

Minutes  
City of Doraville  
June 21, 2004

Those Present: Mayor Jenkins  
Mayor Pro Tem Lamar Lang  
Councilmembers: Thurman Roach  
Ed Lowe  
Jason Anavitarte  
Marlene Hadden  
City Attorney: Rick Powell  
Not Present: Councilman David Weese

The meeting was called to order by Mayor Jenkins.

The minutes of June 7, 2004 were read with a motion and second to approve. The motion carried unanimously. Also the minutes of the Special Meeting on June 14, 2004 were read. There was an amendment to the Special Meeting, which is as follows: On the motion made by Councilman Anavitarte regarding the elimination of Shrine Bowl, there was a "no" vote by Councilman Roach, which had not been previously stated for the record in the original reading of the minutes. A motion was made and seconded to accept the Special Meeting Minutes as amended. The motion carried unanimously.

Mayor Jenkins said on June 14<sup>th</sup>, there was a public meeting on the Fiscal Year 2004-2005 budget. The Mayor suggested additional study to be done on budget, in particular on page 21, line item 51 and 52. Councilwoman Hadden reported she had spoken with GMA and was told the retirement account is now 96% funded, and if the stock market continues to improve there is the possibility the fund would be 150% funded. Councilwoman Hadden agreed further study of the budget was a good idea. The budget is at \$9,351,152.15 for expenditures, \$9,608,828.19 for revenue. The Mayor called for a motion to approve the Fiscal Year 2004-2005 Budget.

Motion made by Councilman Roach to approved the budget.  
Seconded by Mayor Pro Tem Lang.  
The motion carried unanimously.

Mrs. Pam Fleming came before the Mayor and Council regarding the current status of the Shrine Bowl. Mrs. Fleming gave several examples of how the Shrine Hospital has been a benefit to many less fortunate. She has been in contact with Jon Manns to obtain certain economic impact figures. It is her belief that the Shrine Bowl is an event which promotes tourism. The Bowl has been presented for 29 years, she asked only for the continuation of the 2004 Bowl for the 30<sup>th</sup> and final year. If allowed to continue it was bring closure and the participants which travel from various states could be told at the close of the event it would be the last year for the games hosted by Doraville.

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Mrs. Fleming thanked everyone for their time and urged each one to reconsider the previous motion made at the Special Meeting of June 14, 2004 which resulted in a vote to eliminate the Shrine Bowl. The Mayor thanked Mrs. Fleming and asked the council to speak their mind regarding their feeling regarding the Shrine Bowl. Councilman Lowe said he agreed with Mrs. Fleming but had a problem with the legalities of the Bowl. Mayor Pro Tem Lang said he was for the Bowl games and believed it had been good thing and it helped children he was for it. Councilman Roach said his children had come through the program and knew it to be a good thing, he believed it should continue and politics should not be a factor in deciding the fate of the Shrine Bowl. Councilwoman Hadden said she had a question regarding the legalities as well and a problem with the children only getting one play. Further Councilwoman Hadden said we need to do things according to the law. Councilman Anavitarte thanked Mrs. Fleming for her comments and made reference to his days of playing at Honeysuckle Park. His concern was with the ethical, moral, and legal issues of the situation regarding city dollars misused in the past. He wants to do what is legal and right and not contribute to what was done in the past. He is for non-profits and would like to create policies and procedure for an equal chance to use the City's facilities. Based on legal opinion to the City, the State of Georgia Law gratuity clause has been violated and he does not want to continue being in violation of any State Law. Attorney Powell stated this has been the hardest case he has worked on, and having been asked for a legal opinion he stated he did not believe the City Council has the legal authority to what has been done in the past. He said there are some Charter amendments which could be done to allow some participation in charitable organization, but as all the facts and circumstances exist at this time, he would have to say, and in his opinion the City can not legally sponsor the event.

Councilman Anavitarte made the motion for the discontinuation of funding and any city participation in the Shrine Bowl unless the City can form a policy to not be in conflict with the State of Georgia Constitution. Otherwise he did not see how it could forward ethically, legally or morally go forward based on the facts presented.

Seconded by Councilwoman Hadden.

Noted for the record by Councilman Roach that Councilman Weese was not present. He believed the council has previously agreed to wait on these types of actions until Councilman Weese was back. Also noted for the record by Councilman Anavitarte the missing Councilman would be a personal conflict of interest because he is a Shriner. Mayor Pro Tem Lang felt the matter should be deferred until Councilman Weese was well.

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By a show of hands for Councilman Anavitarte, Councilman Lowe and Councilwoman Hadden for yes for the motion. Councilman Roach and Mayor Pro Tem Lang voted no to the motion.

The motion carried by majority vote.

Mrs. Fleming again thanked the Mayor and Council; the Mayor apologized to Mrs. Fleming.

Mayor Pro Tem Lang spoke regarding the development of the financial policies and procedures. He made references to several items to be amended. Councilwoman Hadden had a list of the items to be amended which had previously been discussed. The additional items regarding the section on the budget should read the budget be prepared by the Mayor and worked on in a work session by the Council prior to approval. Mr. Lang would also like to review the City Charter for updating, because the Charter is very old. Mr. Lang felt there were areas not specific enough to fully address certain sections and the uncertainties needed to be spelled out for clarity. Councilwoman Hadden was willing to amend the document to make it the best it could be.

Councilman Jason Anavitarte addressed the youth sports program in the City and without dismembering or doing away with any of the current programs, keeping every sports program intact, he wants to establish a soccer program that would only be up to the ages 10 to 11 and be able to use the football field when it is not in use. He wants to work with Carol Stephens to develop the soccer program which is sponsored by the City. The fields would be maintained by the same employees that are currently maintaining them. Further discussion was held regarding the establishment of the soccer program.

Councilman Anavitarte made the motion to proceed with the City soccer program which would be developed under the director of the Recreation Department.

Seconded by Councilwoman Hadden.

Carol Stephens said registration fees would be the method to fund the program, with an increase of fees to participants from outside the City. She would like to see a policy adopted to cover this situation.

The motion carried by majority vote, with Councilman Anavitarte, Councilwoman Hadden and Councilman Lowe.

Councilwoman Hadden read a mission statement for the financial policies and procedures and said the policies submitted have been reviewed by the new auditor and

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the city attorney and is ready for adoption with the additional changes in the wording as addressed previously and she ask the financial policies be adopted with the recommended changes per our city attorney the City attorney , as a demonstration of the City's intent to strive for fiscal responsibility, openness and accountability, for our City.

Attorney Powell said there were some more changes, which could make the policy better. Mayor Pro Tem Lang said he would like to go over the document and get the amendments added to make the document better. He said definitions needs to be added to fully clarify all the areas to make the policies and procedures useful and accountable.

Councilwoman Hadden then made the motion for adoption contingent upon the specifically named amendments. Page 2 as to who would be accountable and Page 6 state contracts and investigations. Councilman Lowe asked if another work session should be held and made a part of the motion to adopt if it would be beneficial to the policy. Mayor Pro Tem Lang said under general policies, Page 11 regarding fixed assets, a copy of the purchase order should already exist also on the bottom of Page 9, quarterly deposits and investment report to the council which shows day to day activity the reports should be prepared by the City Clerk. Mr. Lang also asked for clarification on the section regarding leases. This section would encompass not only leased property in the city but also equipment leases as well.

Councilwoman Hadden made the motion to pass the Financial Policies with the acceptance of the changes as noted.

Seconded Councilman Lowe.

Passed by majority vote, with a no vote by Councilman Roach.

Attorney Powell asked the council to consider the revised Occupational Tax Ordinance as a first read and also the advertising of the ordinance was it would involve a tax increase due to the adopted tax classes used in the ordinance.

Motion made Councilwoman Hadden to accept the Occupational Tax Ordinance.

Seconded by Councilman Anavitarte.

The motion passed unanimously.

Also Attorney Powell brought before the council a motion which passed unanimously which was regarding the purchase of laser gun equipment. Because the item was not on the agenda Attorney Powell ask for a new vote on the expenditures of the lasers. He asked for a new motion.

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Motion made by Councilwoman Hadden to accept the low bid for the purchase of 5 laser guns by the Police Department.

Seconded by Councilman Lowe.  
The motion passed unanimously.

Councilman Roach asked the cost of mileage for travel. The IRS cost allows .375 cents per mile.

Motion made Mayor Pro Tem Lang to approve the payment of the bills.

Seconded by Councilman Roach.

Motion passed by majority vote. No vote from Councilwoman Hadden and abstention by Councilman Anavitarte.

The Mayor reported it was the hope of the council that Councilman Weese would be able to return by the first of July. He also asked the council to limit there time in consideration of the lengthy meeting.

Resident Time: Consisted of Charlene Chupp asked the Council to reinvestigate the distribution of the funds to Hightower Elementary.

There was a question regarding how many meetings a councilmember could miss before being replaced. Other comments were made regarding the ongoing with City business.

Attorney John Nix introduced himself and said the following:

My name is John Nix, I am an attorney in Georgia and I represent Mrs. Hadden. I've been asked by her to review several matters that are pending or have been pending before the City of Doraville. One issue I want to point out on her behalf this evening and I want to stress to the Council and Mayor that is directed only to the future not to the past and in no way has Ms. Hadden directed what I am about to say to the past but rather to the new budget which you adopted tonight and I will be very brief. The council has an ordinance that requires that any expenditure over \$1000 be bid and that those bids be opened by the council at its meeting and the low bid be taken unless there is an exception under that ordinance allows it not to be taken. There appears to be a belief by this council that if an expenditure is less than a \$1000, yet a continuing business relationship exist with a particular vendor, for instance in an example a vendor that the council has retained possibly has been paid \$10,000.00 over the course of one fiscal year there is a belief apparently on the council that as long as every one of the checks written to that vendor or every invoice rather submitted by that vendor is less than a \$1000 it does not come under this ordinance requirement. I am convinced under the law that practice is contrary to your ordinance and I don't believe that if the challenge was

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made by either a council person bringing a law suit or an effected tax payer bringing a law suit or a vendor who is not getting the work or even the opportunity to bid brought a law suit I am convinced there is not a judge in DeKalb County that would uphold the practice. You can not have a continuing relationship with a vendor and escape your bid requirement simply by having them invoice you less than a \$1000 every time they conduct business with you. I have seen evidence of this practice and I have said Ms. Hadden is not interested about the past --- is your time up? is his time up? Almost Mr. Starnes (replied Councilwoman Hadden) almost hell it is done past up (said Mr. Starnes) almost Mr. Starnes (said Councilwoman Hadden). Since my time is up, finally it is also an incredibly poor practice not to have contracts with vendors that you spend more than \$15,000 or \$20,000 a year with and only operated off purchase orders because without a contract you don't know what you are getting, you don't know what the obligation of the vendor is, you don't know what your warranties are, you don't know what your delivery schedule is and to be honest and frank I can't think of another jurisdiction in metropolitan Atlanta that operates without contracts with vendors that spend that kind of money and I am just advising you on behalf of Ms. Hadden that these are serious legal issues and she considers them to be so serious she has taken the action on her own to retain counsel and she simply wanted me to make that statement to the council tonight. Thank you (said Mayor Jenkins) (Loud applause) He brought his own cheering section, didn't he (said Mr. Starnes).

Joe Cofman thanked the council for adopting a sports program for the children of Doraville and said he would volunteer to help with the project.

There be no further business the meeting was adjourned.