinance and the original motion.

There's a -- and if someone wants to make an amendment to the original motion that is germane to the original motion, fine; otherwise, it's a brand new item and it needs to be brought up as a new -- as a new thing.

COUNCILMEMBER ALEXANDER: So any --

MAYOR JENKINS: It was put on as workshop only.

COUNCILMEMBER ALEXANDER: Right. So any motion that is made --

MAYOR JENKINS: Did you put that on

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there? You put it on the agenda.
COUNCILMEMBER ROCHE: I did not put it there as work- -- I did not insert the words "workshop only."
CLERK BLACKMON: That was Mr. --
COUNCILMEMBER ROCHE: The only things that were added --
CLERK BLACKMON: That was Mr. Haeberlin, who wanted to make it clear it was not going to get voted on tonight, that it was clearly just a workshop.
COUNCILMEMBER ROCHE: The only issue I had was, again -- and I've said it a million times -- is to clarify the duties of the Planning Commission.
MAYOR JENKINS: Okay. We've certainly done that, okay?
COUNCILMEMBER SPANGLER: What I would like --
COUNCILMEMBER ROCHE: But we don't need all the rest of it. That's all.
COUNCILMEMBER SPANGLER: What I --
COUNCILMEMBER ROCHE: We just need the definitions.
COUNCILMEMBER SPANGLER: What I would

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like to ask, Mr. Roche, is why can't we, along with the City Attorney, meet with the Planning Commission and see just exactly -- Mr. Crawford just said what they would like to do -- and see if we can't incorporate some kind of legal document and get the legal advertisement to where we can put this thing to bed, because the Planning Commission has been an important part of our process for the last couple years, and we'd like to continue to use that.
COUNCILMEMBER ROCHE: And my goal is to make certain that that happens. And --
COUNCILMEMBER ALEXANDER: And --
COUNCILMEMBER ROCHE: -- all it takes to do that is have a definitions section here. All the rest of this stuff, we can talk about any time we want.
COUNCILMEMBER ALEXANDER: Okay. Well, I'm trying to talk about it right now.
COUNCILMEMBER ROCHE: Let's talk about it some other time. It's eight o'clock. We've been here two hours. And to try to insert other things into this --
COUNCILMEMBER ALEXANDER: No.
COUNCILMEMBER ROCHE: -- proposed

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ordinance --
COUNCILMEMBER ALEXANDER: They're already in here.
COUNCILMEMBER SPANGLER: We can postpone it until --
COUNCILMEMBER ROCHE: No one asked to have it put in there. And as --
COUNCILMEMBER ALEXANDER: Most --
COUNCILMEMBER ROCHE: -- Mr. Weed said, we --
COUNCILMEMBER ALEXANDER: The Planner did.
COUNCILMEMBER ROCHE: As Mr. Weed said, we're --
COUNCILMEMBER ALEXANDER: We don't care what --
COUNCILMEMBER ROCHE: -- we're the ones that are elected.
COUNCILMEMBER ALEXANDER: -- the Planner says?
COUNCILMEMBER SPANGLER: Mr. Weed said we were not going to vote on it tonight --
COUNCILMEMBER ALEXANDER: Correct.
COUNCILMEMBER SPANGLER: -- anyway.
COUNCILMEMBER ALEXANDER: Correct.

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COUNCILMEMBER SPANGLER: Okay? So let's postpone it till next meeting.
COUNCILMEMBER ROCHE: I guess my question is what does it take to get a motion done correctly?
You know, there was no motion to rewrite this thing. There was only a motion to -- you know, how many times do I have to say it?
COUNCILMEMBER SPANGLER: You should only have to say it once.
COUNCILMEMBER ROCHE: I shouldn't have to say it at all. I should just simply say this is fine, add the definitions, we're done, and we vote.
COUNCILMEMBER BATES: Let's be very clear. The motion that was made did not expand the definitions. Those were added by Mr. Weed under his professional expertise to include definitions under this ordinance, under this zoning ordinance.
Additionally, Mr. Weed and Mr. Haeberlin, under their professional expertise and guidance, have added additional items which they think need to be considered for discussion, which is where we're at under Item

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5.

COUNCILMEMBER ROCHE: That's like asking someone -- paying someone to paint your porch and they paint your whole house and charge you. I don't know how else to say it. I -- you know.

COUNCILMEMBER FLEMING: Well, you know, one of the first -- I'll just speak out here. One of the first -- second sentence is stating to delete Section 2-40. That was never even discussed.

COUNCILMEMBER ROCHE: Exactly.

ATTORNEY WEED: If I could --

COUNCILMEMBER SPANGLER: I make a motion to postpone this until we can further review legally with the Planning Commission, and, if possible, we can put it on the agenda for the next meeting.

Do I get a second?

COUNCILMEMBER BATES: I'll second that.

MAYOR JENKINS: I'll second it.

Okay. Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

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CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: No.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

MAYOR JENKINS: Thank you. Thank you.

COUNCILMEMBER ROCHE: Okay. The next agenda items are mine. I'd be happy to let the other people --

MAYOR JENKINS: Okay. We're going to bring Item No. 8 and 9 to the table and then go back to No. 6.

No. 8 is Jimmy Cushman. Come on up to the microphone, please, sir.

Do you relinquish your time to this gentleman? Sir?

MR. HALPERN: Yeah. Actually, the form, Mr. Cushman filed on my behalf.

MAYOR JENKINS: I understand that, but

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his name's on the agenda. Okay.

MR. HALPERN: Thank you. Ladies and gentlemen, my name's Jack Halpern, and I'm here to ask the Council to consider the impact of the recently-enacted commercial zoning code.

According to the ICSC, the shopping center industry's trade organization, there is an average of 22 square feet of shopping center space for every man, woman and child in the United States. That means that if every person living in Doraville did 100 percent of their shopping here, the city could support 230,000 square feet of shopping center space, roughly the size of Pinetree Plaza.

Well, there's more than six times that amount of space, more than 1.3 million square feet in just a one-mile stretch of Buford Highway. The only way to fill that much space is to become a regional destination, to pull in customers from beyond the immediate neighborhood.

Any large retailer interested in Atlanta already has a location near Perimeter Mall, Northlake Mall or Buckhead, all too close for another store in Doraville. But Buford

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Highway has become a different kind of regional destination, attracting customers from throughout the Atlanta area.

What will happen under the new code if you ban wholesale businesses and enforce all the other provisions of the law, there aren't retailers waiting in line to fill those spaces as they empty out. There just aren't enough people living nearby to support that much retail space. Instead, we will have vacant, boarded-up buildings lining Buford Highway, an increase in crime, and a downward spiral in property values.

Is that the vision that any of us would want for this community? Certainly, it's not.

We need to work together -- the Council, neighborhood groups and the business community -- to learn more about the kinds of new stores that the neighborhood would like to see on Buford Highway. We'd love to recruit such stores to the community, but in the current economy, it's difficult to lease space of any kind. There are plenty of empty stores on Buford Highway right now that can accommodate any retailers that might be interested in coming to town.

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[1] On a daily basis, we are dealing with
[2] tenants who are suffering terribly, and our
[3] company is making concessions just to keep
[4] people in business during these difficult times.
[5] Otherwise, the current view of Buford Highway
[6] would look much worse than it now appears.
[7] But if new businesses can't come here
[8] because of the zoning laws, and existing
[9] businesses leave, the city will be left with
[10] even more empty space that would just further
[11] discourage new stores or restaurants from
[12] locating here, and the downward spiral will
[13] accelerate.
[14] I'm asking this Council to pass a
[15] motion tonight to suspend enforcement of the new
[16] C1 and C2 zoning codes for a period of 90 days
[17] so that the Council, citizens of Doraville and
[18] the business community can have a meaningful
[19] dialogue regarding the law's impact and how it
[20] can be improved.
[21] Councilmember Fleming, since you made
[22] the motion to adopt this new ordinance back in
[23] December, I'll address my request to you first.
[24] I would ask you to make a motion to suspend
[25] enforcement of the new code for a 90-day period

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[1] and I will ask the other members of this Council
[2] to support that motion.
[3] Thank you.
[4] **MAYOR JENKINS:** Thank you, sir.
[5] **COUNCILMEMBER FLEMING:** Did you want to
[6] hear from Mr. Hamilton first before I --
[7] **MAYOR JENKINS:** Well, is it on the same
[8] topic? Mr. Hamilton. Is he here? Come on up.
[9] **COUNCILMEMBER FLEMING:** Mr. Halpern,
[10] I'll discuss it after this second gentleman if
[11] you don't mind.
[12] **MR. HALPERN:** Thank you.
[13] **COUNCILMEMBER FLEMING:** Thank you.
[14] **MR. HAMILTON:** Good evening. I promise
[15] I did not read his script. My name is Jack
[16] Hamilton, I'm with Hamilton Realty, and we
[17] manage a small, multi-tenant building on Buford
[18] Highway. Not only is it a multi-tenant building
[19] but it's also a very multi-cultural building.
[20] For example, we have two separate businesses run
[21] by a gentleman -- two gentlemen from India. We
[22] have eight Latin American businesses
[23] representing South America, Central America and
[24] Mexico. We have an African American physician,
[25] we have a Korean travel agency, and, finally, we

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[1] have two businesses run by Filipinos.
[2] My point is, as you know, we are a
[3] diverse community. And these businesses in our
[4] building are small, hard-working mom-and-pop
[5] businesses. Many of these businesses are
[6] struggling now. I've had to reduce rents and
[7] make concessions for some of our key long-time
[8] tenants just to keep them as tenants and help
[9] them keep their doors open.
[10] I just had an incident about three
[11] weeks ago with our new ordinance where one of
[12] our tenants, a taxi dispatch office, simply
[13] wanted to buy the business from his father and
[14] he was denied a business license because a
[15] dispatch office now has to have an M zoning.
[16] There is no maintenance in our building -- we
[17] don't permit that -- and no taxi parking. It's
[18] only an office. And yet, they may have to move
[19] out because of the new ordinance.
[20] As a small businessman myself, I stand
[21] to lose many of my tenants with this new zoning
[22] ordinance, creating more vacancies in our
[23] building.
[24] Anyone can drive down Buford Highway
[25] today and see what this down economy has done to

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[1] all the vacancies in the Doraville community.
[2] This economic situation is like no other we have
[3] ever experienced, and it's predicted that it is
[4] going to get worse before it gets better. Some
[5] of the new provisions in this new ordinance
[6] could be pennywise and dollar foolish for
[7] Doraville.
[8] Just for the record, I grew up in
[9] Doraville. I went to elementary school here. I
[10] went to Chamblee High School. My family bought
[11] one of the first houses in Northwoods
[12] Subdivision in 1947. I went to elementary
[13] school here. My dad worked for a small company
[14] named Doraville Realty. Long story short, he
[15] sold about half the houses when they were new
[16] houses when they were being built in Northwoods.
[17] My dad also served on the Doraville City Council
[18] in the early '50s and successfully annexed some
[19] of the new -- back then, new areas for the city
[20] of Doraville.
[21] So I want to see Doraville improve.
[22] And as a small businessman and commercial
[23] property owner, I'm simply asking Mayor Jenkins,
[24] City Council, and the City Planner to give us
[25] more consideration and flexibility with this

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[1] overwhelming new ordinance. Please allow us as
[2] commercial property owners to work with you
[3] through a business planning group, business
[4] alliance group, and give us time to reach an
[5] amicable solution that will be beneficial to
[6] both sides.
[7] Thank you.
[8] **COUNCILMEMBER FLEMING:** Thank you,
[9] Mr. Hamilton.
[10] **MR. HAMILTON:** By the way, I'm not here
[11] to ask for a bailout --
[12] **MAYOR JENKINS:** Okay.
[13] **MR. HAMILTON:** -- or an economic
[14] stimulus package.
[15] **COUNCILMEMBER FLEMING:** I'd like to
[16] make a motion to go into Executive Session and
[17] the Council will be removed to the Mayor's
[18] Office.
[19] **COUNCILMEMBER BATES:** For future and
[20] pending litigation.
[21] **COUNCILMEMBER FLEMING:** For future and
[22] pending litigation.
[23] **COUNCILMEMBER BATES:** Second.
[24] **MAYOR JENKINS:** Did we get a second?
[25] **CLERK BLACKMON:** Yes.

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[1] **MAYOR JENKINS:** Call the roll, please.
[2] **UNIDENTIFIED SPEAKER:** There's people
[3] signed up.
[4] **COUNCILMEMBER ROCHE:** There's other
[5] people signed up.
[6] **MAYOR JENKINS:** Excuse me.
[7] **COUNCILMEMBER BATES:** Mr. Weed, would
[8] it be appropriate to have individuals who signed
[9] up to speak now or --
[10] **ATTORNEY WEED:** You could do it now or
[11] you could do it after, after the Executive
[12] Session.
[13] **COUNCILMEMBER SPANGLER:** I'd really
[14] rather hear the audience speak now.
[15] **MAYOR JENKINS:** Okay. Bonita?
[16] **MS. HOFFMEISTER:** I waive.
[17] **MAYOR JENKINS:** Okay. Ben Crawford?
[18] **MR. CRAWFORD:** Ben Crawford, 3959 Red
[19] Oak Drive.
[20] Mayor and City Council, I understand
[21] there's hard economic times here and they impact
[22] the citizens of Doraville as well as the
[23] businesses, and I understand the businesses will
[24] have a rough time. And I realize they employ
[25] people and everything else, but I think that the

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[1] city needs to look at the bigger picture. I
[2] tend to agree with the City Planner that we're
[3] on the right track finally.
[4] I think we need to consider -- I had a
[5] question for Murray, but I'll get to that in a
[6] second. I'll be brief, too. But I think we
[7] need to look at the overall scope of things that
[8] we're trying to deal with here and we need to
[9] make sure we continue moving in the right
[10] direction.
[11] I personally feel like wholesalers
[12] detract from the city of Doraville. That's my
[13] own personal opinion on that. I realize they
[14] are a business and I realize it was mentioned
[15] that they're kind of a regional magnet for
[16] people.
[17] And I think Mr. Halpern mentioned that
[18] there were businesses -- that it would be a hard
[19] time to attract businesses to Doraville. But
[20] I'm kind of curious of, you know, what
[21] businesses had not come, you know, when it
[22] happened prior to this bad economic time,
[23] because there were good economic times in the
[24] past of Doraville, and it seems like the city
[25] has been in a very downward spiral for many,

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[1] many years as far as development goes.
[2] Now we have a chance to rise above the
[3] fray and move our city in the right direction,
[4] and I don't think we should go backwards, and I
[5] think that we're going in the right direction.
[6] And one question I wanted to ask Murray
[7] because you were involved in the rewrite of this
[8] C1 and C2, is this not similar to what other
[9] cities have adopted for their C1 and C2, if not
[10] the same or similar? That's a question.
[11] **ATTORNEY WEED:** Well, I can't speak to
[12] every ordinance --
[13] **MR. CRAWFORD:** No, I understand that.
[14] **ATTORNEY WEED:** -- throughout the
[15] world.
[16] **MR. CRAWFORD:** This is a generality.
[17] **ATTORNEY WEED:** It is similar to the
[18] ordinance that City of Hapeville adopted as part
[19] of their redevelopment plan, and I can speak to
[20] that.
[21] **MR. CRAWFORD:** What about Norcross? Do
[22] you have any knowledge of Norcross?
[23] **ATTORNEY WEED:** I do not.
[24] **MR. CRAWFORD:** Okay. Thank you. And
[25] that's it.

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[1] I'd like the Mayor and City Council to
[2] consider sticking with the C1 and C2. That's my
[3] opinion.
[4] **MAYOR JENKINS:** Joe Frank?
[5] **MR. FRANK:** Honorable Mayor, ladies and
[6] gentlemen of the City Council, citizens of
[7] Doraville, what has happened here in C1 and C2
[8] is more -- is a situation as to the way it was
[9] passed by the majority of the City Council.
[10] I have spoken to some of the City
[11] Council members, those who have called me back.
[12] I also spoke to the planning -- the City
[13] Planner. It is perfectly obvious that there is
[14] even a conflict between what I was told by some
[15] members of the City Council and by what I was
[16] told by the City Planner.
[17] I realize that the way you-all have
[18] passed this, whether some of you knew all of the
[19] things that included in it or whether you did
[20] not, the way that it was passed, I realize that
[21] it is legal. But the question is, the way it
[22] was passed gives the impression and the
[23] appearance that it was passed in a very
[24] deceitful and a very underhanded manner and that
[25] there was no transparency whatsoever.

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[1] I realize you was given counsel that
[2] the bare minimum is sufficient, and that's fine.
[3] But what you have to realize, we got a legal
[4] part and we have a moral part, and all of you,
[5] all of you on the City Council, have been
[6] bestowed by Almighty God with the honor and the
[7] privilege to protect the life, the liberty and
[8] the pursuit of happiness of all the people in
[9] the city -- not just the citizens, not just the
[10] old, not just the widows, not just the young.
[11] These people have built businesses that
[12] they intended to leave for their widows to live
[13] off. These people have built businesses so
[14] their children can go to school. And what you
[15] have done and the way you have done it, you are
[16] now going to destroy all of those things for
[17] those people.
[18] Life, liberty and the pursuit of
[19] happiness. That is what Almighty God has
[20] bestowed upon you, every single one of you, to
[21] protect everyone from. And the people, the
[22] business people are asking you, every single one
[23] of you, to do what is right. And the right
[24] thing to do is to start from square one and not
[25] try to push something through in a way that

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[1] appears so deceitful.
[2] In fact, annexation has failed because
[3] one of the reasons for annexation to have failed
[4] is because of what you have done to the
[5] businesses in Doraville.
[6] **MAYOR JENKINS:** Okay, Joe.
[7] **MR. FRANK:** Thank you very much.
[8] **MAYOR JENKINS:** All right. Did we call
[9] the roll on Executive Session?
[10] **CLERK BLACKMON:** No, I have not.
[11] **MAYOR JENKINS:** Call the roll.
[12] **MS. FRAYSSE:** Excuse me.
[13] **COUNCILMEMBER BATES:** Mr. Mayor --
[14] **MAYOR JENKINS:** Wait a minute. Excuse
[15] me.
[16] **MS. FRAYSSE:** Am I not signed up also?
[17] **MAYOR JENKINS:** Was you on 8 or 9?
[18] **MS. FRAYSSE:** Yeah. I thought I was.
[19] I signed it.
[20] **MAYOR JENKINS:** Okay.
[21] **MS. FRAYSSE:** Susan Fraysse. I'll be
[22] quick.
[23] I agree with Ben Crawford. We need to
[24] move ahead.
[25] As far as the hearings on this

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[1] particular C1/C2, they began in December, they
[2] carried over into January. They were carried
[3] over again in January. The entire ordinance was
[4] posted on the Web site, the City Web site.
[5] It is sad that we do not have the
[6] business community in the city that's meeting
[7] together and communicating and getting this
[8] information. I have worked and worked to try to
[9] see that we get something like that going on.
[10] Let me say historically, too: this is
[11] two percent of the city. It is a very small
[12] amount. It is those parts of the city on Buford
[13] Highway which we show to the world, which people
[14] come and see and say this is Doraville.
[15] A warehouse and a wholesale business
[16] can be off the back streets in some other
[17] location. They don't need to have our main
[18] street tied up with it. It won't affect anybody
[19] there now. It's in the future.
[20] And what we're trying to tell you-all
[21] -- and I remember conversations. I've been
[22] involved with the LCI, the Livable Centers
[23] Initiative. This was a major part of their
[24] recommendations back three or four years ago,
[25] and Jimmy Cushman was your representative at

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those meetings. That's where I first met him. We had lots of hearings, we had lots of publicity. We discussed it. We had reports. And the LCI came out with just this type of recommendation for Doraville based on the input from the citizens here.

We tried to get people from the business community. And your name was well known, and we recruited participation, and Mr. Cushman was your representative at that time. So his objections and your objections were not shared with us five years ago.

The Comp Plan is another thing that took on the whole city, not just the downtown area. It again was planners looking at applying principles that are being applied all over metro Atlanta in good times and bad.

It's true it's a tough time, but we're looking at the future. We're reflecting what the citizens have said they want to see their Doraville, their city, look like in the future. We're not penalizing and running anybody out of town right now, but we're trying to take back out city and make a city that we find attractive and livable.

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The zoning ordinance which got bogged down in a lot of controversy also, again, there is unanimous opinion of planners that if you want to move ahead with the city and make it a viable city here in the metropolitan Atlanta area, these are the kind of changes that we need to make.

And I need to say, and I think I already have, there was adequate hearing for this C1/C2, which is the culmination of those three other studies that were done between a December date and two January dates, in which time it was posted on the Web site ahead of time. And we're just now getting good at doing that sort of thing.

Sir?

MR. HALPERN: Just your dates are wrong.

COUNCILMEMBER BATES: Yeah. Just to clarify, that was the O-I/O-W.

COUNCILMEMBER ROCHE: Right.

COUNCILMEMBER BATES: The C1/C2 was passed in December.

MS. FRAYSSE: Ew.

COUNCILMEMBER ROCHE: December 1st.

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MS. FRAYSSE: Never mind. I apologize. But the C1/C2, if that was not ever posted, I apologize that you didn't get a chance to look at it.

I welcome you to form up a business community and have more participation in the city and work with the Planner.

But as written, based on what I've seen and what I've known about it, I'm supporting the C1/C2 as published.

MAYOR JENKINS: Okay. Thank you. Now we're talking the motion.

COUNCILMEMBER SPANGLER: I think there's someone else who wanted to speak.

MAYOR JENKINS: These people are not -- they did not sign up.

MR. CRAWFORD: Mayor, I believe she signed up, didn't she?

MS. CRAWFORD: If I'm not, then --

MAYOR JENKINS: I held this up before the meeting and I said, did anybody not sign this paper?

MS. CRAWFORD: Is my name not on there?

MR. CRAWFORD: Can you look at it and make sure?

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MAYOR JENKINS: Go ahead, Susan.

MS. CRAWFORD: Susan Crawford. I'll make it very brief.

MAYOR JENKINS: Nobody signed up except Joe Frank on No. 8 and 9.

MS. CRAWFORD: Very brief.

I don't think anybody wants to get rid of the international flavor of Buford Highway. Of course, I'm speaking for myself, but I think it's wonderful. I think it's a big draw for many people in different areas of Atlanta.

I think the problem that a lot of people have is with the wholesale businesses which don't really have anything to do with the people who live here. In fact, they're not even open to the people who live here. And it's my feeling that they should not be in our central downtown area -- maybe off one block away or something. And I don't think that that would stop people from coming in. And anyway, I don't think anybody has to move now the way it is. I think that this is in the future. And is this what we want? What we have now, is that what we want 20 years from now? I don't think it is.

And I realize that times are terrible.

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I just got laid off, myself, and I feel for everyone who's in this economy. But as Ben said, Doraville was kind of spiraling down before the economy started getting as bad as it is. And also, I think it's hypocritical of us to have a city planner and put so much stock in what he says, as well we should, and then to disregard what he has decided with the C1/C2, and he's not even here.

So that's my two cents. Thank you.

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

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- - -

(Executive Session)

- - -

MAYOR JENKINS: Meeting come to order. Brian?

COUNCILMEMBER BATES: Ms. Fleming will make a comment.

MAYOR JENKINS: Do you want to do it?

COUNCILMEMBER FLEMING: Yes, sir.

There was no decision taken or no decision in the Executive Session. But I do want to thank Mr. Halpern and Mr. Hamilton for your presentations as well as the residents. Thank you very much for sharing your concerns, and we will be taking all of these things under advisement.

MAYOR JENKINS: Okay. We're going to move on to the next agenda item.

We've had a consensus that we wanted to get the personnel issues out of the way.

COUNCILMEMBER ROCHE: Well, we had the Residential Occupancy Level Ordinance was the next thing.

MAYOR JENKINS: Okay.

COUNCILMEMBER ROCHE: On that, I had

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spoken to the Mayor. Essentially, we have a problem I think in Doraville where we have rooming houses, and up to now, nothing's really happened.

The problem with the ordinances as I understand is that they're written in such a way that if you have a rooming house and there's 15 people living there, as long as they say that they are members of the same family -- if I got that right, Chief -- there's not a whole lot we can do about it.

But then on the other hand, we had a situation not too long ago where I think it was a young couple that had a roommate in a three-bedroom house. Technically, that was illegal, and the roommate would have had to move out. Now, enforcement has not been, you know, taken out on that, with the understanding that we would bring this up and get this on the agenda.

I discussed this with the Mayor briefly at the beginning of the year. I was going to just -- I had permission to speak to the attorney, because I believe it's not just one little place in the ordinance. I think it's a couple different places that will have to be

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reviewed.

So at the last minute, I found I didn't have permission after all. So I want to go ahead, and I guess we have to make a motion to the Council. And what I'd like to do is to make a motion to authorize the attorney to review the current ordinances to correct this issue and maybe present some model ordinance from either Gwinnett County --

COUNCILMEMBER ROCHE: I'm sorry?

- - -

(Brief, inaudible discussion between Councilmember Pittman and Councilmember Roche.)

- - -

COUNCILMEMBER ROCHE: Let's come out of Executive Session and I'll finish.

MAYOR JENKINS: Do we need a motion to come out of Executive Session?

COUNCILMEMBER PITTMAN: Yes.

ATTORNEY WEED: Yes, you do. I'm sorry. I should have caught that. I apologize.

MAYOR JENKINS: Motion?

COUNCILMEMBER PITTMAN: So moved.

MAYOR JENKINS: Second?

COUNCILMEMBER ROCHE: Second.

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[1] **MAYOR JENKINS:** Call the roll.
[2] **CLERK BLACKMON:** Councilmember
[3] Alexander?
[4] **COUNCILMEMBER ALEXANDER:** Yes.
[5] **CLERK BLACKMON:** Councilmember Bates?
[6] **COUNCILMEMBER BATES:** Yes.
[7] **CLERK BLACKMON:** Councilmember Fleming?
[8] **COUNCILMEMBER FLEMING:** Yes.
[9] **CLERK BLACKMON:** Councilmember Pittman?
[10] **COUNCILMEMBER PITTMAN:** Yes.
[11] **CLERK BLACKMON:** Councilmember Roche?
[12] **COUNCILMEMBER ROCHE:** Yes.
[13] **CLERK BLACKMON:** Councilmember
[14] Spangler?
[15] **COUNCILMEMBER SPANGLER:** Yes.
[16] **ATTORNEY WEED:** Mr. Mayor, now if you'd
[17] reopen the meeting.
[18] **MAYOR JENKINS:** Reopen the meeting,
[19] turn it over to Mr. Roche.
[20] **COUNCILMEMBER ROCHE:** Thank you.
[21] I'd like to make a motion to -- first
[22] of all, I have a question for Mr. Weed.
[23] Would five hours --
[24] **ATTORNEY WEED:** There was a motion and
[25] a second, but was there a vote to reopen the

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[1] meeting?
[2] **CLERK BLACKMON:** We voted to come back
[3] out.
[4] **COUNCILMEMBER ROCHE:** Attorney Weed --
[5] **ATTORNEY WEED:** I'm listening.
[6] **COUNCILMEMBER ROCHE:** Obviously, we
[7] have to --
[8] Before we go any further, sometimes
[9] discussions up here get a little lively, and I
[10] try to stay away from the line. If I see the
[11] line, I feel like I've gotten too close. I
[12] would like to publicly apologize to Mr. Weed for
[13] talking about sneaking stuff in there. That
[14] wasn't quite the way I meant to say it, and it
[15] was inappropriate and I apologize.
[16] Anyway, would five hours do you think
[17] be enough to review our current ordinances just
[18] to see what would need to be changed and maybe
[19] generate some -- well, we have a piece right
[20] here -- maybe generate a -- or do some research
[21] maybe on the Web to get some model legislation?
[22] **ATTORNEY WEED:** Not to bargain, but I'm
[23] going to pretend that I'm Scottie and we're on
[24] the Enterprise. I'd like to have six hours, and
[25] I think that would be reasonable, and we can

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[1] probably bring it in underneath that time frame.
[2] **COUNCILMEMBER ROCHE:** I would like to
[3] make a motion that we authorize six hours of
[4] research for the attorney's time to look into
[5] what we can do to clean up our residential
[6] occupancy level ordinance, dwelling space,
[7] et cetera, et cetera.
[8] **COUNCILMEMBER BATES:** I will second
[9] that if you will accept a friendly motion to
[10] include the City Planner in those discussions
[11] because of the residential component.
[12] **COUNCILMEMBER ROCHE:** That's fine. I
[13] guess that kind of went without saying, but
[14] sure.
[15] **MAYOR JENKINS:** Anymore discussions?
[16] **COUNCILMEMBER BATES:** And I
[17] wholeheartedly support that. I think the intent
[18] was well intentioned but didn't accomplish the
[19] goal.
[20] And Mr. Weed, I have two sample
[21] ordinances, one from San Marcos and the other
[22] one from Tallahassee, Florida, that I will be
[23] more than happy to share with you.
[24] **COUNCILMEMBER FLEMING:** That is Dekalb
[25] County's code for livability space, and I also

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[1] think that the Police Department should also
[2] have some input into enforcement in preparing
[3] the ordinance as well.
[4] **COUNCILMEMBER ROCHE:** Yeah. And I
[5] think Susan Crawford mentioned I think Gwinnett
[6] County had a leasing ordinance too.
[7] **ATTORNEY WEED:** And I would like to
[8] state for the record that I will endeavor to
[9] comply with the six-hour provision. However,
[10] with regard to an actual draft of an ordinance,
[11] I'm sure you will not want me to copy someone
[12] else's work without doing a thorough
[13] investigation of the same, and I intend to do a
[14] thorough investigation of the same.
[15] **MAYOR JENKINS:** I have three people
[16] signed up for that. Do they still want to
[17] speak?
[18] **MS. HOFFMEISTER:** I waive.
[19] **MAYOR JENKINS:** Bonita, no.
[20] Ben?
[21] **MR. CRAWFORD:** No, sir.
[22] **MAYOR JENKINS:** Okay. How about Susan?
[23] **MS. CRAWFORD:** No.
[24] **MAYOR JENKINS:** Thank you.
[25] Okay. We got a motion and a second.

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Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: All right.
COUNCILMEMBER ROCHE: Thank you.
MAYOR JENKINS: Your next item, Mr. Roche.
COUNCILMEMBER ROCHE: Next item is a personnel issue. Before I get into this, I just want to say that I've made every effort to have this resolved elsewhere. Anything I read here is going to go into the public record which is going to be available to anyone.

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And again, I'd like to ask -- the subject of this is Mr. Howe. Did you want to say anything before I read this?
MR. HOWE: No.
COUNCILMEMBER ROCHE: Fair enough.
Okay. I wrote this letter to the Mayor. I guess, Mr. Weed, would it be appropriate for me to just simply read this letter and go from there?
ATTORNEY WEED: Yes, Mr. Roche, that would be appropriate.
COUNCILMEMBER ROCHE: Okay. This was on December 31st of 2008, to Mayor Jenkins, City of Doraville.
In the past several months, Mr. Luke Howe's behavior and comments about me both in private and in public have been less than desirable, and I've made my concerns known to you several times. But today, Mr. Howe's conduct became intolerable.
As you know, I came to you to discuss the public perception that Mr. Howe may be taking an inappropriate role and a confusion caused by the new letterhead.
Apparently, Mr. Howe was eavesdropping

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on our meeting and burst in, refusing to leave despite repeated requests from you. His heated remarks to me, including that I should not come to City Hall, were combative, rude and disrespectful.
As the full-time Mayor of this community and for the effective daily management of the City's affairs and resources, it is imperative that employees respect other employees, members of the City Council, and the Mayor.
Mr. Howe's insubordination, which was refusing to leave when asked, has challenged your authority to manage the City and should not be tolerated. His combative, rude and disrespectful words and actions toward me have challenged my authority as Mayor Pro Tem and Mayor of the City Council.
Disciplinary action is called for. At a minimum, Mr. Howe should be suspended for two weeks without pay for his conduct. As Mayor, you have the ability to do this, or, if you wish, I will add it to the agenda for the next City Council meeting.
Sincerely, Bob Roche.

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At the time, I was Mayor Pro Tem. And I also copied the City Clerk and copied members of the Council on this.
MAYOR JENKINS: Very good. Make your motion now.
COUNCILMEMBER ROCHE: Well, I have several things. I did receive a response which didn't necessarily address the actual incident.
MAYOR JENKINS: Response from who?
COUNCILMEMBER ROCHE: I received a response from the Mayor. There were actually two responses from the Mayor.
MAYOR JENKINS: That's right.
COUNCILMEMBER ROCHE: One response from the Mayor said that in response to this, the Mayor did put out a memo talking about that visitors to my office are given an opportunity to speak with me on matters which they may consider private. I ask that you comply with the following protocol. First, when I have --
Apparently, it was an issue because the Mayor did publish the memo saying, you know, how to behave, how employees should behave.
MAYOR JENKINS: Mr. Howe has always been able to enter my office at any time.

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That's the reason I put this letter out.
But you didn't refer to the letter that I sent you.
COUNCILMEMBER ROCHE: Which one? I've got copies here.
MAYOR JENKINS: Okay. But I mean this was the answer to your -- about not coming into my office. My office, I can let anybody come in I want to.
And I do not understand really and truly why you came in that day. You never come in and sit down. What was the reason for that?
COUNCILMEMBER ROCHE: Well, the reason I came -- well, first of all, I was hoping it would be okay if the Mayor Pro Tem comes and visits the Mayor. It's been very difficult lately, frankly --
MAYOR JENKINS: I never turned you down.
COUNCILMEMBER ROCHE: -- because of the situation.
MAYOR JENKINS: I've never turned you down to come in my office, have I?
COUNCILMEMBER ROCHE: It's a very -- what shall I say? It's a very difficult

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situation.
One time I came to the -- you know, I guess the middle of December, and I came to speak to you about, you know, some phone calls I'd received from some citizens. And it was you and I, and the door was closed. The only other two people in the hallway were Mr. Howe and Mr. Noonan. And two days later, there was a posting on a blog saying that I was somehow -- that I'd spoken to Mr. Noonan about organizing a recall effort against the Mayor, you know, which is completely false. And I think, you know, to their credit, I think they did mention that that was completely false.
When you have a situation where a City Council person can't even come into the City Hall because they're liable to get verbally attacked by an employee, I don't think that's a very good thing. I mean I don't see how anything could justify that behavior. I know in the real world, in the business world, it would not be tolerated.
This is not just the first situation, and I realize I can't discuss anything else that's happened as far as this.

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MAYOR JENKINS: No. What you're saying, this is an ongoing situation anyway. It's not something that happened in my office that day. This has been going on for months, Mr. Roche, and you know it.
COUNCILMEMBER ROCHE: That's absolutely true, Mayor. There have been --
MAYOR JENKINS: I'm talking about --
COUNCILMEMBER ROCHE: -- several complaints --
MAYOR JENKINS: -- you're --
COUNCILMEMBER ROCHE: -- from Council members and citizens.
MAYOR JENKINS: -- you're against him, and it started months ago.
Now, why didn't you want to read my letter?
COUNCILMEMBER ROCHE: Okay. We'll read your letter.
MAYOR JENKINS: Okay.
COUNCILMEMBER ROCHE: You have your response. I mean that's fine.
COUNCILMEMBER SPANGLER: Why don't you read it, Mayor?
COUNCILMEMBER ROCHE: Why don't you

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read it? You responded.
COUNCILMEMBER SPANGLER: Go ahead and read it.
COUNCILMEMBER ROCHE: It's your response. I read my letter. You read your letter.
MAYOR JENKINS: Let me take this opportunity to respond to Mr. Roche's Luke Howe letter sent via email to each of you on January the 8th.
And I gave each of my Council members this letter.
On January the 8th, 2009, Mr. Roche and I were in my office. The door of my office was open. During our conversation, Mr. Howe walked in. He did not eavesdrop. He did not burst in the room. Mr. Roche and I were discussing Mr. Howe, and Mr. Howe briefly joined the discussion. However, I asked Mr. Howe to return to his office. Although Mr. Howe clearly wanted to talked to Mr. Roche about this subject, I told Mr. Howe to return to his office, and he did so after I asked him twice. Therefore, I walked with Mr. Roche to the door of the City Hall, as I often do with people who visit me in

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the City Hall.
Mr. Howe's manner was not frustration, and, in my opinion, was in no way aggressive or threatening and certainly did not warrant a call to the Police Department --
-- which, in your second letter, you suggested, you were threatening, you had thought about calling the police in in your first letter.
First, I have reiterated to the City Hall employees, including Mr. Howe, that when I have a visitor in my office with the door open, they must knock to make their presence known and must extend the courtesy of asking permission before entering my office.
Second, when my office door is closed when I am meeting with people inside, they must knock or use the intercom for permission to enter.
Third and just as important, I have reiterated to the City Hall employees, including Mr. Howe, every person who seeks an audience with me will be given an opportunity -- have an opportunity.
I have also made it clear that I do not

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tolerate any attempt to limit access to any person, including Council members, to my City Hall. I've always had an open-door policy.
As Mayor and as the Council for the City of Doraville, you and I have a tremendous amount of important work to do -- and I want to stress that -- to protect our citizens and promote the City of Doraville. We are faced with difficult challenges that require all of us to work together. It is my hope that each of you will strive to put aside minor differences of opinions or conflict and instead work with me to resolve the problems of this city.
And I'll stress that again. This is not all that important. We got work to do.
COUNCILMEMBER ROCHE: I agree completely. And like I said, when I can't walk into City Hall --
MAYOR JENKINS: And I gave --
COUNCILMEMBER ROCHE: -- without being attacked by some --
MAYOR JENKINS: Yes, you can, any time you want to. Any time --
COUNCILMEMBER ROCHE: Well, how do we know what's going to happen next time, Mayor?

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I guess I have another question. Is there any possible behavior from Mr. Howe that would constitute something that you would take action on? I mean --
MAYOR JENKINS: I have seen nothing to take action over what you're referring to. The time --
COUNCILMEMBER ROCHE: There have been complaints.
MAYOR JENKINS: Sometime back -- and you remember when it was -- I talked to the people that said that he said something to them. I talked to them, yes. I didn't let it go.
COUNCILMEMBER ROCHE: It wasn't just that, Mayor. Unfortunately, it's a whole lot of other stuff but it's tied up right now in the middle of an ethics complaint, and there was some question as to whether or not it could be made public under the Open Records Act so --
MAYOR JENKINS: Well, that'll come up --
COUNCILMEMBER ROCHE: Obviously, all that, I can't really get into at this point.
MAYOR JENKINS: Won't that come up in the ethics complaint?

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COUNCILMEMBER ROCHE: I'm sorry?
MAYOR JENKINS: That'll come up in the ethics complaint.
COUNCILMEMBER ROCHE: Well, most of this documentation I can't really present because it's tied up in an ethics complaint.
ATTORNEY WEED: Gentlemen, at this point, I'm going to interrupt. You can always continue your conversation, but I'd like to give you some advice.
COUNCILMEMBER ROCHE: Uh-huh.
ATTORNEY WEED: Mayor, did you want to finish your train of thought?
MAYOR JENKINS: Yes, I think we need to finish.
I've made every step of this, that when he started that day, I made sure that each Council member had all the information as we went along, and I think that's sufficient. I don't see that it needs to go any further. And if you need to make some kind of motion, do it.
ATTORNEY WEED: And before that occurs, I'd like to interject here and just kind of go over where we are procedurally.
The Council has retained authority to

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[1] supervise employees. Part of supervision, it's
[2] my opinion, would probably constitute
[3] disciplining of employees. You also retain the
[4] right to review any terminations that happen to
[5] occur. The relevant Charter section on that
[6] point is 2-12.
[7] I'd also like to add that before you --
[8] you have to hear evidence in a public meeting
[9] underneath the Open Meetings law, which is
[10] 50-14-3(6) of the Official Code of Georgia.
[11] However, you are allowed to deliberate upon any
[12] evidence you hear in executive session
[13] underneath the personnel item.
[14] With that, it would be appropriate in
[15] my opinion to give the employee an opportunity
[16] to present any evidence or respond to any
[17] accusations made.
[18] However, Mr. Howe, you are not under
[19] any legal compunction to do that; however, that
[20] is completely your choice. And if you wish to
[21] do that, I would advise you to -- not advise you
[22] -- I would tell you that now would be probably
[23] an appropriate time for you to do that.
[24] **MR. HOWE:** I'm good.
[25] **ATTORNEY WEED:** Let the record reflect

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[1] that Mr. Howe declined to make any comment at
[2] this time.
[3] Members of the Council, that is the
[4] essential law with regard to procedure. If you
[5] wish to deliberate this matter, you may do so in
[6] Executive Session. You don't have to go into
[7] Executive Session. That's not required that you
[8] do; however, you have every legal right to do
[9] that, and I would advise you to do that.
[10] I think usually an open discussion is
[11] facilitated in these limited circumstances by an
[12] executive session much the same way a jury
[13] deliberation is enhanced by open conversation
[14] outside of the eyes of the public.
[15] **MAYOR JENKINS:** I don't see anything
[16] that hasn't been brought out already that needs
[17] to go into Executive Session, but we do have one
[18] sign-up on that item, which is Susan Fraysse.
[19] Is this the proper time to let her speak?
[20] **ATTORNEY WEED:** Mr. Mayor, my opinion
[21] is that this is not -- at this point, this is
[22] not a public -- this is not a hearing where the
[23] public would participate. It is a hearing
[24] pursuant to the personnel policy; however, it is
[25] not a public hearing requiring public

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[1] participation.
[2] **MAYOR JENKINS:** Whatever.
[3] **COUNCILMEMBER ROCHE:** So you say we
[4] should make a motion to go into Executive
[5] Session?
[6] **ATTORNEY WEED:** That is my advice. You
[7] are not required by law to do so; however, you
[8] may. And if you do so, I would suggest you do
[9] so to discuss personnel matters.
[10] **COUNCILMEMBER ROCHE:** I guess I'll make
[11] that motion: to adjourn to Executive Session to
[12] discuss personnel matters.
[13] **MAYOR JENKINS:** Do I get a second?
[14] **COUNCILMEMBER SPANGLER:** Second.
[15] **MAYOR JENKINS:** Anymore discussion?
[16] - - -
[17] (No response)
[18] - - -
[19] **MAYOR JENKINS:** Call the roll.
[20] **CLERK BLACKMON:** Councilmember
[21] Alexander?
[22] **COUNCILMEMBER ALEXANDER:** No.
[23] **CLERK BLACKMON:** Councilmember Bates?
[24] **COUNCILMEMBER BATES:** No.
[25] **CLERK BLACKMON:** Councilmember Fleming?

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[1] **COUNCILMEMBER FLEMING:** Yes.
[2] **CLERK BLACKMON:** Councilmember Pittman?
[3] **COUNCILMEMBER PITTMAN:** No.
[4] **CLERK BLACKMON:** Councilmember Roche?
[5] **COUNCILMEMBER ROCHE:** Yes.
[6] **CLERK BLACKMON:** Councilmember
[7] Spangler?
[8] **COUNCILMEMBER SPANGLER:** Yes.
[9] **CLERK BLACKMON:** It is a tie, sir.
[10] **MAYOR JENKINS:** Yes.
[11] - - -
[12] (Executive Session)
[13] - - -
[14] **COUNCILMEMBER ROCHE:** I make a motion
[15] we come out of Executive Session.
[16] **MAYOR JENKINS:** Second?
[17] **COUNCILMEMBER PITTMAN:** Second.
[18] **MAYOR JENKINS:** Call the roll.
[19] **CLERK BLACKMON:** Councilmember
[20] Alexander?
[21] **COUNCILMEMBER ALEXANDER:** Yes.
[22] **CLERK BLACKMON:** Councilmember Bates?
[23] **COUNCILMEMBER BATES:** Yes.
[24] **CLERK BLACKMON:** Councilmember Fleming?
[25] **COUNCILMEMBER FLEMING:** Yes.

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CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
ATTORNEY WEED: And Mr. Mayor, just because I am naturally paranoid, I don't think it's required by Title 50 but I would really appreciate it if the Council would make a motion to reopen the regular meeting. I think that's overkill, but it would make me feel better.
MAYOR JENKINS: Okay.
COUNCILMEMBER SPANGLER: Motion to open the regular meeting.
MAYOR JENKINS: Second?
COUNCILMEMBER BATES: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?

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COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
ATTORNEY WEED: And also because I'm naturally paranoid and that's what you pay me to do, if we could go back to your previous Executive Session, you went back into -- we closed the Executive Session. But if you'd reopen the meeting, make a motion for that. And then I'd like you to make another motion to adopt anything that occurred between that time and this time.
So the first motion, if you would, would be to reopen the meeting on your first Executive Session tonight.
COUNCILMEMBER BATES: I make a motion to reopen the meeting after the first Executive Session.
COUNCILMEMBER PITTMAN: Second.
CLERK BLACKMON: Councilmember

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Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
ATTORNEY WEED: And then if you'd make a motion to approve all of the actions taken, and discussion, and any other relevant matter that occurred between the previous Executive Session termination until now.
COUNCILMEMBER BATES: So moved.
COUNCILMEMBER PITTMAN: Second.
MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?

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COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: Okay. What's next, Murray?
ATTORNEY WEED: Mr. Mayor, we are at -- my understanding is the Council want just to move down to Item No. 20.
COUNCILMEMBER BATES: Well, wait a minute. We've got to do --
MAYOR JENKINS: We did not give the --
ATTORNEY WEED: Oh, I'm sorry. I'm sorry, Mayor.
MAYOR JENKINS: Okay. Do you need to read the --
COUNCILMEMBER BATES: I've got it, sir.
MAYOR JENKINS: You've got it? Okay.
COUNCILMEMBER BATES: Based upon the

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[1] evidence that was presented in the hearing and
[2] deliberations in Executive Session, I am making
[3] a motion that a written record of a verbal
[4] reprimand previously issued to Mr. Howe be
[5] placed in his personnel file.
[6] **MAYOR JENKINS:** Second?
[7] **COUNCILMEMBER FLEMING:** Second.
[8] **MAYOR JENKINS:** Anymore discussion?
[9] - - -
[10] (No response)
[11] - - -
[12] **MAYOR JENKINS:** Call the roll.
[13] **CLERK BLACKMON:** Councilmember
[14] Alexander?
[15] **COUNCILMEMBER ALEXANDER:** Yes.
[16] **CLERK BLACKMON:** Councilmember Bates?
[17] **COUNCILMEMBER BATES:** Yes.
[18] **CLERK BLACKMON:** Councilmember Fleming?
[19] **COUNCILMEMBER FLEMING:** Yes.
[20] **CLERK BLACKMON:** Councilmember Pittman?
[21] **COUNCILMEMBER PITTMAN:** Yes.
[22] **CLERK BLACKMON:** Councilmember Roche?
[23] **COUNCILMEMBER ROCHE:** Yes.
[24] **CLERK BLACKMON:** Councilmember
[25] Spangler?

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[1] **COUNCILMEMBER SPANGLER:** Yes.
[2] **MAYOR JENKINS:** Okay. The next item,
[3] are you going to the LEEDs next or are you going
[4] to get yours, Murray?
[5] **ATTORNEY WEED:** Yes, sir. I believe
[6] the next item I've got's No. 20, Redevelopment
[7] Powers Resolution, and if I have your
[8] permission, I'll go straight to that item.
[9] Hearing no objection, the Redevelopment
[10] Powers Resolution is required by 36-44-1 if the
[11] Council ever wants to seek a public vote to
[12] initiate its powers underneath the Georgia
[13] Redevelopment Law. This is an extremely useful
[14] law, and it grants a number of powers to the
[15] City if the voters actually decide to approve
[16] the same.
[17] And I have prepared a resolution. The
[18] reason why a resolution is required is because
[19] most Georgia legislative delegations want to see
[20] a vote of council before they sponsor a bill,
[21] even though in this case the bill would only be
[22] a referendum bill and it would still have to be
[23] voted on by the public.
[24] And you've had this for quite sometime
[25] without a change.

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[1] **COUNCILMEMBER FLEMING:** I have two
[2] questions, Mr. Weed.
[3] **ATTORNEY WEED:** Yes, ma'am.
[4] **COUNCILMEMBER FLEMING:** Will the school
[5] taxes be affected if we so choose to use our
[6] redevelopment powers?
[7] **ATTORNEY WEED:** I do not know, but if
[8] you'll give me a moment, I might be able to tell
[9] you.
[10] Unfortunately, I do not have the answer
[11] to that question on hand. I'll be glad to look
[12] it up and I can tell you tomorrow morning.
[13] **COUNCILMEMBER FLEMING:** Okay. The
[14] other question I had was also for the
[15] redevelopment powers. Would it affect our
[16] residents' property taxes possibly?
[17] **ATTORNEY WEED:** There is -- bear in
[18] mind that what this -- all this does, all the
[19] resolution does is give the voters an
[20] opportunity to initiate powers under the
[21] Redevelopment Act. So it is not a CID. In
[22] other words, this is not a taxable district.
[23] You are not creating a CID.
[24] **A** CID would -- it gives the, for
[25] example, businesses in a certain area the right

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[1] to tax themselves, if it passes by a vote, to
[2] increase their own taxes to get more street
[3] lighting or better signage or whatever. This is
[4] not a CID.
[5] So my opinion would be no, it doesn't
[6] directly impact nor would it directly raise
[7] their taxes. It might in fact lower their taxes
[8] underneath the understanding that if you
[9] exercise redevelopment powers laws and Doraville
[10] becomes an even more attractive place to locate
[11] a business, ultimately you might be able to
[12] lower the taxes.
[13] **COUNCILMEMBER FLEMING:** Thank you.
[14] **MR. HOWE:** I believe I can answer the
[15] school thing. Whether we -- they always have
[16] the decision on whether to -- to chip in their
[17] increment, you know. This -- this -- provided
[18] this passed, this would give -- and the people
[19] vote on it, this would give us the ability to
[20] donate our increment. And they always reserve
[21] that position. So does the County, who is the
[22] other -- is the third party.
[23] **COUNCILMEMBER ROCHE:** But we cannot
[24] force the tax -- we cannot take away money from
[25] the school.

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[1] **ATTORNEY WEED:** No, you can never do
[2] that. I know the answer to that question.
[3] **COUNCILMEMBER BATES:** I'll make the
[4] motion to adopt the resolution.
[5] **COUNCILMEMBER ROCHE:** I'll second it.
[6] **MAYOR JENKINS:** Anymore discussion?
[7] - - -
[8] (No response)
[9] - - -
[10] **MAYOR JENKINS:** Call the roll, please.
[11] **CLERK BLACKMON:** Councilmember
[12] Alexander?
[13] **COUNCILMEMBER ALEXANDER:** Yes.
[14] **CLERK BLACKMON:** Councilmember Bates?
[15] **COUNCILMEMBER BATES:** Yes.
[16] **CLERK BLACKMON:** Councilmember Fleming?
[17] **COUNCILMEMBER FLEMING:** Yes.
[18] **CLERK BLACKMON:** Councilmember Pittman?
[19] **COUNCILMEMBER PITTMAN:** Yes.
[20] **CLERK BLACKMON:** Councilmember Roche?
[21] **COUNCILMEMBER ROCHE:** Yes.
[22] **CLERK BLACKMON:** Councilmember
[23] Spangler?
[24] **COUNCILMEMBER SPANGLER:** No.
[25] **MAYOR JENKINS:** Murray, you got another

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[1] one?
[2] **ATTORNEY WEED:** Yes, sir, very quickly.
[3] This is underneath Item 23, attorney's
[4] comments. We have, at Councilman Spangler's
[5] request and for quite some time, we have dis- --
[6] I'm sorry. Before that, Item 21, the
[7] LEED Ordinance. Councilman Roche was invited to
[8] participate in a forum with regard to future
[9] development and ordinances that would reflect
[10] good building practices, and one of the topics
[11] of discussion was the LEEDs certification.
[12] He had an opportunity to really further
[13] and carefully examine the ordinance that was
[14] adopted by the Council previously in 2008 on
[15] LEED. He found two typographical errors. One
[16] was a date that should have been February 2nd
[17] rather than April, and the other was the word
[18] "before" actually should have been the word
[19] "after."
[20] These mistakes are ultimately my
[21] responsibility because it came out of my office.
[22] And in order to rectify that, although it's my
[23] opinion that Municipal Code Corporation could
[24] simply make the editorial changes in light of,
[25] you know, good feeling of the public, et cetera,

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[1] I thought it would be appropriate to deal with
[2] this matter in public to answer any questions to
[3] arise about it, and that's what this ordinance
[4] does. I'd recommend approval.
[5] **COUNCILMEMBER BATES:** Just -- I'm
[6] sorry, Mr. Roche. I didn't mean to interrupt.
[7] February 2nd is the date that should be
[8] on the ordinance and not February 1; is that
[9] correct?
[10] **ATTORNEY WEED:** That is correct. And I
[11] have a hard copy bound bond version with the
[12] correct date, which is February 2nd.
[13] **COUNCILMEMBER BATES:** Thank you.
[14] **ATTORNEY WEED:** I think the last
[15] version you got by email still had February 1st
[16] in it.
[17] **COUNCILMEMBER BATES:** Okay.
[18] **ATTORNEY WEED:** However, I made an
[19] editorial decision and sent you a memo on that.
[20] February 1st was obviously Sunday, and I did
[21] contact the Clerk earlier today. No one has
[22] filed for an application in any way that we are
[23] denying or permitting; therefore, I changed the
[24] date to the 2nd to make it seamless.
[25] **COUNCILMEMBER ALEXANDER:** Okay. But on

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[1] page 8 of 9, below that, you still have 2008
[2] listed.
[3] **ATTORNEY WEED:** Not on my version.
[4] Once again, I sent you an email.
[5] **COUNCILMEMBER ALEXANDER:** So that's
[6] corrected?
[7] **ATTORNEY WEED:** Yes, correct. And that
[8] was in an email I sent you, that I would be
[9] bringing a fully-corrected version tonight.
[10] **COUNCILMEMBER ROCHE:** I make a motion
[11] that we -- do we have to waive first reading on
[12] this or just --
[13] **MAYOR JENKINS:** Excuse me a minute. We
[14] have a couple of sign-ups on that.
[15] **COUNCILMEMBER ROCHE:** Oh, I'm sorry.
[16] **MAYOR JENKINS:** Waive them?
[17] **UNIDENTIFIED SPEAKER:** Yes.
[18] **MAYOR JENKINS:** Good. Move along.
[19] What are you saying?
[20] **ATTORNEY WEED:** Yes, sir. It would be
[21] my opinion you should waive first reading,
[22] although technically it's been read a number of
[23] times, but why not?
[24] **COUNCILMEMBER ROCHE:** I'll make the
[25] motion that we waive the first reading.

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[1] **COUNCILMEMBER BATES:** Second.
[2] **MAYOR JENKINS:** Call the roll.
[3] **CLERK BLACKMON:** Councilmember
[4] Alexander?
[5] **COUNCILMEMBER ALEXANDER:** Yes.
[6] **CLERK BLACKMON:** Councilmember Bates?
[7] **COUNCILMEMBER BATES:** Yes.
[8] **CLERK BLACKMON:** Councilmember Fleming?
[9] **COUNCILMEMBER FLEMING:** In this
[10] particular case, yes.
[11] **CLERK BLACKMON:** Councilmember Pittman?
[12] **COUNCILMEMBER PITTMAN:** Yes.
[13] **CLERK BLACKMON:** Councilmember Roche?
[14] **COUNCILMEMBER ROCHE:** Yes.
[15] **CLERK BLACKMON:** Councilmember
[16] Spangler?
[17] **COUNCILMEMBER SPANGLER:** Yes.
[18] **COUNCILMEMBER ROCHE:** I'd like to make
[19] a motion that we adopt this as the new version
[20] with the correct dates in it.
[21] **COUNCILMEMBER BATES:** And I'll second
[22] that.
[23] **MAYOR JENKINS:** Call the roll, please.
[24] **CLERK BLACKMON:** Councilmember
[25] Alexander?

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[1] **COUNCILMEMBER ALEXANDER:** Yes.
[2] **CLERK BLACKMON:** Councilmember Bates?
[3] **COUNCILMEMBER BATES:** Yes.
[4] **CLERK BLACKMON:** Councilmember Fleming?
[5] **COUNCILMEMBER FLEMING:** Yes.
[6] **CLERK BLACKMON:** Councilmember Pittman?
[7] **COUNCILMEMBER PITTMAN:** Yes.
[8] **CLERK BLACKMON:** Councilmember Roche?
[9] **COUNCILMEMBER ROCHE:** Yes.
[10] **CLERK BLACKMON:** Councilmember
[11] Spangler?
[12] **COUNCILMEMBER SPANGLER:** Yes.
[13] **COUNCILMEMBER ROCHE:** For what it's
[14] worth, the current version -- the version before
[15] right this minute, the LEED ordinance would have
[16] been in effect from February 1st to I think
[17] April 1st. After that, it wouldn't have been in
[18] effect anyway, so --
[19] **ATTORNEY WEED:** Mr. Mayor and members
[20] of the Council, my next item is underneath
[21] Item 23, attorney's comments, Charter Change
[22] Resolution. We have discussed this at length.
[23] At Councilman Spangler's wise request, he asked
[24] that the item be put off on an agenda until
[25] after the actual referendum vote.

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[1] The purpose of this Charter Change
[2] Resolution is to initiate with the State
[3] legislature an amendment or series of amendments
[4] to our local Charter, which they are authorized
[5] to do. Once again, before they -- they can do
[6] that without a local resolution. They could
[7] simply do it, you know, at your request;
[8] however, they like to see something in writing.
[9] This ordinance does correct some errors
[10] in the text of the Charter and brings it up to
[11] current reality.
[12] **COUNCILMEMBER FLEMING:** I have a
[13] question regarding line 2 on page 2.
[14] **ATTORNEY WEED:** Yes, ma'am.
[15] **COUNCILMEMBER FLEMING:** Amend sections
[16] governing qualification of electors as to
[17] residency. Could you explain a little bit more
[18] and what section you're referring to that you're
[19] planning to amend?
[20] **ATTORNEY WEED:** Title 21 of the Georgia
[21] Code sets out the requirements for residency,
[22] and whatever we do locally needs to conform with
[23] the State law. So if you will give me a moment,
[24] I will try to track down that particular change.
[25] If you'll look at Sections 5.01

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[1] underneath Article 5, Elections, and
[2] Qualification of Electors is 5.04. And
[3] currently the requirement is bona fide resident
[4] of the city for at least 90 days next preceding
[5] the election, and it's my opinion that there may
[6] be contrary provisions in Title 21.
[7] **COUNCILMEMBER FLEMING:** So what should
[8] it be? Are you saying that we're changing the
[9] 90 days?
[10] **ATTORNEY WEED:** Yes.
[11] **COUNCILMEMBER FLEMING:** To?
[12] **ATTORNEY WEED:** It's actually a shorter
[13] period of time. Under Georgia law, it's
[14] remarkably easy to establish residency for
[15] driver's licenses, for elections, et cetera.
[16] **COUNCILMEMBER ROCHE:** Didn't we put
[17] that in there in case the -- didn't we want that
[18] in there in case the annexation passed, we
[19] wanted to annexed people to be able to vote?
[20] **ATTORNEY WEED:** I don't know about that
[21] provision. There's no -- and MCC doesn't have a
[22] date with regard to the last time that there was
[23] a change, which makes me think that that's been
[24] in the Charter for quite some time.
[25] In fact, I will say that the vast

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[1] majority of these suggested changes have been
[2] there for years, and simply the laws changed but
[3] the Charter didn't. And that makes perfect
[4] sense. That's usually the case.
[5] **COUNCILMEMBER FLEMING:** So 5.04 is
[6] going from the resident must be at least a
[7] resident for 90 days -- is going to what?
[8] **ATTORNEY WEED:** I didn't -- I don't
[9] want to specify a particular date because I want
[10] to work with legislative counsel.
[11] What will happen if you approve this
[12] resolution, then one of the representatives,
[13] either Dan Webber or Jill Chambers, will then
[14] ask that a legislative counsel be assigned, and
[15] they'll assign it to an election expert, who all
[16] he does, or she, is Title 21 work. So I have
[17] declined to make a specific recommendation. I
[18] think that's better handled at that level if you
[19] pass this request.
[20] Now, bear in mind this is merely a
[21] request to consider it. What will happen next
[22] is, as I said, the legislative delegation would
[23] have to get Office of General Counsel to assign
[24] a lawyer to write up the changes. They'll be in
[25] communication with me. They'll look at the

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[1] Title -- we'll look at the Title 21 together,
[2] and they'll offer their opinion as to what they
[3] think an appropriate time frame would be.
[4] **COUNCILMEMBER FLEMING:** Does it ever
[5] come back to us?
[6] **ATTORNEY WEED:** At that point, no, it
[7] does not. I can certainly -- however, I will
[8] state that there's no legal compunction for the
[9] legislative delegation to send you a copy of the
[10] draft of the legislation.
[11] However, I cannot imagine any
[12] legislator ever not sending you a copy. And I
[13] can assure you that I will personally ask that
[14] that happen, and I'm sure Mr. Howe will as well.
[15] And if there's a problem, this is going to be a
[16] give-and-take type of situation, and I'm
[17] confident that they will change it because it's
[18] not in their interest to change it to something
[19] that wouldn't conform to Title 21, anyway.
[20] **COUNCILMEMBER ROCHE:** So you're looking
[21] for a motion to pass the resolution?
[22] **ATTORNEY WEED:** Yes, sir.
[23] **COUNCILMEMBER ROCHE:** I make a motion
[24] to pass the resolution.
[25] **MAYOR JENKINS:** Second?

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[1] **COUNCILMEMBER ALEXANDER:** Second.
[2] **MAYOR JENKINS:** Call the roll, please.
[3] **CLERK BLACKMON:** Councilmember
[4] Alexander?
[5] **COUNCILMEMBER ALEXANDER:** Yes.
[6] **CLERK BLACKMON:** Councilmember Bates?
[7] **COUNCILMEMBER BATES:** Yes.
[8] **CLERK BLACKMON:** Councilmember Fleming?
[9] **COUNCILMEMBER FLEMING:** Yes.
[10] **CLERK BLACKMON:** Councilmember Pittman?
[11] **COUNCILMEMBER PITTMAN:** Yes.
[12] **CLERK BLACKMON:** Councilmember Roche?
[13] **COUNCILMEMBER ROCHE:** Yes.
[14] **CLERK BLACKMON:** Councilmember
[15] Spangler?
[16] **COUNCILMEMBER SPANGLER:** No.
[17] **MAYOR JENKINS:** Okay.
[18] **ATTORNEY WEED:** Mr. Mayor, that
[19] concludes my items.
[20] **MAYOR JENKINS:** Okay.
[21] **ATTORNEY WEED:** Other than I just have
[22] one very brief item. We have a -- GIRMA has
[23] been working with regard to an employee of the
[24] City, Mr. --
[25] Well, I would like to -- and I hate to

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[1] ask you to do this, but I think it's more
[2] appropriate that we discuss this under personnel
[3] in an Executive Session but a very brief one.
[4] I have briefed the Council on this for
[5] over a year and -- but we've reached a
[6] settlement that we're not paying for it. GIRMA
[7] is. However, technically, you need to approve
[8] it, and I don't want to have -- it's appropriate
[9] that you talk about it briefly in Executive
[10] Session. You already are very well aware of
[11] what's going on.
[12] **MAYOR JENKINS:** Motion to go into
[13] Executive Session?
[14] **COUNCILMEMBER ALEXANDER:** So can we se
e
[15] if there's any citizen comments or something to
[16] allow the citizens to leave if they want to?
[17] **MAYOR JENKINS:** Do what, now?
[18] **COUNCILMEMBER ALEXANDER:** See if
[19] there's any citizen comments so we can allow the
[20] citizens to go home if they want to.
[21] **MAYOR JENKINS:** Yes.
[22] **COUNCILMEMBER ROCHE:** Do that last?
[23] **ATTORNEY WEED:** That's fine with me.
[24] **COUNCILMEMBER ROCHE:** No, not the
[25] citizen comments.

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COUNCILMEMBER ALEXANDER: Yeah.
MAYOR JENKINS: Oh, okay.
CLERK BLACKMON: What's left of them.
COUNCILMEMBER PITTMAN: Yes.
COUNCILMEMBER ROCHE: Then we can cover the rest of the agenda, I guess.
MAYOR JENKINS: How far are you going with this?
COUNCILMEMBER BATES: The next five are mine, and I'm still waiting for some information, so I can't.
CLERK BLACKMON: And I have 90 percent of your answers I can email you tomorrow, and then if there's anything left, we can put it on the --
COUNCILMEMBER BATES: I will be fine to move those five items to --
COUNCILMEMBER FLEMING: So 10 through 14.
MAYOR JENKINS: Okay.
COUNCILMEMBER BATES: Yes. 10 through 14 we'll move to --
COUNCILMEMBER FLEMING: Old business --
COUNCILMEMBER BATES: -- February 17th.
COUNCILMEMBER FLEMING: -- February --

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Okay.
MAYOR JENKINS: John, do you need to make comments?
CHIEF KING: No, sir.
MAYOR JENKINS: Okay. So that's it other than --
COUNCILMEMBER BATES: Pam, you've got 19; right?
COUNCILMEMBER FLEMING: I have 19.
MAYOR JENKINS: 19?
COUNCILMEMBER FLEMING: And it's real quick, Mayor.
MAYOR JENKINS: Okay.
COUNCILMEMBER FLEMING: Well, I'm just asking that the watermark be deleted from the ordinances, resolutions or policies and a footer needs to be down at the bottom showing the topic and draft number on the left side with page and page numbers in the center and the date of print on the right so it'll be easier to us all to know which copies we're actually looking at; that each draft submitted would include in the email body, okay, a summary of corrections, additions or deletions or that those items be in bold, italicized, and underlined in the draft,

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and that the final copy be available to be voted on, signed, and dated in the presence of all Council members, with their name and how they voted appearing on the back page.
That's it.
ATTORNEY WEED: And Council knows my legal position on this. I'm happy to comply with that. None of that is illegal. It will draw out the period of time that we have to handle an ordinance, but I'm happy to do that.
COUNCILMEMBER FLEMING: Why would it do that?
ATTORNEY WEED: Particularly your last item. For example, if you want the actual ordinance at the meeting where you're going to adopt it, you essentially would have to have yet another meeting to have a final version.
In other words, you would not be able to make any editorial changes on site the night of the Council meeting, you have to wait until the next meeting -- which is fine. You have the right to do that.
COUNCILMEMBER FLEMING: Then, I will exclude that. However, I would like to have the names on the back page, all Council members

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names to appear and their vote recorded on the final copy that will be the final copy.
ATTORNEY WEED: It's not illegal. Once again, the Clerk will have to track everybody down and get it signed. That will be her problem, not mine. I'm happy to do that.
COUNCILMEMBER FLEMING: No, I'm not saying that we need to sign it. I am saying that our names to be submitted on the back to record our vote, and whether it's Pam Fleming yes, Bob Roche no, whatever, because it would be easier to lift up a document rather than having to go through all of the minutes for whatever date we may have passed it, to determine who voted how.
ATTORNEY WEED: Not illegal. I'm happy to do it.
COUNCILMEMBER FLEMING: That's my whole purpose for that.
And I'd like to make a motion to adopt the Procedural Change for Ordinances, Resolutions and Policies.
COUNCILMEMBER SPANGLER: Second.
COUNCILMEMBER ALEXANDER: So number 3, signed, doesn't mean Council members?

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COUNCILMEMBER FLEMING: No, dear. No.
COUNCILMEMBER ROCHE: Just easier to keep track of how the members --
COUNCILMEMBER ALEXANDER: Signed and dated --
COUNCILMEMBER ROCHE: -- how they voted.
COUNCILMEMBER ALEXANDER: -- dated in the presence of all the Council Members.
COUNCILMEMBER ROCHE: You're saying basically strike that.
COUNCILMEMBER FLEMING: Strike that.
MAYOR JENKINS: What if a Council member does not want their name on it?
COUNCILMEMBER FLEMING: I'm sorry?
MAYOR JENKINS: What if a Council member does not want their name on it?
COUNCILMEMBER ROCHE: Then, they shouldn't be Council members.
MAYOR JENKINS: Well --
COUNCILMEMBER ROCHE: We do it all the time, Mayor. But we can't vote on this because it's not the final copy.
ATTORNEY WEED: I assume that the Councilman's not asking that it be in the form

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of an ordinance, which I just assume that this is a consensus of what you're like to see, which would be my recommendation.
COUNCILMEMBER FLEMING: That is correct. Strike the final copy: we don't need to witness the signature, we don't need to witness the date, but I would like the Council members' name on the ordinance or on the policies to indicate how we voted.
MAYOR JENKINS: Is that a motion?
COUNCILMEMBER FLEMING: Yes, sir.
MAYOR JENKINS: Did we get a second?
COUNCILMEMBER SPANGLER: Yes. I second, even though Mr. Weed said we didn't need to, but I still stay with the second.
MAYOR JENKINS: Anymore discussion? Anymore discussion?

- - -

(No response)

- - -

MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Let somebody else vote first this time, please.

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CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
MAYOR JENKINS: Okay. Citizens' comments. Anybody have anything they want to talk about?
MS. FENG: Who's going buy the pizza for us?
MR. ANDERSON: This is kind of for Luke, but he's gone.
I kind of heard -- overheard the conversation during the Executive Session that there was another meeting tomorrow night, Civic Center, Ethics Committee something.

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COUNCILMEMBER ALEXANDER: Library.
COUNCILMEMBER BATES: Library.
MR. ANDERSON: Library. Thank you.
The comment to Luke or to whoever's doing our Web site is -- and I've asked this numerous times, but I'd really -- since I've signed up and I know a bunch of other people who signed up to the Web site, if there's going to be a meeting, whether it's a City Council meeting or Planning Commission, blah, blah, blah, I'd like to get an email on it. You know, it's not hard for me if I want to send y'all something to just put your name on it in a group and push the button. That group exists in the City of Doraville's I.T. department.
We should get notice that there's going to be a meeting. I mean I just overheard this one tonight. So I'm just once again asking for that to be the case, that we find out when meetings are. I hate missing meetings. As you probably all know, I go to them.
That was a joke; right.
The other thing, if I had been signed up properly -- and I apologize; I just didn't see the way to sign up on the C1/C2 deal, and so

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I wasn't signed up so I didn't get to talk. I had some other things to say, but I'll just keep it brief. I apologize.

On the 19th of November, 2007, a resolution to provide notice to resident: whereas, the Mayor and City Council believes that the residents of the City of Doraville who reside in the neighborhood in which a parcel of land is located and which is under consideration for zoning or granting of a variance should receive notice in addition to that which is legal -- notice in addition to that which is legally required.

Now, therefor, be it resolved by the City Council of City of Doraville and hereby resolved by authority of the same residents who reside in the neighborhoods in which a parcel of land is located and which is under consideration for rezoning, the grant of a variance, to the owner of a said property shall be sent notice of the date, time and place of the public hearing to consider the rezoning or variance application at the first Council meeting following the filing of the application for a zoning variance. The Mayor and City Council should determine the

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areas in which these residents are to receive notice, and it's signed by the Mayor and the sitting City Council at the time.

This is something that's come up, and it was germane to the conversation about C1/C2 and businesses being notified, et cetera, et cetera, and I just want to let you know that this is still a legal document, I think. And I know there's been discussion from Murray about it, so I just came across it.

COUNCILMEMBER FLEMING: As a matter of fact, Mr. Anderson, I'm putting that on the agenda for the next February meeting.

ATTORNEY WEED: And I can address it very briefly. Unless there was a zoning ad which created that situation, my opinion would be you couldn't do it that way. You couldn't do it by resolution and make it legally effective.

MR. ANDERSON: You had to advertise it is what you're saying?

ATTORNEY WEED: That is my opinion.

MR. ANDERSON: Thank you.

MAYOR JENKINS: Motion to adjourn?

CLERK BLACKMON: No. Motion to go into Executive Session.

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MAYOR JENKINS: Motion we adjourn the regular meeting and go into Executive Session.

ATTORNEY WEED: For both personnel items and settlement of potential litigation claims, administrative proceedings, et cetera.

COUNCILMEMBER BATES: So moved.

MAYOR JENKINS: So we're going to go ahead and adjourn the regular meeting?

ATTORNEY WEED: No, sir. You will have to come back and tell everybody what you did, and if you want to approve it --

CLERK BLACKMON: Did I get a second?

COUNCILMEMBER PITTMAN: Second.

MAYOR JENKINS: Call the roll, please.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming? Councilmember Fleming?

COUNCILMEMBER FLEMING: Oh, yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

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COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

COUNCILMEMBER SPANGLER: Yes.

- - -

(Executive Session)

- - -

(A motion was made by Councilmember Pittman to come out of Executive Session and it was seconded by Councilmember Spangler.)

- - -

MAYOR JENKINS: Call the roll.

CLERK BLACKMON: Councilmember Alexander?

COUNCILMEMBER ALEXANDER: Yes.

CLERK BLACKMON: Councilmember Bates?

COUNCILMEMBER BATES: Yes.

CLERK BLACKMON: Councilmember Fleming?

COUNCILMEMBER FLEMING: Yes.

CLERK BLACKMON: Councilmember Pittman?

COUNCILMEMBER PITTMAN: Yes.

CLERK BLACKMON: Councilmember Roche?

COUNCILMEMBER ROCHE: Yes.

CLERK BLACKMON: Councilmember Spangler?

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COUNCILMEMBER SPANGLER: Yes.
MAYOR JENKINS: Motion to go back in the regular meeting?
COUNCILMEMBER PITTMAN: So moved.
MAYOR JENKINS: Call --
COUNCILMEMBER SPANGLER: Ms. Pittman --
MAYOR JENKINS: -- the roll.
COUNCILMEMBER SPANGLER: -- I'll second.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
ATTORNEY WEED: Mayor and Council, I would recommend that someone make a motion to

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resolve the settlement of the John McGee workers' compensation case.
MAYOR JENKINS: Okay. Now we need a motion on that?
COUNCILMEMBER ALEXANDER: So moved.
ATTORNEY WEED: Yes, sir.
MAYOR JENKINS: Okay.
COUNCILMEMBER FLEMING: Second.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: Yes.
COUNCILMEMBER FLEMING: Make a motion to adjourn.
COUNCILMEMBER BATES: Second.

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MAYOR JENKINS: Call the roll.
CLERK BLACKMON: Councilmember Alexander?
COUNCILMEMBER ALEXANDER: Yes.
CLERK BLACKMON: Councilmember Bates?
COUNCILMEMBER BATES: Yes.
CLERK BLACKMON: Councilmember Fleming?
COUNCILMEMBER FLEMING: Yes.
CLERK BLACKMON: Councilmember Pittman?
COUNCILMEMBER PITTMAN: Yes.
CLERK BLACKMON: Councilmember Roche?
COUNCILMEMBER ROCHE: Yes.
CLERK BLACKMON: Councilmember Spangler?
COUNCILMEMBER SPANGLER: I'd really like to finish the meeting, but I'll say yes.

- - -

(Meeting adjourned at 10:25 p.m.)

-o0o-

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C E R T I F I C A T E

STATE OF GEORGIA]
COUNTY OF DEKALB]

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

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

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

This the 10th day of February, 2009.

_____

Theresa Bretch, CCR
Permit No. B-755

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