

In The Matter Of:

*City Council Meeting
City of Doraville*

*Before Mayor Ray Jenkins
December 15, 2008*

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

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

[1] , 2008.

* * *

Page 3

P R O C E E D I N G S

[1] **MAYOR JENKINS:** Meeting come to order.
[2] **A** couple of things I need to mention.
[3] The Mayor's Motorcade will go out on the 18th.
[4] We're closing it on the 17th, which is
[5] Wednesday. If you have anything going to the
[6] regional hospital, get it in the boxes by
[7] Wednesday. We'll take it down on Thursday the
[8] 18th.
[9] Then a lot of comment about General
[10]

Page 2

NCES:
le City Council:
n. Ray Jenkins, Mayor
uncilmember Maria Alexander
uncilmember Brian Bates
uncilmember Robert Spangler
uncilmember Donna Pittman
uncilmember Bob Roche
uncilmember Pam Fleming

rray J. Weed, City Attorney

onda Blackmon, City Clerk

ott Haeberlin, Planning Department

iscilla Murphy, Financial Consultant

Page 4

[1] it, and they still assure me that I will be the
[2] first one to know when it's sold or who they're
[3] selling it to. They keep me up to date pretty
[4] close.
[5] The reporters keep calling me, and I
[6] tell them exactly what I told you. And if they
[7] get any information of who these bidders are or
[8] whatever, they'll get it from General Motors.
[9] We do not want to be in a situation of saying,
[10] okay, the mayor or the city hall put out a
[11] certain name and it was not true.
[12] So we are staying clear of it -- I am,
[13] and I'm sure the Council is -- until General
[14] Motors makes up their mind what they're going to
[15] do. They will be the ones to decide what goes
[16] there, not us. We'll have a -- we'll have some
[17] input on the zoning. Other than that, that's
[18] about it.
[19] So I want to approve the minutes of
[20] 11/25/08, 12/1/08. Do I get a motion?
[21] **COUNCILMEMBER BATES:** Can we do those
[22] separately, sir?
[23] **MAYOR JENKINS:** Excuse me?
[24] **COUNCILMEMBER BATES:** Can we do those
[25] separately, sir?

Page 5

[1] **MAYOR JENKINS:** Okay. 11/25/08. Do I
[2] get a motion?
[3] **COUNCILMEMBER BATES:** So moved.
[4] **MAYOR JENKINS:** Second?
[5] **COUNCILMEMBER PITTMAN:** Second.
[6] **MAYOR JENKINS:** Call the roll, please.
[7] **CLERK BLACKMON:** Councilmember
[8] Alexander?
[9] **COUNCILMEMBER ALEXANDER:** Yes.
[10] **CLERK BLACKMON:** Councilmember Bates?
[11] **COUNCILMEMBER BATES:** Yes.
[12] **CLERK BLACKMON:** Councilmember Fleming?
[13] **COUNCILMEMBER FLEMING:** Yes.
[14] **CLERK BLACKMON:** Councilmember Pittman?
[15] **COUNCILMEMBER PITTMAN:** Yes.
[16] **CLERK BLACKMON:** Councilmember Roche?
[17] **COUNCILMEMBER ROCHE:** Yes.
[18] **CLERK BLACKMON:** Councilmember
[19] Spangler?
[20] **COUNCILMEMBER SPANGLER:** No.
[21] **MAYOR JENKINS:** Okay. Motion on the
[22] minutes for 12/1/08.
[23] **COUNCILMEMBER ALEXANDER:** So moved.
[24] **MAYOR JENKINS:** What?
[25] **COUNCILMEMBER ALEXANDER:** Motion to

Page 7

[1] be brief if that's possible. I love to talk
[2] about helping cities and talk about our GMA
[3] services and what we can do to help our cities.
[4] The Mayor asked me to come and follow
[5] up with some information on our debt collection
[6] program.
[7] Doraville participates in many services
[8] that GMA offers to local governments. When we
[9] offer our services, we look at ways to help our
[10] cities either to recover revenue, to make more
[11] money, to save money, or to be a more efficient
[12] government. So we look at that criterion when
[13] we look at services.
[14] I know with our insurance programs, you
[15] participate in our insurance programs. I'll
[16] just quickly remind you about the safety grant
[17] that's available through those programs. Take
[18] advantage of that with your workers' comp and
[19] your general liability.
[20] If you ever have any surplus property
[21] for sale, I highly recommend GovDeal. That's
[22] our government eBay for selling surplus, and it
[23] has been able to provide additional revenue to
[24] our local governments for the sale of their
[25] surplus. So it's an excellent opportunity and

Page 6

[1] approve the minutes of 12/1/08.
[2] **MAYOR JENKINS:** Second?
[3] **COUNCILMEMBER ROCHE:** Second.
[4] **MAYOR JENKINS:** Call the roll, please.
[5] **CLERK BLACKMON:** Councilmember
[6] Alexander?
[7] **COUNCILMEMBER ALEXANDER:** Yes.
[8] **CLERK BLACKMON:** Councilmember Bates?
[9] **COUNCILMEMBER BATES:** Abstain.
[10] **CLERK BLACKMON:** Councilmember Fleming?
[11] **COUNCILMEMBER FLEMING:** Yes.
[12] **CLERK BLACKMON:** Councilmember Pittman?
[13] **COUNCILMEMBER PITTMAN:** Yes.
[14] **CLERK BLACKMON:** Councilmember Roche?
[15] **COUNCILMEMBER ROCHE:** Yes.
[16] **CLERK BLACKMON:** Councilmember
[17] Spangler?
[18] **COUNCILMEMBER SPANGLER:** Yes.
[19] **MAYOR JENKINS:** Ms. Pam Helton, please,
[20] from the GMA is going to give us a presentation
[21] on the collection agency through the Georgia
[22] Municipal Association.
[23] **MS. HELTON:** Thank you for the
[24] opportunity to be with you tonight. And you've
[25] got, I see, a lot on your agenda, so I'll try to

Page 8

[1] an excellent service.
[2] We have our financing programs. And
[3] pretty soon -- I think either next week or you
[4] may have already received it -- your delinquent
[5] insurance business license check where GMA
[6] actually comes in and audits the insurance
[7] companies, and those that have not purchased
[8] their license from your city, then we collect it
[9] for you and send you a check each year, in
[10] December of each year.
[11] We also have a service for auditing
[12] hotel/motel taxes as well as alcohol excise tax
[13] for liquor by the drink. Those provide just
[14] some assistance for making sure those establish-
[15] ments are properly remitting the tax that is due
[16] the local government.
[17] Our new service, that I hope you've
[18] heard of it, is Pinpoint Public Works, which is
[19] a GPS touch-screen device that is designed to
[20] help save money in garbage money and trash
[21] collection. Garbage collectors or household
[22] garbage collectors are actually your data
[23] collectors. Through a touch-screen device
[24] that's mounted in their truck, they can pinpoint
[25] the location of yard debris, white goods, brown

Page 9

[1] goods, whatever other debris that's picked up
[2] besides household garbage, so that a work order
[3] and mapping system is created which can be given
[4] to the trash-truck drivers to go only to those
[5] locations to pick up the outside limbs, trash,
[6] whatever, so they don't have to ride down every
[7] street looking for it.

[8] So it's just a way to save money and be
[9] a more efficient government with your tax
[10] dollars as well as it can be used for locating
[11] potholes, street signs that are down, street
[12] lights that are out. It's unlimited what it can
[13] be used for. So that's a good device that you
[14] can also use in your local government
[15] operations.

[16] But tonight we're going to talk about
[17] debt collection. And when the Mayor and I
[18] talked previously last year, we were with a
[19] company out of Alabama. Since then, that
[20] company's parent company chose to do away with
[21] their debt-collection service and so we were
[22] forced to locate a new debt-collection third-
[23] party provider.

[24] And in doing so, we were actually
[25] fortunate enough to find one that their fees are

Page 10

[1] lower and their service record is outstanding.
[2] So we are very pleased to announce that Penn
[3] Credit Corporation is now the third-party
[4] provider for GMA in collecting outstanding debt
[5] for our local governments.

[6] They have actually lowered their fees
[7] to be 16.5 percent for those outstanding debts
[8] less than two years old, and anything over that
[9] is 19 percent. That is the lowest rate you'll
[10] ever find for collection fees. And it's
[11] contingency-based, so if they don't collect it,
[12] there is no cost whatsoever.

[13] It's a non-exclusive agreement if you
[14] decide to use the debt collection service, so,
[15] therefore, you could use other debt collection
[16] companies or use other methods for collecting
[17] outstanding debt as well.

[18] The company has a lot of experience
[19] with government collections. They actually do
[20] government, hospitals, and the public sector, do
[21] a lot of court collections for fines and will be
[22] doing some red-light-camera-fine collections for
[23] many of the metro cities around the Atlanta
[24] area.

[25] Utilities are another area that they

Page 11

[1] have some great resources to pull back on. And
[2] I understand that you don't have water/sewer but
[3] you just have sanitation service -- is that
[4] correct? -- okay, for utilities.

[5] Hopefully, with new accounts or
[6] whatever, you're able to retrieve information on
[7] the new renter or person that will be having the
[8] service so that there will be some kind of
[9] identification with that name. Of course dates
[10] of service and their last known address is
[11] always helpful.

[12] But everybody knows if you have a date
[13] of birth or a Social Security number, then
[14] they're easily -- we can run them through
[15] databases to locate them and find out if they're
[16] bankrupt and find out if they're deceased and
[17] that sort of thing so that you will know. If
[18] they are, then you will know how to deal with
[19] those accounts likewise.

[20] We have actually just started with Penn
[21] Credit. And we've got about 15 cities already
[22] signed up, and we've got many that have
[23] agreements that are proposed for their council
[24] meetings upcoming to obtain the same accounts
[25] that we were switching over from RDS.

Page 12

[1] We'll be glad to help the city with
[2] your outstanding debt. We'll try to collect.
[3] If you don't have anything but a name, of course
[4] there's nothing we can do, but we do need at
[5] least some dates of service and some -- the last
[6] known address and the balance due, et cetera.
[7] And if you have an interest rate that you add
[8] monthly, then of course, you know, we would need
[9] that kind of information so that the company can
[10] continue to add that as well.

[11] They will actually -- the only thing
[12] that they cannot do without an identification
[13] number is turn an outstanding debt over to the
[14] credit bureau. That's something we just don't
[15] like to do if we don't know absolutely for sure
[16] that that person is the right debtor. So
[17] without a Social Security number, that would be
[18] hard to do. So without -- if you do not have
[19] Social Security numbers, then we could not issue
[20] something to the credit bureau to file on if we
[21] could not locate them. But other than that,
[22] we'll be -- you know, we would be glad to help.

[23] And most cities are trying to do a 90-
[24] day. Anything after 90 days, if it's not
[25] collected by the city, then they're going to

Page 13

[1] turn it over. We all know the quicker you turn
[2] it over for collection, the greater your chances
[3] are for recovering it.
[4] So with a good process in place to help
[5] with collecting that debt, I'm sure we could do
[6] a good job for the city. And I would like to
[7] entertain any questions.
[8] **COUNCILMEMBER BATES:** How long have you
[9] been with Penn or has Penn been with y'all?
[10] **MS. HELTON:** We have just awarded the
[11] contract in August, so they are just starting.
[12] They just -- we checked other states -- Alabama
[13] and Florida, Pennsylvania -- and they just were
[14] awarded the state of South Carolina's account
[15] for outstanding debt collection. They have all
[16] the references and they've been very good to
[17] work with. And they've just started now
[18] collecting -- I know Suwanee said that they had
[19] just started receiving some of theirs from them.
[20] **COUNCILMEMBER BATES:** This is for our
[21] Clerk or Ms. Murphy.
[22] Do we have any idea what our over-90s
[23] are on water or red lights?
[24] **CLERK BLACKMON:** I don't do water or
[25] red lights. I don't know. That would be

Page 14

[1] Corally.
[2] **COUNCILMEMBER BATES:** Or sanitation.
[3] Sorry.
[4] **CLERK BLACKMON:** Sanitation, I had the
[5] figures last meeting, and I did not bring them
[6] with me.
[7] **COUNCILMEMBER BATES:** Ms. Murphy, any
[8] idea on what our receivables are that are over
[9] 90?
[10] **MS. MURPHY:** I think there's a little
[11] over a hundred ten, a hundred and twenty
[12] thousand.
[13] **CLERK BLACKMON:** I want to say it was a
[14] hundred and twenty thousand.
[15] **COUNCILMEMBER BATES:** Is that just
[16] sanitation or is that all?
[17] **MS. MURPHY:** That's sanitation.
[18] **CLERK BLACKMON:** Sanitation.
[19] **MS. MURPHY:** About a hundred twenty
[20] thousand on sanitation.
[21] **COUNCILMEMBER BATES:** Any idea on the
[22] court side?
[23] **COUNCILMEMBER ALEXANDER:** I showed
[24] 40,000 in taxes and 122,000 in sanitation.
[25] **CLERK BLACKMON:** Yeah.

Page 15

[1] **COUNCILMEMBER ALEXANDER:** Does that
[2] sound right?
[3] **CLERK BLACKMON:** Yeah.
[4] **COUNCILMEMBER BATES:** Any idea on
[5] court?
[6] **MAYOR JENKINS:** John, you don't have
[7] any idea on the courts?
[8] **CHIEF KING:** No, sir.
[9] **MAYOR JENKINS:** We can get this
[10] information.
[11] **MS. HELTON:** Sure. And it's just
[12] something that you want to look at to try to
[13] establish a policy or something -- you know,
[14] something that, you know, that after so many
[15] days, that if you cannot find that outstanding
[16] debtor, then turn it over to the company for
[17] collection efforts.
[18] You know, if they don't collect,
[19] there's no fee. If they collect, then it's
[20] either 16.5 percent or 19 percent of that. And
[21] if you have late fees or interest added in, of
[22] course that covers a lot of those fees -- the
[23] fee right there. So we'll be glad to work with
[24] you any way we can.
[25] **COUNCILMEMBER BATES:** Do they have any

Page 16

[1] track record from other states that they're
[2] working with as far as percentage collected?
[3] **MS. HELTON:** They don't like to really
[4] give out percentages because they deal with so
[5] many different types of debts and it's always
[6] based on the age of the debt. And we know that
[7] unfortunately governments are notorious for
[8] keeping their debt for years and years and years
[9] before turning it over. So the more up-to-date
[10] debt, I should say -- less than a year old or
[11] two years old -- their percentages are high.
[12] But of course if it's over that, it drops, you
[13] know.
[14] But if it's not -- if it's just sitting
[15] on your books now and it's not being collected,
[16] why not give it a try? Anything that you
[17] collect is gravy.
[18] **MAYOR JENKINS:** That's right.
[19] If we turn over, do we have to turn
[20] everything over to you?
[21] **MS. HELTON:** No. You can pick and
[22] choose. You just turn over what you want. You
[23] just turn over your accounts that you have the
[24] most information on. You just turn over your
[25] accounts that are more likely -- the higher

Page 17

[1] balances, maybe; the ones that are -- you know,
[2] that you feel like can be collected or can be
[3] located.
[4] They go through several skip-tracing
[5] mechanisms or data processes to try to find
[6] them. They'll do everything they can. They
[7] have this national -- not only an address
[8] system, but a -- oh, they use so many different
[9] ways to try to find the debtor. And then
[10] they'll also be able to determine if they file
[11] bankruptcy or maybe if they even have property
[12] in another state, et cetera.
[13] So I would suggest your highest
[14] balances with your most identifica- -- with your
[15] most information available and start with those.
[16] Anything that's over 90 or 120 days, I'd send it
[17] over. If you haven't collected it within a
[18] certain period of time, I definitely would start
[19] sending it over more currently, yes, to have a
[20] process so that it's not 10 years old, you know,
[21] that there's a process in place.
[22] **COUNCILMEMBER ROCHE:** What are we doing
[23] now to collect these funds?
[24] **MAYOR JENKINS:** All we're doing now is
[25] sending out letters, you might say, at the

Page 18

[1] collection times, and I'll send out a letter
[2] with how much they're overdue and all. We just
[3] have to take potluck to get it. We don't have
[4] enough personnel, actually.
[5] **MS. HELTON:** Right.
[6] **MAYOR JENKINS:** Quality of Life has
[7] done some collecting, but --
[8] **MS. HELTON:** And a lot of times, just a
[9] letter from a collection agency will get
[10] somebody's attention quicker than from a city.
[11] **MAYOR JENKINS:** That's right. Our
[12] letters don't always work. We do get some.
[13] **MS. HELTON:** And it's not just the City
[14] of Doraville. I can attest for many cities.
[15] **MAYOR JENKINS:** Would you like to come
[16] up here, Priscilla?
[17] **MS. MURPHY:** I just have a question for
[18] Pam and I want to talk to the Council some too.
[19] Some of the identifying information
[20] that you need is birth dates and Social Security
[21] numbers --
[22] **MS. HELTON:** We would love to have
[23] them.
[24] **MS. MURPHY:** -- and those are the items
[25] that we do not have a lot of --

Page 19

[1] **MS. HELTON:** Right.
[2] **MS. MURPHY:** -- because if we did, we'd
[3] already be able to track a lot of this down
[4] ourselves and find the people.
[5] So even though we have that amount on
[6] our books and we're doing like the Mayor said,
[7] sending Quality of Life and sending out letters
[8] to the property owners and trying to find out
[9] who owns property and things like that, it's not
[10] going to be as easy if that's what is needed,
[11] the Social Security number and the birth date,
[12] in order to get this collection company to
[13] collect it.
[14] And we need to change our applications
[15] for things to make sure that they include the
[16] Social Security numbers and the birth dates,
[17] because for a lot of the older debt that we
[18] have, we do not have that information, and it's
[19] not going to be easy for someone to find it.
[20] **MS. HELTON:** And it's just -- correct.
[21] And we cannot send it over to the credit bureau
[22] without that Social Security number.
[23] However, if you want them to try with
[24] just a service date, last known address and your
[25] name, we'll try it. We can't -- but your

Page 20

[1] chances are going to be slimmer than if we had
[2] other identifications, yes.
[3] If it's not easily retrievable, I would
[4] suggest high-balance accounts, just start with
[5] those.
[6] **COUNCILMEMBER BATES:** Are we capturing
[7] that information now as far as birth date and --
[8] **MS. HELTON:** Or some kind of phone
[9] number or something?
[10] **CLERK BLACKMON:** It is on our newer
[11] applications but it was not on our older ones.
[12] **COUNCILMEMBER BATES:** Okay.
[13] **CLERK BLACKMON:** And I also wanted to
[14] let Council know that we are also newly stopping
[15] service on sanitation. We weren't aware that we
[16] could do that in the past. So they will not do
[17] pickup if it's over \$500. That's in a letter
[18] that we're sending out.
[19] **COUNCILMEMBER SPANGLER:** Should we let
[20] it get that high before we stop service?
[21] **CLERK BLACKMON:** That can be altered.
[22] I just -- there are some that are so much
[23] higher, that I just capped it off.
[24] **COUNCILMEMBER SPANGLER:** I think we
[25] need to --

Page 21

[1] **CLERK BLACKMON:** If it's over 500, we
[2] stop sanitation.
[3] **MS. HELTON:** Those accounts, they're
[4] still active and they have outstanding balances?
[5] **CLERK BLACKMON:** Active but possibly a
[6] different owner. That's one of the problems
[7] where an owner, and the renter -- it was in the
[8] renter's name. We have a lot of those.
[9] **MAYOR JENKINS:** Murray, do you have
[10] anything to add to this or say, you know, we've
[11] got nothing to lose or much to gain or --
[12] **ATTORNEY WEED:** Well, I agree with your
[13] second statement. When you've got --
[14] essentially what you have is you're carrying
[15] that debt. And if you collect some portion of
[16] it, you're either going to have to -- you know,
[17] Priscilla will tell you, and any accountant
[18] will, you either have to write it off or you do
[19] what you can to collect whatever you can, and
[20] anything you get is more than you would have
[21] had. So I would encourage this program or
[22] something like it.
[23] I know that we have -- Doraville has a
[24] unique situation in that your charter set up
[25] your sanitation program. And the way I read

Page 23

[1] the property.
[2] With regard to sanitation, I haven't
[3] done research with regard to that issue so I
[4] don't know if there's a statute out there that
[5] deals with the sanitation issue. But I know you
[6] can't do that for water, unfortunately.
[7] **COUNCILMEMBER SPANGLER:** Well, could
[8] you check on the sanitation?
[9] **ATTORNEY WEED:** I certainly can.
[10] **COUNCILMEMBER BATES:** Well, I guess the
[11] other question would be why don't we put
[12] sanitation on the tax bill? And then we
[13] wouldn't be in the collection business; it would
[14] just be part of the taxes.
[15] **MS. MURPHY:** Well, one of the reasons
[16] that we haven't, it was important to the
[17] previous Council that the residents have more
[18] than -- they have time to pay over the year
[19] instead of just adding it to their tax bill.
[20] But if this Council thinks differently, we could
[21] do that.
[22] And plus we've had to adjust the
[23] sanitation rates up and also down before. So
[24] that makes a difference too.
[25] **MS. HELTON:** And you may just want to

Page 22

[1] your charter, it is arguably a tax, but you also
[2] -- there's also authority in your charter that
[3] provides cutoff of the service -- which Rhonda
[4] consulted with me, we looked into it and we made
[5] that determination.
[6] So from now on, we're both going to cut
[7] off the service and pursue it the best we can as
[8] a lien against property owners as well. So
[9] between that effort and the other collection
[10] effort, hopefully we can get some money back.
[11] **COUNCILMEMBER BATES:** Are we fifaing
[12] properties for . . .
[13] **CLERK BLACKMON:** Yes.
[14] **MS. HELTON:** So you should collect
[15] those if the property is sold.
[16] **COUNCILMEMBER SPANGLER:** Well, wouldn't
[17] a solution to renters be to make the property
[18] owner solely responsible for sanitation?
[19] **ATTORNEY WEED:** It's a great idea. And
[20] here's what happens: it's a mixed bag.
[21] With regard to water/sewer, you can't
[22] do it. There's an actual law that says you
[23] cannot do that, that you can't make -- whoever
[24] the name the account is in, that's the person
[25] responsible for the account, not the owner of

Page 24

[1] have a cutoff, some time -- you know, whatever
[2] it is -- because from here on out, from six
[3] months ago to now, we're going to start doing
[4] this and we're going to start this process and
[5] we're going to -- you know. And then if those
[6] other accounts, if the property's sold or if
[7] something happens that you can collect it,
[8] that's great.
[9] Just to start somewhere means more than
[10] just doing nothing altogether. So I would
[11] suggest at least starting with a starting point.
[12] Maybe whenever you started asking those
[13] questions on the application maybe so that you
[14] have that information.
[15] But it's up to y'all. We'll try
[16] whatever you want us to do. Unless you've got
[17] some really high balances, I would try -- you
[18] know, we'll try to collect them for you.
[19] **COUNCILMEMBER SPANGLER:** I don't really
[20] see where it would hurt for some of those that
[21] we don't have the Social Security numbers and
[22] that, to turn them over and let them have a shot
[23] at it. If we can't do anything with them and
[24] they can, if they only do 5 percent of what
[25] we're getting, it's still better than what we've

Page 25

[1] got.

[2] So I make a motion that we use the

[3] recovery system on these hard-to-collect items.

[4] **COUNCILMEMBER ROCHE:** At the direction

[5] of the City Clerk and the City finance person.

[6] **MAYOR JENKINS:** Do you second?

[7] **COUNCILMEMBER ROCHE:** Yeah. I'll

[8] second that.

[9] **MAYOR JENKINS:** Okay. Any more

[10] discussion?

[11] **COUNCILMEMBER BATES:** Is this just for

[12] sanitation? This is just for sanitation right

[13] now?

[14] **COUNCILMEMBER SPANGLER:** No, this is

[15] for everything.

[16] **MAYOR JENKINS:** I would say for

[17] everything that we --

[18] **MS. HELTON:** Any --

[19] **MAYOR JENKINS:** -- want to turn over.

[20] **MS. HELTON:** -- outstanding debt.

[21] **COUNCILMEMBER ROCHE:** Yeah. Anything

[22] the City Clerk wants to do, we'll turn over.

[23] **COUNCILMEMBER FLEMING:** Because I

[24] believe that Ms. Blackmon in a previous meeting

[25] said that we had some property taxes from 2005

Page 26

[1] that need to be collected.

[2] **CLERK BLACKMON:** That is correct.

[3] **COUNCILMEMBER BATES:** Okay.

[4] **COUNCILMEMBER SPANGLER:** So this should

[5] be -- I'll amend my motion to not only include

[6] sanitation but all outstanding debts, taxes.

[7] **MAYOR JENKINS:** Will you second that?

[8] **COUNCILMEMBER ROCHE:** Uh-huh, second.

[9] **MAYOR JENKINS:** Call the roll.

[10] **CLERK BLACKMON:** Councilmember

[11] Alexander?

[12] **COUNCILMEMBER ALEXANDER:** Yes.

[13] **CLERK BLACKMON:** Councilmember Bates?

[14] **COUNCILMEMBER BATES:** Yes.

[15] **CLERK BLACKMON:** Councilmember Fleming?

[16] **COUNCILMEMBER FLEMING:** Yes.

[17] **CLERK BLACKMON:** Councilmember Pittman?

[18] **COUNCILMEMBER PITTMAN:** Yes.

[19] **CLERK BLACKMON:** Councilmember Roche?

[20] **COUNCILMEMBER ROCHE:** Yes.

[21] **CLERK BLACKMON:** Councilmember

[22] Spangler?

[23] **COUNCILMEMBER SPANGLER:** Yes.

[24] **COUNCILMEMBER FLEMING:** Mayor?

[25] **MAYOR JENKINS:** Before we go into our

Page 27

[1] first --

[2] **COUNCILMEMBER FLEMING:** Mayor, did we

[3] not want to possibly consider also the audit for

[4] the sale by the drink that they do, or do we

[5] want to discuss this now -- sale by the drink

[6] as well as the hotel/motel tax audit?

[7] **MS. HELTON:** If we can get the number

[8] of establishments that you have, I can give you

[9] a cost estimate for that service.

[10] **COUNCILMEMBER FLEMING:** Okay.

[11] **MS. HELTON:** And if you'll send that to

[12] me, we'll be glad to send you back with a quote

[13] saying this is what it would cost to perform

[14] that service.

[15] **MAYOR JENKINS:** We can add that to the

[16] motion the next time after she gets the

[17] information or do you want it --

[18] **MS. HELTON:** Right.

[19] **MAYOR JENKINS:** -- in this motion?

[20] **COUNCILMEMBER FLEMING:** No, I don't

[21] want to proceed with the audit but I would like

[22] her to get the information for us --

[23] **MS. HELTON:** Right.

[24] **COUNCILMEMBER FLEMING:** -- so that we

[25] could proceed.

Page 28

[1] **MS. HELTON:** Yeah. And that's the

[2] cost, yes.

[3] **COUNCILMEMBER FLEMING:** Yes, please.

[4] **MS. HELTON:** There is an agreement for

[5] the debt collection. You want me to just give

[6] it to the . . .

[7] **COUNCILMEMBER FLEMING:** Yeah.

[8] **MAYOR JENKINS:** Yes.

[9] **MS. HELTON:** That you review it first,

[10] and if it meets with your approval, then the

[11] Mayor can sign off on it (presenting to the

[12] Clerk).

[13] **MAYOR JENKINS:** All right. Thank you.

[14] **MS. HELTON:** Thank you.

[15] **COUNCILMEMBER FLEMING:** Thank you for

[16] coming.

[17] **COUNCILMEMBER ALEXANDER:** Thank you.

[18] **COUNCILMEMBER BATES:** Thank you.

[19] **MAYOR JENKINS:** I'd like to thank all

[20] the Council members and the citizens that helped

[21] with our Christmas tree lighting on Friday

[22] night. Of course it was the best ever.

[23] We had a house full of kids this year.

[24] It was very nice. And we had a good Santa Claus

[25] with his dogs and the horns and everything.

Page 29

[1] **COUNCILMEMBER ROCHE:** There he is now.
 [2] **MAYOR JENKINS:** It was very nice.
 [3] Mr. Hart was our Santa Claus, and there he is.
 [4] - - -
 [5] (Applause)
 [6] - - -
 [7] **MAYOR JENKINS:** And he brought the
 [8] canine, which the kids loved the canine just
 [9] about as well as -- I think they liked it better
 [10] than they did him.
 [11] But anyway, I want to thank all the
 [12] Council members and all the citizens that helped
 [13] out. We'll try to get some letters out to them,
 [14] but as for now, all I can do is say thank you.
 [15] It was wonderful, and we're going to make it
 [16] better next year.
 [17] Do you want to add to that?
 [18] **COUNCILMEMBER PITTMAN:** I too want to
 [19] thank everyone for helping. It was a great
 [20] event, and each year it gets better and better.
 [21] And I think the highlight of the evening was
 [22] Santa Claus's arrival with the Police Department
 [23] and the Fire Department coming down Park Avenue.
 [24] That was awesome, so --
 [25] But thank you, everyone. If you didn't

Page 31

[1] At this time, we would like to ask for
 [2] the committee member to resubmit the complaint,
 [3] and we can then take it from there. Just from a
 [4] procedural standpoint, that is what is itemized
 [5] or that is what is suggested in our -- in our
 [6] committee.
 [7] **MAYOR JENKINS:** Suggested by your
 [8] committee?
 [9] **MR. GRANT:** Suggested through the
 [10] agenda and through the procedures that are set
 [11] up on the ethics ordinance.
 [12] **MAYOR JENKINS:** Now, that will be up to
 [13] the Council if it goes any further.
 [14] Murray, can you add to it at all?
 [15] **ATTORNEY WEED:** Well, let me answer the
 [16] question this way, Mr. Mayor. I'd like to --
 [17] I'd rather not answer the specific question with
 [18] regard to a specific case but I'm going to
 [19] answer a hypothetical question with regard to a
 [20] hypothetical case.
 [21] In the ordinance, the relevant section
 [22] appears to be subsection (c) of section 2-75.
 [23] And essentially the language used in subsection
 [24] (c) plainly states that a 30-day period is the
 [25] time frame after the Ethics Committee receives a

Page 30

[1] get to come, please come next year. It was a
 [2] lot of fun.
 [3] **MAYOR JENKINS:** Maria?
 [4] **COUNCILMEMBER ALEXANDER:** And thank you
 [5] for all the generous donations for the Toys for
 [6] Tots. We filled up both of our donation boxes,
 [7] and that was great. Thank you very much.
 [8] **COUNCILMEMBER PITTMAN:** We even had a
 [9] skateboarding Marine here. Kids loved him.
 [10] **MAYOR JENKINS:** And don't forget our
 [11] Christmas motorcade closes out on Wednesday.
 [12] Our next item is Gordon Grant. Would
 [13] you come up to the microphone, please?
 [14] **MR. GRANT:** Hello. My name is Gordon
 [15] Grant, Chairman of the Ethics Committee. I've
 [16] had the pleasure of working with Ms. Patty
 [17] Barker and Sandy Sledd on the committee.
 [18] Currently to date we have overheard and
 [19] resolved one complaint that is filed and we've
 [20] also had a nice -- nice brief go-through by Mr.
 [21] Weed on exactly processes and procedures.
 [22] There is currently one issue that we
 [23] have that is outstanding and it has gone beyond
 [24] the 30-day period that is set up in the
 [25] procedures.

Page 32

[1] complaint that they will act upon it in some
 [2] manner. And it's an affirmative code section
 [3] because the language used is "shall" rather than
 [4] "may." "May" is always permissive; "shall" is
 [5] always mandatory.
 [6] However, at this time, there isn't --
 [7] there does not appear to be a direct-line
 [8] statement about what happens if the Ethics
 [9] Committee does not hear something within 30
 [10] days.
 [11] The issue does appear to be addressed
 [12] in other parts of the code. In section 2-279
 [13] with regard to the Council, if the Council fails
 [14] to have a hearing within 30 days after the
 [15] receipt by Council of the complaint, then in
 [16] that case there is an automatic dismissal of the
 [17] complaint and it prevents the refiling of the
 [18] complaint for a period of six months on the same
 [19] issue.
 [20] And then the only other insight I could
 [21] offer to the Council is section 2-89, subsection
 [22] (a), which says that if a complaint has been
 [23] dismissed by the Ethics Committee, then the
 [24] complaining party can go to the superior court
 [25] by writ of certiorari and seek to have the

Page 33

[1] superior court essentially overturn the Ethics
[2] Panel's decision.
[3] So hypothetically, there's no direct
[4] line between that first subsection and what to
[5] do if the 30 days -- it goes beyond the 30 days.
[6] But when you apply the code section relevant to
[7] the Council, I believe by implication, then the
[8] complaint may stand automatically dismissed.
[9] But the complaining party is not
[10] without some remedy because the complaining
[11] party can always go to superior court.
[12] **COUNCILMEMBER ROCHE:** But the ethics
[13] complaint never came to the Council.
[14] **ATTORNEY WEED:** That is correct.
[15] And once again, what I -- the question
[16] that I am answering is a hypothetical question,
[17] because right now in the ordinance there is no
[18] clear statement about what happens to the
[19] complaint at the Ethics Commission level. There
[20] is no language that directly says at this time
[21] that if 30 days passes, then XYZ happens.
[22] The closest analogy is what happens if
[23] that fact situation occurs before the Council.
[24] So that's -- that's all I can tell you.
[25] **COUNCILMEMBER FLEMING:** I have a

Page 34

[1] question in regards to the 30 days. The Ethics
[2] Commission got their formal training from you on
[3] November 25th on how to properly understand an
[4] ethics complaint and what their procedures are.
[5] So would not the 30 days start from the date of
[6] their training rather than the date of the
[7] ethics complaint?
[8] **ATTORNEY WEED:** I can't see how one
[9] thing is relevant to the other, and here's why.
[10] The Ethics Panel has always had legal
[11] representation, if not in the form of me, in the
[12] form of my predecessor. The Ethics Panel is
[13] also charged with educating themselves as well.
[14] When you're appointed to a position, they've got
[15] the responsibility to find out what their
[16] ordinances are and how to apply them.
[17] I do appreciate -- hopefully, my
[18] training has been helpful, but I certainly
[19] wouldn't cast myself in the role of, you know,
[20] by some mechanism, my training really formed the
[21] Ethics Panel, because the Council did that when
[22] you adopted the ordinance.
[23] I don't think that my training
[24] objectively would toll the other limitations in
[25] the code.

Page 35

[1] **MR. GRANT:** And it's our interpretation
[2] it's upon our receipt of the complaint.
[3] **MS. BARKER:** As a member, may I
[4] approach the Council, please?
[5] **MAYOR JENKINS:** You'll have to come up
[6] to --
[7] **MS. BARKER:** That's fine. As a member,
[8] may I do that, please?
[9] **MAYOR JENKINS:** Come up to the
[10] microphone.
[11] **COUNCILMEMBER BATES:** Mr. Weed, while
[12] Ms. Barker's going up there, let me make sure I
[13] have this clear.
[14] There's a 30-day window for the Ethics
[15] Commission to address and present findings to
[16] Council; is that correct?
[17] **ATTORNEY WEED:** No, sir. There's --
[18] **COUNCILMEMBER BATES:** Run that by me
[19] again.
[20] **ATTORNEY WEED:** Absolutely.
[21] The complaints are supposed to be given
[22] to the Clerk. The Clerk will -- the Clerk even
[23] makes an initial determination as well. Let's
[24] say the complaint wasn't signed or it was simply
[25] illegible. Well, the Clerk could, on her own

Page 36

[1] initiative, send that back to the complaining
[2] party and say you need to make this legible, you
[3] need to sign it, that type of thing. The Clerk
[4] then transmits the information via the complaint
[5] to the Ethics Panel themselves.
[6] The Ethics panel at that point has 30
[7] days after they receive the complaint to make
[8] some initial determination on it, and the
[9] initial determination's twofold: either, one,
[10] they believe that it should go forward to some
[11] more formal hearing before them; or, two, they
[12] can determine that it is unjustified, frivolous,
[13] patently unfounded, or it fails to state facts
[14] sufficient to invoke the ultimate jurisdiction
[15] of the City Council. So those are the -- it's a
[16] two-pronged judgment that can either go one way
[17] or the other.
[18] **COUNCILMEMBER BATES:** Is there a time
[19] constraint on the Ethics Panel to render a
[20] decision on whether it needs to move forward or
[21] not?
[22] **ATTORNEY WEED:** Thirty days.
[23] **MS. BARKER:** That's what I --
[24] **ATTORNEY WEED:** They have 30 days --
[25] **MS. BARKER:** -- would like to address.

Page 37

[1] **ATTORNEY WEED:** -- from the time they
[2] receive it to make that decision.
[3] **COUNCILMEMBER BATES:** But if they
[4] determine that it needs additional review or an
[5] additional hearing, is there additional time
[6] constraints on them?
[7] **ATTORNEY WEED:** No.
[8] If -- what they could do, arguably, if
[9] they receive a complaint and they act within the
[10] 30 days and they determine that they need to do
[11] more fact finding or they need to have a formal
[12] hearing, then that time frame would be expanded
[13] until they can get it done.
[14] But in this situation, it doesn't
[15] appear that they --
[16] And they had a meeting. Unfortunately,
[17] the meeting apparently didn't comply with the
[18] Open Meetings law, and therefore, that meeting
[19] is suspect.
[20] **COUNCILMEMBER BATES:** Okay.
[21] **ATTORNEY WEED:** So that's --
[22] **COUNCILMEMBER BATES:** And I apologize.
[23] I'm getting to a point here.
[24] So, then, the 30-day period of
[25] dismissal only applies once a decision has been

Page 39

[1] **COUNCILMEMBER BATES:** Well, that's
[2] assuming that the Ethics Commission doesn't do
[3] their own ruling and refers it to Mayor and
[4] Council for a ruling.
[5] **ATTORNEY WEED:** No, sir. Forget about
[6] that part.
[7] **COUNCILMEMBER BATES:** Okay.
[8] **ATTORNEY WEED:** I -- I --
[9] **COUNCILMEMBER BATES:** And let me ask
[10] you, let me ask: at what point does it come to
[11] Council and Mayor?
[12] **ATTORNEY WEED:** It only comes to the
[13] Mayor and Council if the Ethics Panel makes a
[14] recommendation or a determination to turn it
[15] over to you.
[16] **COUNCILMEMBER BATES:** Okay. And so we
[17] have not reached that point from the Ethics
[18] Commission, so, therefore, a 30-day window of
[19] dismissal hasn't yet begun.
[20] **ATTORNEY WEED:** At your level, that's
[21] correct.
[22] **COUNCILMEMBER BATES:** Okay.
[23] **ATTORNEY WEED:** It hasn't -- hasn't
[24] come anywhere near the Council level.
[25] **COUNCILMEMBER BATES:** Okay. That's all

Page 38

[1] rendered to Council, that the Council has 30
[2] days to hear or else it goes away.
[3] Run by me, then, the dismissal piece if
[4] -- if --
[5] **ATTORNEY WEED:** Yeah, yeah.
[6] **COUNCILMEMBER BATES:** And I think it
[7] was --
[8] **ATTORNEY WEED:** What you're saying is
[9] true. You are correct.
[10] And the reason why you're correct is
[11] because the way the ordinance is currently
[12] written, there is no clear delineation right now
[13] as to what happens if the Ethics Panel does not
[14] deal with the situation by some meeting, having
[15] some meeting to make those two determinations --
[16] whether to proceed on in some manner or whether
[17] to dismiss it underneath the way that they can
[18] dismiss it, the three or four ways they can do
[19] it. There's no clear delineation of what
[20] happens at that point.
[21] The closest analogy is the section that
[22] deals with what happens when the same situation
[23] occurs before the Mayor and Council. And in
[24] that situation, the complaint is dismissed
[25] automatically.

Page 40

[1] I needed to know.
[2] **MR. GRANT:** And it was our
[3] interpretation that the "shall" meant that if it
[4] hasn't -- due to the inadvertent error that we
[5] made about having the meeting behind closed
[6] doors, that the 30-day has elapsed, that we
[7] should then ask for a refiling at that point.
[8] **MS. BARKER:** Patricia Barker;
[9] (spelling) P-A-T-R-I-C-I-A, last name
[10] B-A-R-K-E-R.
[11] When the Ethics Commission was
[12] established, we followed what was given to us,
[13] and we were given this complaint and told do
[14] come to one of these decisions on it.
[15] We are three ordinary citizens who
[16] didn't know anything about -- at least I didn't,
[17] and I don't think the others did -- about this
[18] open meeting thing.
[19] Once we did, we had already given our
[20] suggestion to the Council on that, but that
[21] wasn't fair because it was a suspect meeting
[22] because we did not know about the open meeting.
[23] What we're saying basically now is
[24] because we were not instructed properly as a
[25] City of Ethics by whoever should be instructing

Page 41

[1] us, that, okay, by the way, here's your
[2] training. We're not passing the buck. We're
[3] just saying that we didn't get that.
[4] So because we did not get that and did
[5] not know, we feel like in all fairness to those
[6] that are being complained against and to those
[7] filing the complaint, we've got holidays coming
[8] up and everything, and in order to get the 30
[9] days covered and not go from even the day of the
[10] training -- because we haven't even discussed it
[11] since then; in front of everybody else, we
[12] should have in an open meeting -- we're simply
[13] saying we would like to make a suggestion that
[14] it be resubmitted. Wording stays the same if
[15] that's what complainant wants to do. But in all
[16] fairness, that it be resubmitted after the
[17] holidays so that we can bring it before the
[18] Council, as should be done, properly, without
[19] the rush and everything of the holidays, and
[20] everybody can deal with it on that basis rather
[21] than let's say, okay, we've got to hurry up and
[22] get this done, and everybody's got to get
[23] together and so it --
[24] **COUNCILMEMBER BATES:** And I appreciate.
[25] And Mr. Weed, this is coming back to

Page 42

[1] you, and I apologize for belaboring this. I'm
[2] trying to understand why there's a necessity for
[3] the complaint to be resubmitted when there's no
[4] violation in our ethics ordinance on what
[5] happens if it goes beyond the 30 --
[6] **MS. BARKER:** It was submitted to us
[7] before the training.
[8] **COUNCILMEMBER BATES:** I understand
[9] that.
[10] **ATTORNEY WEED:** Yeah.
[11] **COUNCILMEMBER BATES:** If there -- if
[12] there's no -- if then, they don't do it by the
[13] 30 days, then X, then we're still waiting for
[14] them to have an open hearing and make their
[15] initial ruling.
[16] **MS. BARKER:** Mr. Weed, should we not
[17] consider it not submitted, though, especially
[18] since we had not gotten training?
[19] That now anything, after the training,
[20] is submitted and prone to proper -- You see what
[21] I'm saying?
[22] **COUNCILMEMBER BATES:** Well, there's --
[23] there's --
[24] **ATTORNEY WEED:** Well, let me state
[25] this: part of the problem in this particular

Page 43

[1] situation is that, frankly -- and I'm the first
[2] to admit this -- the Ethics Panel was not
[3] properly counseled with legal counsel.
[4] The reason why that did not occur --
[5] not that there aren't better lawyers than me out
[6] there -- I was conflicted out of this case
[7] because I was a party to the mediation that the
[8] case stems out of. Therefore, I thought it best
[9] to advise the Council to seek outside counsel,
[10] which the Council in a timely manner attempted
[11] to do.
[12] So whether they were properly counseled
[13] or not, I would tend to agree they probably
[14] weren't.
[15] And that's an unfortunate fact, but
[16] that's also part and parcel of the fact
[17] situation of this particular complaint, and
[18] hopefully it will never happen again on any
[19] other complaint. And that's nobody's fault;
[20] that's just life. That's the way things go.
[21] Now, going back to your question,
[22] Councilman, since there is no -- one could make
[23] the argument that because the ordinance doesn't
[24] have a clear statement about what happens after
[25] the Ethics Panel fails to have their hearing or

Page 44

[1] their first meeting within 30 days, one could
[2] say, "Well, it's wide open. The Ethics Panel
[3] can do whatever they want to." But of course
[4] there's no basis in the ordinance for them to do
[5] whatever they want to at that point.
[6] The nearest thing to construe that
[7] subsection of the ordinance is the section that
[8] deals with what happens if the Council fails to
[9] have a hearing within that 30-day time frame.
[10] So all I can tell you is the facts.
[11] The ordinance doesn't cover what happens if the
[12] Ethics Panel doesn't have a hearing within 30
[13] days, and the closest analogy that we know for a
[14] fact that deals with something similar is what
[15] happens if the Council doesn't have a hearing
[16] within 30 days.
[17] Now, if you ask me what happens in the
[18] macro scale, it's a question of fundamental
[19] fairness. If I am an accused party and
[20] essentially if the governmental system has
[21] failed to deal with me within the time frame set
[22] out in the ordinance, that's the first defense
[23] I'm going to raise, and I think that's an
[24] appropriate defense.
[25] Also in fairness to the complaining

Page 45

[1] party, the hearing should have happened. And
 [2] the Ethics Panel tried to do it; they just --
 [3] they didn't -- they didn't know any better. It
 [4] didn't happen correctly.
 [5] So it is a "Catch 22." And all I can
 [6] tell you is that ordinarily the way ordinances
 [7] are construed would be you look at the specific
 [8] language in the ordinance, and if there's no
 [9] answer, you look to the nearest, closest
 [10] provision for terms of art that you'd apply to
 [11] it. And that's the ordinary rules of
 [12] construction on any ordinance, not just this
 [13] one.
 [14] **COUNCILMEMBER BATES:** Thank you.
 [15] **COUNCILMEMBER ROCHE:** I think in this
 [16] case, I mean the City Council, I mean we --
 [17] month after month, we voted to provide resources
 [18] and we said here's the resources, et cetera,
 [19] et cetera. And I believe there were some issue
 [20] with communicating from the City Council and
 [21] City Hall with the Ethics Commission to say,
 [22] "Oh, by the way, guess what? You really need a
 [23] lawyer here to deal with this particular
 [24] situation." And so that -- you know, that's
 [25] what looks bad, frankly --

Page 46

[1] **MS. BARKER:** May I ask if --
 [2] **COUNCILMEMBER ROCHE:** -- because we --
 [3] **MS. BARKER:** -- if the complainant --
 [4] I don't want to use the term "refiled,"
 [5] necessarily, but if the original filing is in
 [6] question, hypothetically or whatever, does a
 [7] complainant have a right to say, "I don't feel
 [8] like -- because of the lack of instruction of
 [9] the committee, you know, I feel like I have a
 [10] right to refile." Do they have that right?
 [11] **ATTORNEY WEED:** Absolutely. The
 [12] complainant has -- the complainant could
 [13] dismiss at any time, and if they dismissed
 [14] without a judgment being rendered, that -- the
 [15] complainant holds that authority and they could
 [16] possibly refile.
 [17] Likewise, even if -- in this situation,
 [18] if the complaint is technically dismissed
 [19] already for failure for anything to happen on
 [20] it, the complainant could refile the same
 [21] complaint after six months because no decision's
 [22] ever been rendered.
 [23] **COUNCILMEMBER ROCHE:** But this was not
 [24] technically dismissed.
 [25] **ATTORNEY WEED:** No. That is -- that is

Page 47

[1] to be determined.
 [2] And when I say "technically dismissed,"
 [3] I don't mean literally dismissed. I do mean
 [4] technically. Once again, the closest analogy
 [5] about what happens if a complaint's not dealt
 [6] with within 30 days at the Council level is it's
 [7] automatically dismissed.
 [8] **COUNCILMEMBER ROCHE:** Well, I think
 [9] that the councilmen that wrote this, that
 [10] section of the ethics ordinance, if they had
 [11] wanted it to be that the thing would be
 [12] dismissed after 30 days with the Ethics
 [13] Commission, that's what they would have said,
 [14] and they didn't say that.
 [15] **ATTORNEY WEED:** That's a perfectly
 [16] reasonable argument.
 [17] **COUNCILMEMBER ROCHE:** So I think it's
 [18] like splitting hairs here or something.
 [19] **ATTORNEY WEED:** That is not an
 [20] unreasonable argument. But that is,
 [21] unfortunately, something that will be determined
 [22] beyond me and maybe beyond you, the Council.
 [23] **COUNCILMEMBER FLEMING:** I'd like to
 [24] address Mr. Grant and also Ms. Blackmon
 [25] regarding the letter that we just received from

Page 48

[1] Thompson & Sweeney who were the legal offices
 [2] that the City provided for counsel for this
 [3] specific ethics complaint.
 [4] And as I understand it, on November the
 [5] 4th, they received, they're stating, a 35-page
 [6] fax from you, the City Clerk.
 [7] **CLERK BLACKMON:** Right.
 [8] **COUNCILMEMBER FLEMING:** But they're
 [9] stating they evidently they still as of this
 [10] date have not received a copy of the actual
 [11] ethics complaints.
 [12] **CLERK BLACKMON:** They received
 [13] everything that I have in my possession.
 [14] This was the very first complaint that
 [15] was done since I've been here, so I was not
 [16] aware of the procedures either.
 [17] The original packet went to the Ethics
 [18] Committee. I do not have the original packet.
 [19] What I sent to them was what I received
 [20] after the fact.
 [21] **COUNCILMEMBER SPANGLER:** I'd like to
 [22] ask, was everything done on a timely basis? Was
 [23] the Ethics Committee informed and given the
 [24] information?
 [25] **MR. GRANT:** I first heard of the

Page 49

[1] information while camping in a tent in a
[2] Louisiana parking lot, dealing with the
[3] hurricanes Gustav and Ike. So to be fair, it
[4] took me three weeks to get back to the city to
[5] deal.
[6] **COUNCILMEMBER SPANGLER:** But you didn't
[7] get the information at that time, Mr. Grant?
[8] **MR. GRANT:** I did at that time.
[9] **COUNCILMEMBER SPANGLER:** You did?
[10] **MR. GRANT:** I did at that time. So
[11] already everything from that point, we have
[12] tried to deal with in a timely manner.
[13] It's just the more lawyers and entities
[14] that are thrown into the mix, the more paperwork
[15] is transferred and faxed to here and there. And
[16] yes, this other attorney didn't have all the
[17] correct documents, and then him calling me and
[18] trying to get him documents that he's not
[19] receiving, and he's in Lawrenceville, and then
[20] it's just -- unfortunately, this was the first
[21] one and this was the first time we have dealt
[22] with this situation.
[23] **COUNCILMEMBER FLEMING:** So correct me
[24] if I'm wrong, but as of December the 12th, they
[25] still do not have a copy of the ethics

Page 50

[1] complaint.
[2] **MR. GRANT:** They have a copy. I do not
[3] think they have a copy of the signed affidavit.
[4] **CLERK BLACKMON:** That's all that I
[5] believe they are missing.
[6] **MR. GRANT:** Right.
[7] **CLERK BLACKMON:** And that, I do not
[8] have in my packet.
[9] **MR. GRANT:** And at that point, after
[10] some faxing errors, yes, he does not have that
[11] in his possession. And it was his
[12] recommendation that without that, the paperwork
[13] was not done on time.
[14] **COUNCILMEMBER FLEMING:** Okay. So based
[15] on this letter, the law firm that we supplied to
[16] the Ethics Committee has declined to defend or
[17] to help the Ethics Committee because they have
[18] not received all the information they needed.
[19] **MR. GRANT:** That is correct.
[20] **COUNCILMEMBER FLEMING:** Thank you.
[21] **MAYOR JENKINS:** Well, what is missing?
[22] I --
[23] **COUNCILMEMBER FLEMING:** I don't know,
[24] sir.
[25] **MAYOR JENKINS:** -- received all of it.

Page 51

[1] **CLERK BLACKMON:** The affidavit is
[2] what's missing.
[3] **MR. GRANT:** And to be -- to be fair, to
[4] be fair, I don't know if they are needed at this
[5] point in time.
[6] **MAYOR JENKINS:** I thought I got
[7] everything. It was pretty plain to me what it
[8] was all about.
[9] **COUNCILMEMBER ROCHE:** I think the
[10] original concern was -- partly was the training
[11] part, because I think -- and I don't remember
[12] which meeting it was, but a couple of meetings
[13] ago we actually voted to provide Thompson &
[14] Sweeney to provide the training so you guys
[15] would know what to do.
[16] But the other issue was to be able to
[17] interpret the state law so that you, as the
[18] Ethics -- you know, I'm not a lawyer. Legally,
[19] I get surprised all the time with . . .
[20] You know, I read words and I think that
[21] it means X and -- you know, like I say, like I
[22] would say, I'm a normal person, you know --
[23] whereas, lawyers think it means Y, so --
[24] **MR. GRANT:** Right.
[25] **COUNCILMEMBER ROCHE:** And that was the

Page 52

[1] whole point of getting you an attorney, so you
[2] could interpret the underlying law, because I
[3] believe the Ethics Committee had to do with
[4] violating some state laws and then whether or
[5] not those laws were actually violated.
[6] **MS. BARKER:** Can I please present this
[7] to my chairman here and see if he's --
[8] **MAYOR JENKINS:** Come back up to the
[9] microphone.
[10] Rhonda, where is the affidavit that has
[11] been signed?
[12] **CLERK BLACKMON:** Mr. Grant has all of
[13] the original documents still.
[14] **MAYOR JENKINS:** Well, I understood
[15] somebody to say they did not have the --
[16] **CLERK BLACKMON:** Thompson & Sweeney did
[17] not receive the affidavit via fax. They
[18] received the rest of the complaint.
[19] **MAYOR JENKINS:** Well, let me ask you
[20] this: why did they not receive it?
[21] **CLERK BLACKMON:** I didn't have it.
[22] As I said, this was the very first one.
[23] What should have happened is I should have kept
[24] the original and I should have given the
[25] Committee copies.

Page 53

[1] I did not do that. I gave them the
 [2] originals and then I obtained copies via another
 [3] source after the fact. That did not have an
 [4] affidavit with it.
 [5] I thought I had everything, so I sent
 [6] it to Thompson & Sweeney. And apparently I did
 [7] not have everything. I had given it all to Mr.
 [8] Grant so --
 [9] **MR. GRANT:** And in me trying to go
 [10] through everything --
 [11] **CLERK BLACKMON:** Right.
 [12] **MR. GRANT:** -- that he had, it --
 [13] **CLERK BLACKMON:** And so I sent him 35
 [14] pages.
 [15] **MR. GRANT:** Right. It was an absolute
 [16] cluster, to be honest, between two people on the
 [17] phone.
 [18] **CLERK BLACKMON:** Yeah.
 [19] **COUNCILMEMBER PITTMAN:** So basically
 [20] you're just saying no further action, and you're
 [21] requesting that it be resubmitted; is that
 [22] correct?
 [23] **MR. GRANT:** We would like it to be
 [24] resubmitted. We think, yes, there have been
 [25] some inadvertent committee errors and we

Page 54

[1] apologize there, but we would like for it to be
 [2] resubmitted just because it does have some . . .
 [3] **COUNCILMEMBER PITTMAN:** I'm just trying
 [4] to sum it up.
 [5] **MR. GRANT:** Yes, and that's the sum.
 [6] And we apologize and we will not let this happen
 [7] again; and we apologize that it happened on the
 [8] first go-round, but it did.
 [9] **COUNCILMEMBER ROCHE:** Well, you didn't
 [10] know.
 [11] **MAYOR JENKINS:** You don't have any
 [12] apologies to make.
 [13] What if they don't resubmit it?
 [14] **MR. GRANT:** Then, they don't.
 [15] **COUNCILMEMBER PITTMAN:** Nothing.
 [16] **MAYOR JENKINS:** Okay.
 [17] **COUNCILMEMBER FLEMING:** Mayor, do you
 [18] want it to be over tonight or do you want it to
 [19] go into January?
 [20] **MAYOR JENKINS:** I want it to be over.
 [21] I don't want it to come up during Christmas.
 [22] I think it's really nothing to it. It
 [23] is really not what you call an ethics complaint.
 [24] It is a complaint against the department head
 [25] and an employee, mainly.

Page 55

[1] It's not an ethics complaint, and
 [2] that's just my opinion. You read the ethics,
 [3] what ethics is when you steal and you do things
 [4] of that nature.
 [5] But I'm just saying there is no use to
 [6] wait six months. I want it over with, and I
 [7] think the Council wants it over with -- am I
 [8] correct?
 [9] - - -
 [10] (No response)
 [11] - - -
 [12] **COUNCILMEMBER FLEMING:** I believe the
 [13] public wants it over with as well --
 [14] **MAYOR JENKINS:** Yes, they do.
 [15] **COUNCILMEMBER FLEMING:** -- since it's
 [16] been out over the air waves for so long.
 [17] **MAYOR JENKINS:** I didn't have any idea
 [18] there was an affidavit that was holding it up.
 [19] **COUNCILMEMBER ROCHE:** Well, what if it
 [20] was resubmitted? Would you still need some kind
 [21] of counsel and legal counsel as far as being
 [22] able to interpret the laws, the state laws that
 [23] this thing is based on?
 [24] **MR. GRANT:** No, I do not believe so.
 [25] I think in our two meetings that we had

Page 56

[1] had prior to, we had pretty much figured out
 [2] what paths, if any, were going to be taken. And
 [3] so we could continue down that road. We would
 [4] just meet in public and then continue down that
 [5] road.
 [6] **MAYOR JENKINS:** Do you have a
 [7] suggestion how you want to carry on or what you
 [8] want to do?
 [9] **COUNCILMEMBER FLEMING:** I'll either
 [10] resubmit it or it'll be over with tonight one
 [11] way or the other. Your decision.
 [12] **MAYOR JENKINS:** Whose decision?
 [13] **COUNCILMEMBER FLEMING:** Your decision.
 [14] **MAYOR JENKINS:** In other words, you
 [15] don't want to make a motion or anything, just
 [16] let it lay like it is or either resubmit it or -
 [17] - Is that what you're saying?
 [18] **COUNCILMEMBER FLEMING:** I'd like to
 [19] make a motion for the ethics complaint to be
 [20] heard and put it on the agenda.
 [21] **COUNCILMEMBER ROCHE:** Tonight.
 [22] **COUNCILMEMBER FLEMING:** Tonight.
 [23] **COUNCILMEMBER ROCHE:** I'll second the
 [24] motion.
 [25] **MAYOR JENKINS:** Is that legal, Murray?

Page 57

[1] **ATTORNEY WEED:** There's currently no
[2] procedure to do that.
[3] Now, you do have -- essentially what
[4] this matter is, arguably, is a personnel matter.
[5] If you wanted to discuss it as a personnel
[6] matter outside of the ethics ordinance, you
[7] could certainly do that.
[8] But as far as the Council having an
[9] ethics hearing under the rules of this ethics
[10] ordinance, you cannot do that in my opinion.
[11] There's no procedure to get there from here, not
[12] until the Ethics Committee meets.
[13] And either it's automatically dismissed
[14] or somehow the thing is still alive because it
[15] hasn't been addressed directly by the ethics
[16] ordinance. And that -- you know, that
[17] determination, frankly, would probably be made
[18] by some court of law eventually.
[19] But what I can tell you is that it's
[20] either dismissed automatically, or if it is
[21] somehow still alive and I were the person who
[22] had been accused of this, I would certainly want
[23] someone to make a ruling, a judgment, that the
[24] procedure had been followed to begin with. And
[25] it seems clear that that procedure wasn't

Page 58

[1] followed.
[2] But the answer to your question is, by
[3] virtue of a motion, can you get this on the
[4] agenda tonight underneath the ethics ordinance?
[5] My opinion is no, but there are other ways of
[6] getting it on the agenda and dealing with it.
[7] **COUNCILMEMBER SPANGLER:** Well, can
[8] Ms. Fleming resubmit this complaint?
[9] **ATTORNEY WEED:** My opinion on that: if
[10] Ms. Fleming dismisses her complaint, then one of
[11] two things happen: one, it's dismissed and then
[12] she could refile it at some other time.
[13] **COUNCILMEMBER SPANGLER:** But then you
[14] say --
[15] **ATTORNEY WEED:** And two --
[16] **COUNCILMEMBER SPANGLER:** -- but it
[17] would be six months before she could refile it.
[18] **ATTORNEY WEED:** Or underneath the
[19] ordinance, in accordance with the closest
[20] analogous subsection, or it could be refiled
[21] after six months.
[22] **COUNCILMEMBER FLEMING:** He's asking --
[23] excuse me, not "he." The Ethics Committee is
[24] asking for it to be refiled.
[25] **COUNCILMEMBER ROCHE:** Resubmitted.

Page 59

[1] **COUNCILMEMBER FLEMING:** Resubmitted.
[2] So I could feasibly change the date on these
[3] documents to December the 16th.
[4] **ATTORNEY WEED:** You could. That would
[5] de facto dismiss the original complaint. It
[6] would be a new complaint with a new time frame.
[7] But once again bear in mind that is
[8] uncharted territory. The ordinance terms do not
[9] clearly set out a procedure to do that.
[10] The closest analogy is that after 30
[11] days, no action; it's dismissed. And in that
[12] case, the six-month rule applies and you could
[13] refile it after six months.
[14] **COUNCILMEMBER FLEMING:** Well, there is
[15] action. He's asking the complainant to
[16] resubmit.
[17] **ATTORNEY WEED:** That -- I mean there's
[18] -- Councilmen, there's no procedure to do it
[19] that way. No offense to the Ethics Panel --
[20] **MR. GRANT:** No.
[21] **ATTORNEY WEED:** -- but they've royally
[22] messed this thing up. And I think they
[23] understand that, they know that. It's royally
[24] messed up. There's no easy way to unroyally
[25] mess it up.

Page 60

[1] **COUNCILMEMBER ROCHE:** Right. In their
[2] defense, they didn't know what the procedure
[3] was.
[4] **ATTORNEY WEED:** And they know -- they
[5] know I'm -- and I'm not being critical. They
[6] didn't know.
[7] **COUNCILMEMBER FLEMING:** Okay. I'd like
[8] to --
[9] **COUNCILMEMBER ROCHE:** They didn't know
[10] what they didn't know.
[11] **COUNCILMEMBER FLEMING:** I'd like to
[12] change my motion to I'd like to make a motion to
[13] discuss personnel issues.
[14] **ATTORNEY WEED:** That, you could
[15] certainly do, Councilman.
[16] **COUNCILMEMBER FLEMING:** Put it on the
[17] agenda for this evening to discuss personnel
[18] issues.
[19] **ATTORNEY WEED:** If there's a second and
[20] a majority, it'll be on the agenda.
[21] **COUNCILMEMBER ROCHE:** I'll still second
[22] it.
[23] **MAYOR JENKINS:** Call the roll, please.
[24] **CLERK BLACKMON:** Councilmember
[25] Alexander?

Page 61

[1] **COUNCILMEMBER ALEXANDER:** I --
[2] **MAYOR JENKINS:** Excuse me. Any
[3] discussion?
[4] **COUNCILMEMBER PITTMAN:** Go ahead,
[5] Maria.
[6] **COUNCILMEMBER ALEXANDER:** I have no
[7] documentation to discuss.
[8] **COUNCILMEMBER PITTMAN:** I was going to
[9] say, we don't have anything.
[10] **COUNCILMEMBER ALEXANDER:** I've got the
[11] letter from Thompson & Sweeney and --
[12] **ATTORNEY WEED:** And I'm not being
[13] difficult. But currently underneath the rules
[14] of the charter, any council member who puts an
[15] item on the agenda is not required to put any
[16] information before you at the time.
[17] **COUNCILMEMBER ALEXANDER:** Okay.
[18] **ATTORNEY WEED:** You can request it and
[19] a council member could provide it, but they
[20] don't -- there's not a requirement that they
[21] have to do it.
[22] **COUNCILMEMBER PITTMAN:** And secondly,
[23] this is a personnel issue. Are we going to talk
[24] about this in public or should we not go into
[25] Executive Session?

Page 62

[1] **ATTORNEY WEED:** My opinion is I'd
[2] rather you deal with -- you have to receive
[3] evidence in a public forum. You can deliberate
[4] in executive session. And that's what I would
[5] always advise my client to do.
[6] **MAYOR JENKINS:** We have a motion and a
[7] second.
[8] Call the roll, please.
[9] **CLERK BLACKMON:** Councilmember
[10] Alexander?
[11] **COUNCILMEMBER ALEXANDER:** No.
[12] **CLERK BLACKMON:** Councilmember Bates?
[13] **COUNCILMEMBER BATES:** No.
[14] **CLERK BLACKMON:** Councilmember Fleming?
[15] **COUNCILMEMBER FLEMING:** Yes.
[16] **CLERK BLACKMON:** Councilmember Pittman?
[17] **COUNCILMEMBER PITTMAN:** No, due to the
[18] fact that I don't have any information.
[19] **CLERK BLACKMON:** Councilmember Roche?
[20] **COUNCILMEMBER ROCHE:** Yes.
[21] **CLERK BLACKMON:** Councilmember
[22] Spangler?
[23] **COUNCILMEMBER SPANGLER:** Yes.
[24] **UNIDENTIFIED SPEAKER:** It's up to the
[25] Mayor.

Page 63

[1] **MAYOR JENKINS:** What do you got?
[2] **CLERK BLACKMON:** It's a split.
[3] **MAYOR JENKINS:** I say no.
[4] **UNIDENTIFIED SPEAKER:** He can't vote.
[5] **UNIDENTIFIED SPEAKER:** You can't vote.
[6] **ATTORNEY WEED:** It's not an ethics
[7] complaint.
[8] **COUNCILMEMBER FLEMING:** It's personnel
[9] issues.
[10] **ATTORNEY WEED:** It's a personnel
[11] matter. He can vote.
[12] **COUNCILMEMBER ROCHE:** You can still
[13] resubmit it.
[14] **COUNCILMEMBER SPANGLER:** But it's a
[15] personnel matter that may concern him, so I
[16] don't feel like he --
[17] **ATTORNEY WEED:** Well, actually,
[18] Councilman, I stand corrected. You're correct.
[19] I think, Mr. Mayor, I would advise you
[20] not to vote in this context. It's a tie vote --
[21] **MAYOR JENKINS:** Okay.
[22] **ATTORNEY WEED:** -- and the motion dies.
[23] **MAYOR JENKINS:** I won't vote. The
[24] motion dies.
[25] **ATTORNEY WEED:** The motion will die

Page 64

[1] anyway in that case. Because it's a split vote,
[2] it's a tie; motion dies.
[3] But Mr. Spangler is correct.
[4] **COUNCILMEMBER SPANGLER:** Mayor, I'd
[5] like to request a 10-minute break.
[6] **MAYOR JENKINS:** Ten-minute break.
[7] - - -
[8] (Recess)
[9] - - -
[10] **MAYOR JENKINS:** Meeting come to order.
[11] Mr. Spangler?
[12] **COUNCILMEMBER SPANGLER:** Sanitation.
[13] As you-all know, this past quarter we raised the
[14] rates on sanitation because of the fuel
[15] surcharge. Now that the fuel has come down to
[16] about a half of what it was at that time, I'm
[17] asking that we ask the sanitation company to
[18] come back down on their rates.
[19] **COUNCILMEMBER PITTMAN:** I think he said
[20] that he would. I believe he said that he would
[21] do that.
[22] **COUNCILMEMBER SPANGLER:** Then he
[23] probably should have already done it.
[24] **COUNCILMEMBER PITTMAN:** I'm just saying
[25] I remember, I recall that being said.

Page 65

[1] **COUNCILMEMBER SPANGLER:** I guess what
[2] I'm asking for is permission from the Council to
[3] ask.
[4] **MAYOR JENKINS:** Do you want to contact
[5] him?
[6] **COUNCILMEMBER SPANGLER:** Well, it
[7] doesn't matter. Somebody from City Hall can
[8] call.
[9] **COUNCILMEMBER PITTMAN:** Yeah, City
[10] Hall.
[11] **MAYOR JENKINS:** Well, I can do it.
[12] **COUNCILMEMBER SPANGLER:** And I think it
[13] should be -- it should actually start from this
[14] new quarter of billing. It would just be --
[15] **COUNCILMEMBER ROCHE:** So you make that
[16] a motion? Is that the motion?
[17] **COUNCILMEMBER SPANGLER:** Well, I don't
[18] -- do I really need a motion? I don't think I
[19] do.
[20] **COUNCILMEMBER PITTMAN:** No, I think
[21] he's just --
[22] **COUNCILMEMBER ROCHE:** You may want to
[23] just in case.
[24] **MAYOR JENKINS:** Go ahead.
[25] **COUNCILMEMBER SPANGLER:** Mr. Weed, do

Page 66

[1] we --
[2] **ATTORNEY WEED:** No, sir. You can just
[3] ask them.
[4] **COUNCILMEMBER SPANGLER:** Okay. So we
[5] should make it retroactive to this last -- to
[6] the new quarter, okay, because we're paying now
[7] for what? Fourth quarter?
[8] **CLERK BLACKMON:** You're paying, yeah,
[9] what's being -- what was billed three months ago
[10] goes through this month.
[11] **COUNCILMEMBER SPANGLER:** Okay.
[12] **CLERK BLACKMON:** So we'll bill again
[13] the first week of January.
[14] **MAYOR JENKINS:** But you're saying you
[15] need to go back three months?
[16] **COUNCILMEMBER SPANGLER:** No. We need
[17] from this next billing.
[18] **MAYOR JENKINS:** The new one.
[19] **COUNCILMEMBER SPANGLER:** The new
[20] billing, this next one, from January on, we need
[21] it back to the rate it was before the rate
[22] increase.
[23] **MAYOR JENKINS:** Do I get a second?
[24] **COUNCILMEMBER ROCHE:** Second.
[25] **MAYOR JENKINS:** Anymore discussion?

Page 67

[1] - - -
[2] (No response)
[3] - - -
[4] **MAYOR JENKINS:** Call the roll.
[5] **CLERK BLACKMON:** Councilmember
[6] Alexander?
[7] **COUNCILMEMBER ALEXANDER:** Yes.
[8] **CLERK BLACKMON:** Councilmember Bates?
[9] **COUNCILMEMBER BATES:** Yes.
[10] **CLERK BLACKMON:** Councilmember Fleming?
[11] **COUNCILMEMBER FLEMING:** Yes.
[12] **CLERK BLACKMON:** Councilmember Pittman?
[13] **COUNCILMEMBER PITTMAN:** Yes.
[14] **CLERK BLACKMON:** Councilmember Roche?
[15] **COUNCILMEMBER ROCHE:** Yes.
[16] **CLERK BLACKMON:** Councilmember
[17] Spangler?
[18] **COUNCILMEMBER SPANGLER:** Yes.
[19] **MAYOR JENKINS:** Thank you.
[20] Maria?
[21] **COUNCILMEMBER ALEXANDER:** Item No. 6,
[22] commercial business window coverage. I
[23] apologize I don't have more information. I did
[24] some research today and really didn't find what
[25] I was looking for, so to speak.

Page 68

[1] My issues are we have several
[2] businesses, several different types of
[3] businesses throughout the city -- they can be in
[4] a stand-alone commercial area, they can be in a
[5] strip shopping center, there's a house over here
[6] off of Stewart -- that their windows are
[7] completely covered. There is no way for you to
[8] see inside of these establishments.
[9] And I think, number one, that's not
[10] conducive for business, let alone what kind of
[11] business are they doing in there? And then I've
[12] got concerns about the public safety aspect of
[13] that: you walking up on a business and not
[14] knowing what's going on in there or not.
[15] Mr. Haeberlin did refer to me a couple
[16] of municipalities and their sign ordinances, but
[17] that didn't necessarily address.
[18] I think what I'm trying to accomplish
[19] -- and Mr. Weed, jump right in if what I'm
[20] wanting to do is unconstitutional or --
[21] **ATTORNEY WEED:** Well, I mean I can be
[22] helpful in this situation because this is a
[23] common theme with redeveloping communities.
[24] Unfortunately, sometimes signage can become out
[25] of control. And it really isn't necessarily

Page 69

[1] signage. It can simply be display racks,
 [2] storage, things that are up against the windows
 [3] to prevent people from looking in.
 [4] And the way that's ordinarily dealt
 [5] with is usually it's a three-pronged approach.
 [6] I actually don't recommend doing it by virtue of
 [7] the sign ordinance.
 [8] But what you can do is you can have a
 [9] certain percentage of signage assigned to an
 [10] establishment. But the problem with that is
 [11] that they could -- the owner could use all the
 [12] signage over the windows, and that would defeat
 [13] the purpose.
 [14] How it's most often dealt with is by
 [15] virtue of an architectural design ordinance.
 [16] You can clearly regulate that. An architectural
 [17] design ordinance is a police-powers ordinance.
 [18] There is no grandfathering unlike zoning, and
 [19] it's not a sign ordinance. It is an
 [20] architectural design ordinance. And what you
 [21] are preventing is signage -- and it's completely
 [22] content-neutral because you don't care what it
 [23] says; all you're caring about is whether it's
 [24] opaque and whether or not it prevents a clear
 [25] view into the establishment. So you can

Page 70

[1] definitely deal with it that way, and that's how
 [2] the City of Hapeville dealt with it.
 [3] The third prong is under your alcohol
 [4] beverage ordinance, particularly with any
 [5] establishment that sells alcohol beverages, you
 [6] definitely have a public-safety interest in
 [7] regulating that. Under Title 3 of the Alcohol
 [8] Beverage Code, since alcohol beverages and their
 [9] sale is a -- it's not a right, rather, a
 [10] privilege, you can pretty much assign whatever
 [11] reasonable regulations you want to for the sale
 [12] of alcohol beverages.
 [13] So most places deal with it by virtue
 [14] of architectural design ordinances and by their
 [15] alcohol beverage ordinance.
 [16] **COUNCILMEMBER FLEMING:** Do they put
 [17] them in both?
 [18] **ATTORNEY WEED:** Yes, ma'am.
 [19] **COUNCILMEMBER FLEMING:** Okay.
 [20] **ATTORNEY WEED:** And every place I've
 [21] ever been involved with it, that's what we've
 [22] done.
 [23] **COUNCILMEMBER ALEXANDER:** So obviously
 [24] we would have to include an exclusionary because
 [25] obviously an adult entertainment establishment

Page 71

[1] can't have windows that are visible from the
 [2] street.
 [3] **ATTORNEY WEED:** Well, I guess they
 [4] could. But the opaque nature of where the bands
 [5] would be, you'd have to be very mindful of that.
 [6] But yes, ma'am, you could deal with it
 [7] like that.
 [8] **COUNCILMEMBER BATES:** How do you deal
 [9] with or approach security or proprietary items
 [10] for the business who may not want or be able to
 [11] or desire to have their windows wide open for
 [12] everybody and their brother to see what
 [13] equipment and --
 [14] **ATTORNEY WEED:** How that's usually
 [15] dealt with is the creation of a cashier's cage
 [16] or an area defined as a cashier's cage. That
 [17] area in and of itself can be opaque so people
 [18] can't see how much -- you know, how much money
 [19] they're taking in or the combination of the
 [20] safe. So while the outer windows could be clear
 [21] and you could see into the location generally
 [22] and look into the aisles and look into the
 [23] establishment, it's perfectly permissible to
 [24] have some subsection of the establishment that
 [25] would allow certain opaque coverage.

Page 72

[1] **COUNCILMEMBER BATES:** And would this --
 [2] would this preclude, quote/unquote, private
 [3] offices from having window treatments so --
 [4] **ATTORNEY WEED:** No. You can also deal
 [5] with this -- there's nothing to prohibit having
 [6] mini-blinds or shades or curtains. The problem
 [7] -- I mean the issue would be if you had, you
 [8] know, mini-blinds . . .
 [9] Usually the standard is can public
 [10] safety look into the window and see the bad guy
 [11] so they don't get shot? That's usually the
 [12] commonsensical rule.
 [13] If the substance is so opaque that
 [14] there isn't a clear field of vision for the
 [15] public-safety official, then it's a problem.
 [16] So if the mini-blinds are completely
 [17] closed and there's a curtain, that type of
 [18] thing, you know, that can be dealt with.
 [19] Now, the balancing act is between let's
 [20] say the outer windows are clear, you can see
 [21] down the aisles and you can see the cashier's
 [22] cage which in and of itself is opaque. The bad
 [23] guy could be in the cashier's cage, and when the
 [24] officer walks in, then he'll get shot. But at
 [25] least, you know, he would have a better shot --

Page 73

[1] he or she -- than, you know, not being able to
[2] see in the place at all.
[3] So that's ordinarily how it's done.
[4] **COUNCILMEMBER ROCHE:** I mean, well,
[5] there were situations in Cobb not too long ago
[6] where some women were shot inside their real
[7] estate office.
[8] I guess I'm trying to understand.
[9] What's the urgent problem here? What are we
[10] trying to solve that's right now a problem here
[11] in Doraville?
[12] **ATTORNEY WEED:** It's not my agenda
[13] item.
[14] **COUNCILMEMBER ROCHE:** No. Yeah, I
[15] know. I'm just looking at --
[16] **COUNCILMEMBER ALEXANDER:** Well, I mean,
[17] for example, that foot massage place that we
[18] just granted a license to on Buford Highway in
[19] the Taco Bell thing. You can't see in there at
[20] all.
[21] **COUNCILMEMBER ROCHE:** Okay.
[22] **COUNCILMEMBER ALEXANDER:** And I'm just
[23] concerned that we're allowing -- establishments
[24] that may not necessarily be abiding the law
[25] 24/7, we're giving them an environment to do so.

Page 74

[1] Just like the hotel that's now turned into a
[2] business park or a business -- I don't know what
[3] you want to call it. You can't see in those
[4] windows. They're covered all the time also.
[5] **COUNCILMEMBER FLEMING:** What if we --
[6] Most businesses have glass doors. What
[7] if we made sure that the glass door or the door
[8] itself did not have any tinting to it at all?
[9] **COUNCILMEMBER ALEXANDER:** This is just
[10] an observation. I was asking for feedback. I
[11] didn't expect us to take any action tonight.
[12] And if you don't see it as a problem with public
[13] safety, then --
[14] **COUNCILMEMBER SPANGLER:** Well --
[15] **COUNCILMEMBER ALEXANDER:** -- you don't.
[16] **COUNCILMEMBER ROCHE:** I'm trying to
[17] find out, too, right. You know, if it's a
[18] problem . . .
[19] I mean is it a problem, Chief?
[20] **COUNCILMEMBER ALEXANDER:** And those
[21] hotel doors are solid.
[22] **COUNCILMEMBER BATES:** Well --
[23] **COUNCILMEMBER ALEXANDER:** Or whatever
[24] you want to call it. Business building.
[25] **COUNCILMEMBER BATES:** I'm struggling

Page 75

[1] with the privacy of a business and their ability
[2] to conduct business free of people staring in
[3] the windows and watching them conduct their
[4] business --
[5] **COUNCILMEMBER ROCHE:** Exactly.
[6] **COUNCILMEMBER BATES:** -- with the
[7] public safety concern and knowing very well that
[8] the Pinetree Hotel facility, you cannot see in.
[9] They have solid doors, and they might be doing
[10] all sorts of interesting and unique things in
[11] there. So I'm very much in a quandary and a
[12] conundrum on this one.
[13] **COUNCILMEMBER ROCHE:** Well, it could be
[14] a medical clinic for that matter.
[15] **COUNCILMEMBER BATES:** I'm sorry?
[16] **COUNCILMEMBER ROCHE:** A medical clinic.
[17] I mean if I go to see the doctor because I got a
[18] sore throat, I don't necessarily want, you know,
[19] everybody driving by.
[20] **ATTORNEY WEED:** There's lots of ways of
[21] crafting these ordinances where examination
[22] rooms, you know, the different places inside of
[23] a building can still have an element of privacy.
[24] But ordinarily the main purpose of --
[25] the main purpose of these things is twofold:

Page 76

[1] one, if there's so much signage or so much
[2] display in the windows that you can no longer
[3] see in. Underneath the new urbanism concept and
[4] underneath traditional city-building, that is
[5] not how it was done. Traditionally, there were
[6] clear glass windows. There might be displays on
[7] the inside of the window but every piece of the
[8] window was not covered by signage. What you
[9] were trying to attempt to do was sell
[10] merchandise by display of it.
[11] **COUNCILMEMBER BATES:** Well, the --
[12] **ATTORNEY WEED:** And then historically
[13] in the '60s and '70s, you know, a lot of these
[14] places became run down. Particularly in
[15] downtowns, they got plastered with signage as an
[16] attempt to increase business, and the signage
[17] never came off.
[18] **COUNCILMEMBER BATES:** Well, let's parse
[19] this out a little bit.
[20] Is this specific to retail or is it all
[21] commercial?
[22] **ATTORNEY WEED:** You could make it apply
[23] to all commercial or you could --
[24] **COUNCILMEMBER BATES:** Because I would
[25] certainly be in favor of applying this to a

Page 77

[1] retail scenario but not an office-building/
[2] complex, you know, law-office/medical-office
[3] type of scenario.
[4] **COUNCILMEMBER ROCHE:** Personally, I
[5] hate those storefront wholesale buildings that
[6] have the paper just stuck up on the walls. I
[7] mean I'd love to get those down.
[8] **COUNCILMEMBER BATES:** From a retail
[9] side, I would absolutely be in favor of moving
[10] in that direction. But from a commercial office
[11] side, I'm not sure that I'm there yet.
[12] **ATTORNEY WEED:** I don't see any
[13] constitutional prohibition between -- you know,
[14] you can designate.
[15] For example, if you had an historic
[16] downtown area and you designated a certain area
[17] as your -- or a central business district or an
[18] historic downtown district, that type of thing,
[19] then you could have rules -- architectural
[20] design rules that apply particularly to, you
[21] know, a certain district and it still only
[22] constitute zoning.
[23] **MAYOR JENKINS:** Bonita?
[24] **MS. HOFFMEISTER:** Councillor Maria
[25] Alexander, I highly commend you for this.

Page 78

[1] When I was on the Doraville committee
[2] to put together the first zoning ordinance or
[3] planning commission, one of the things we did
[4] was we went around to cities and we did
[5] interviews with the various city officials.
[6] The city I selected was Chattanooga.
[7] They have such an ordinance on their books, that
[8] X-amount of a window must be opaque [sic] in
[9] their downtown area. They also restrict neon
[10] lights.
[11] And I was concerned about this because,
[12] as I've heard you, "Well, gee. Everybody has
[13] rights, and does it really matter?"
[14] Well, my daughter lives in Buford, in
[15] Sugar Hill, and she was also involved in this.
[16] And she says, well, a lot of cities have found
[17] that one thing that you can do to change your
[18] downtown -- the most positive way you can do
[19] this is to do something like this. Why?
[20] Because people do not feel safe when they cannot
[21] see through windows.
[22] Now, you don't have to do the whole
[23] downtown. And if you really want to get a sense
[24] of how you feel, sometime drive up to
[25] Chattanooga, drive down their main street and

Page 79

[1] you'll see. You can see through the windows;
[2] there's no neon signs. Go two blocks south and
[3] it looks like Doraville. And guess what? It
[4] feels like Doraville.
[5] **COUNCILMEMBER ROCHE:** It sounds like
[6] this would be more of an architectural standards
[7] thing? Is that what you were saying a minute
[8] ago about this? To me, personally, I just hate
[9] the paper stuck up on the glass.
[10] **ATTORNEY WEED:** Yes. Scott and I have
[11] talked about this --
[12] **COUNCILMEMBER ROCHE:** So cheesy.
[13] **ATTORNEY WEED:** -- a lot, and, you
[14] know, his next big project -- and he can speak
[15] for himself, of course -- is to work on some of
[16] the residential zoning, and I think I would say
[17] after that, the next big thing on our mutual
[18] plate would probably be this.
[19] **COUNCILMEMBER ROCHE:** Architectural
[20] standards?
[21] **ATTORNEY WEED:** And I don't see him
[22] turning blue, so I think he agrees.
[23] **COUNCILMEMBER ROCHE:** Good.
[24] **ATTORNEY WEED:** Its time has come, I
[25] think.

Page 80

[1] **COUNCILMEMBER ROCHE:** Uh-huh.
[2] **MAYOR JENKINS:** Are you --
[3] **COUNCILMEMBER ALEXANDER:** I'm sorry.
[4] I'm done, sir.
[5] **MAYOR JENKINS:** No motion?
[6] **COUNCILMEMBER ALEXANDER:** No, sir.
[7] **MAYOR JENKINS:** Okay. I'll do more
[8] research and discuss it with Mr. Haeblerlin.
[9] **MAYOR JENKINS:** Okay. Item No. 7,
[10] Mr. Roche.
[11] **COUNCILMEMBER ROCHE:** Yeah. I got a
[12] call from Mr. Howe about the GM property vision
[13] and the comp plan and all that, and I guess it's
[14] something that's been kind of on my mind,
[15] anyway. And I'm not sure the right way to
[16] proceed, and that's why I wanted to bring it up
[17] here. I agreed to put it on the agenda.
[18] You know, we have the GM property. I
[19] mean there's certain things we can do from a
[20] zoning standpoint and there's certain things we
[21] can't do from a zoning standpoint. And there's
[22] been a lot of debate leading up to, I guess the
[23] year before this one, about what goes there, you
[24] know, should it be -- you know, everybody said
[25] roof tops; if you get enough roof tops, we'll

Page 81

[1] get a Kroger; whether or not we want to continue
 [2] to build cars or -- or whatever.
 [3] And I guess the idea was to try to get
 [4] some input from the public and try to
 [5] crystallize more of a vision of what it is we'd
 [6] like to see there.
 [7] Now, what we'd like to see there versus
 [8] what ends up there, I don't know how much actual
 [9] control we'd have over something like that.
 [10] And so I'll ask our city planner what
 [11] he thinks of this whole thing. Where do we go
 [12] from here?
 [13] I think it would be great if we could
 [14] get some public -- public hearings where the
 [15] people who live here would have a chance to have
 [16] some say and at least give their opinion ahead
 [17] of time on what they'd like to see there.
 [18] Because typically what happens is nothing until
 [19] some developer comes along and says, "We're
 [20] building a four-square-mile Wal-Mart," and then
 [21] it happens after the fact.
 [22] So would you help me out in this?
 [23] **MR. HAEBERLIN:** Sure.
 [24] I think it would be entirely
 [25] appropriate to consider some sort of town hall

Page 82

[1] meeting with respect to vision, and not
 [2] particular to the GM site but, in general,
 [3] vision -- vision for the city.
 [4] As you know, the current ordinances
 [5] that are on the book do not provide for mixed
 [6] use. So let's be clear in that: that there is
 [7] no Planned Unit Development provision in the
 [8] code, so you cannot co-exist in any kind of
 [9] horizontal or vertical stacking a bunch of
 [10] different uses. And it's likely that some of
 [11] the folks that come before us might be
 [12] interested in that, so it will require some code
 [13] changes.
 [14] So as a result of finding out some of
 [15] the vision of not only the Council but also to
 [16] the folks that reside in Doraville and others if
 [17] you wish to participate, we'll mandate some code
 [18] revisions possibly to assist folks in having
 [19] this vision not only on the GM site but other
 [20] sites as well in the city.
 [21] So I think you're probably looking at
 [22] using a town hall meeting as kind of a starting
 [23] point to kind of direct, you know, what is the
 [24] vision of the residents of Doraville for not
 [25] just projects the size of GM but other

Page 83

[1] properties that may become assemblages and
 [2] similar type activities might be pursued there.
 [3] **COUNCILMEMBER ROCHE:** So could we maybe
 [4] schedule a town hall meeting maybe sometime in
 [5] January, get the ball rolling?
 [6] **MR. HAEBERLIN:** We could schedule a
 [7] town hall meeting. And I will caution, and
 [8] Mr. Weed will probably chime in, if we have a
 [9] town hall meeting we cannot have a quorum of the
 [10] Council present. So we'll have to be very
 [11] careful about that.
 [12] It would have to be a special-called
 [13] meeting, would it not?
 [14] **ATTORNEY WEED:** Correct. Yeah. I mean
 [15] I assume that's what you were thinking about,
 [16] yeah. If you have a quorum, you have a meeting
 [17] unless you go to some outside location and
 [18] you're not doing the City's business. But
 [19] clearly, here in this context, you would be.
 [20] But you could do that. I mean you can
 [21] still have a Council meeting and call it a town
 [22] hall, and then we -- it can be a workshop, and
 [23] that's fine.
 [24] **MAYOR JENKINS:** In other words, you can
 [25] have a special-called meeting and call it a town

Page 84

[1] hall?
 [2] **ATTORNEY WEED:** Whatever, yes, sir;
 [3] whatever you want to.
 [4] **MAYOR JENKINS:** As long as you call it
 [5] a special-called.
 [6] Well, we can do that shortly after New
 [7] Year's. We need to get started on it. I agree
 [8] with what he's talking about.
 [9] But you know, actually when it gets
 [10] down to what we want, whoever the people that
 [11] buys GM, we need to pull them in at that time
 [12] and see what they have in mind versus what we
 [13] would like to have.
 [14] **MR. HAEBERLIN:** There might be some
 [15] resources we can draw upon from a visionary
 [16] perspective. And I've worked for these folks
 [17] before, and they show -- like for example, they
 [18] show three signs. They show a pole sign that's
 [19] 30 feet tall, and they show an illuminated sign
 [20] that's maybe 20 feet tall; then they show a
 [21] ground-mounted sign that's got a brick base,
 [22] et cetera; and they ask the respondents to list
 [23] in order what their preference is. So they do
 [24] that sort of streetscaping vision as far as
 [25] looks, how it looks, but they also do visioning

Page 85

[1] regarding living adjacent to commercial and
[2] things of that nature. So there's some
[3] resources we can draw upon to assist us in the
[4] visioning.
[5] **COUNCILMEMBER ROCHE:** Well, I mean on
[6] some things like residential, I mean the way
[7] things are going in the economy -- I think I saw
[8] it in the news today -- it would take five years
[9] -- if they stopped building everything today, it
[10] would take five years to sell everything that
[11] was on the market right now. So I wouldn't
[12] think that, you know, a developer's going to
[13] come in and do residential, for instance, but --
[14] **MR. HAEBERLIN:** Well, just, you know,
[15] be aware that most of the folks in the projects
[16] of these size, when you're talking about
[17] residential, they want large, large density --
[18] and we're not talking about 18 units per acre;
[19] we're talking 50 units per acre -- to allow them
[20] to do condominium-style development and single-
[21] family attached and, you know, single-family
[22] detached, and traditional apartments, all the
[23] various facets.
[24] So there again, there are definitely
[25] code changes that would result as from the

Page 86

[1] direction of the visioning of the Council, then
[2] direct the staff as to how to formulate a -- I
[3] hate to use the word "Planned Unit Development
[4] -- a mixed-use contained residential develop-
[5] ment.
[6] **COUNCILMEMBER ROCHE:** Okay. Well, all
[7] I'm looking for tonight is just to get ball
[8] rolling. So --
[9] **MR. HAEBERLIN:** Okay. Thank you.
[10] **COUNCILMEMBER ROCHE:** -- you are the
[11] city planner, so plan.
[12] **MR. HAEBERLIN:** Yep.
[13] **COUNCILMEMBER ROCHE:** Thank you.
[14] That's all from me.
[15] And thank you, Mr. Howe, for bringing
[16] this up.
[17] **MAYOR JENKINS:** Luke?
[18] **MR. HOWE:** This is just about a
[19] resolution that would authorize the application
[20] of the DOT state aid grant for both sides of
[21] Central Avenue, repairs to Park Avenue. And
[22] it's not in the resolution, so I'll need an
[23] amendment to include Tilly Mill from Gentille to
[24] Flowers.
[25] The way these grants are set up is you

Page 87

[1] have up to -- you can submit multiple projects
[2] and you can get up to \$750,000. Now, it's not
[3] like a -- you know, it's not all or nothing.
[4] You might get, you know, Central Avenue and
[5] Tilly Mill; you might get money to repair a park
[6] or, you know, Tilly Mill and repair a park but
[7] not Central.
[8] It's based on points, you know. The
[9] school over at Tilly Mill, you know, that scores
[10] points. A park. MARTA over here, that means
[11] points for Central, and the linking of
[12] businesses. It's pretty --
[13] Yes, sir.
[14] **COUNCILMEMBER BATES:** In the
[15] application, will we have to itemize out the
[16] specific area, specific sidewalks and estimated
[17] costs or is it --
[18] **MR. HOWE:** For each, yes, sir. But
[19] it's not a -- you know, they're all based on
[20] points, so there's not a lot of arbitrary
[21] decisions going in. There's not, you know,
[22] special considerations. It's pretty cut and
[23] dry.
[24] **COUNCILMEMBER BATES:** I would also --
[25] I'm sorry, Ms. Pittman -- I would also ask to

Page 88

[1] look into Oakcliff from Buford Highway or from
[2] New Peachtree to Old Winters Chapel.
[3] **MR. HOWE:** From --
[4] **COUNCILMEMBER PITTMAN:** (Inaudible)
[5] **COUNCILMEMBER BATES:** The bridge.
[6] Well, the -- well, there is no sidewalk once
[7] you're off the bridge.
[8] **COUNCILMEMBER PITTMAN:** So you wanted
[9] to go down Winters Chapel?
[10] **COUNCILMEMBER BATES:** Yeah, from Old
[11] Winters Chapel to the Hugo Bridge.
[12] **COUNCILMEMBER SPANGLER:** A lot of -- on
[13] Oakcliff, a lot of pedestrian traffic there.
[14] Somebody's going to get hurt.
[15] **COUNCILMEMBER BATES:** There's no
[16] sidewalks.
[17] **COUNCILMEMBER PITTMAN:** Right. I'm
[18] just trying to . . .
[19] **COUNCILMEMBER ROCHE:** Well, I think
[20] that she had mentioned this the other day. I
[21] mean it's in the Comp Plan or the LCI to
[22] potentially close off Chestnut Drive and extend
[23] Park Avenue, because right now how many
[24] accidents do we have on Chestnut Drive and
[25] Buford Highway?

[1] **COUNCILMEMBER PITTMAN:** Oh, yeah.
 [2] **COUNCILMEMBER ROCHE:** We had one just
 [3] the other day, it seems like. I mean there's no
 [4] light there. And I take my life in my hands
 [5] every time I try to get to City Hall from
 [6] Chestnut. Either a light on Central or close up
 [7] Central and just extend Park.
 [8] **MR. HOWE:** That may be -- you know,
 [9] that would be --
 [10] And I sent an e-mail to Council
 [11] members. With President-elect Obama, you know,
 [12] there's a lot of money -- money for public works
 [13] projects that's anticipated. So you know, staff
 [14] can --
 [15] You know, I'll just suggest that we
 [16] make a master list of priorities. We have ideas
 [17] of course, but, you know, you guys know your
 [18] districts better than anybody. And we just
 [19] compile a master list, and if we can get it
 [20] through President Obama's, you know, programs or
 [21] whether we can -- maybe we can get it through a
 [22] block grant or DOT or whatever. We just need to
 [23] have a list of everything that we need to work
 [24] on. And certainly I mean it merits Council
 [25] recommendation.

[1] **COUNCILMEMBER PITTMAN:** Right.
 [2] **MR. HOWE:** -- right-of-way with this
 [3] money. So we're -- I've got Central and Park,
 [4] you know, but that's --
 [5] And if you're wondering about this side
 [6] of Park, it's not feasible. We cannot. There's
 [7] too many issues with grading.
 [8] Yes, ma'am.
 [9] **COUNCILMEMBER PITTMAN:** In regards to
 [10] the sidewalk, it was in the plan, but -- how do
 [11] I put this? -- with the annexation and other
 [12] issues --
 [13] **MR. HOWE:** It's on the back burner.
 [14] **COUNCILMEMBER PITTMAN:** -- it was put
 [15] way on the back burner. But now we have a new
 [16] CEO, and things are progressing. So there is a
 [17] meeting that's going to take place in order to
 [18] try to pick the pieces back up and put it back.
 [19] It has never been taken off. It was
 [20] just there. It just kind of put -- you know.
 [21] So I mean if you want to go ahead and try to
 [22] proceed with both of them, but --
 [23] **MR. HOWE:** Yes, ma'am. It --
 [24] **COUNCILMEMBER FLEMING:** The resolution
 [25] that we have in front of us this evening,

[1] **COUNCILMEMBER PITTMAN:** There was some
 [2] conversation when we -- obviously, we were
 [3] working with the County on Tilly Mill as well,
 [4] and with the new CEO coming in, we're going to
 [5] try to pick up the pieces on that again because
 [6] it was already in the plan, but it never hurts
 [7] to put that in there.
 [8] But at the time we were talking about
 [9] it, we were actually going to cut the sidewalks
 [10] off prior to the Galloway property. That being
 [11] a historical site, we did not want to go,
 [12] because there was nowhere -- no one walks up
 [13] that way, no children. There's no children that
 [14] go past that point, to my knowledge, because
 [15] anything around the corner, there's actually a
 [16] bus provided.
 [17] So we were going up to where the
 [18] duplexes are and stopping at the Galloway
 [19] property. That's where the original plan with
 [20] Dekalb has cut it off.
 [21] **MAYOR JENKINS:** What happened to that,
 [22] Donna?
 [23] **MR. HOWE:** Now, there was one caveat
 [24] with Tilly Mill. We do have to clear up right-
 [25] of-way issues. You cannot purchase --

[1] though, is going to be revised to include Park
 [2] Avenue?
 [3] **MR. HOWE:** It already includes repairs
 [4] to that side of Park Avenue (indicating) because
 [5] it's just decrepit.
 [6] **COUNCILMEMBER FLEMING:** Unless this is
 [7] an older one, it doesn't include Park Avenue.
 [8] **ATTORNEY WEED:** No, ma'am, it doesn't.
 [9] We didn't --
 [10] **MR. HOWE:** Okay. Well, then, that
 [11] would be --
 [12] **COUNCILMEMBER FLEMING:** I'm sorry?
 [13] **ATTORNEY WEED:** It didn't. It just
 [14] included Central.
 [15] **COUNCILMEMBER FLEMING:** Yes. Park
 [16] Avenue, and then we would also include Gentile
 [17] to the, um . . .
 [18] **MR. HOWE:** Ma'am, I would say --
 [19] because I had one question about Gentile
 [20] because there's a gap in the sidewalk on the
 [21] right side of the street --
 [22] **COUNCILMEMBER FLEMING:** That's correct.
 [23] **MR. HOWE:** -- from Mill Court, I think,
 [24] to Haber Valley.
 [25] **COUNCILMEMBER PITTMAN:** Right.

Page 93

[1] **MR. HOWE:** Now, there could be some
 [2] definite right-of-way issues of that, but we can
 [3] -- you know, we can take a look at it.
 [4] And if you say Tilly Mill, that kind of
 [5] -- that's an umbrella for either side and --
 [6] **COUNCILMEMBER PITTMAN:** We originally
 [7] were shooting for the right side. Only the
 [8] right side.
 [9] **COUNCILMEMBER FLEMING:** The school
 [10] side.
 [11] **COUNCILMEMBER PITTMAN:** The school side
 [12] --
 [13] **MR. HOWE:** The school side, yes, ma'am.
 [14] **COUNCILMEMBER PITTMAN:** -- up to --
 [15] **MR. HOWE:** That's my prior- -- that's
 [16] been my priority. But I was measuring them
 [17] today and I wanted to make sure that, you know,
 [18] that was something that you . . .
 [19] **COUNCILMEMBER PITTMAN:** The school side
 [20] up to the Galloway property.
 [21] And we're really not clear. There's a
 [22] lot of other issues there, too, that will have
 [23] to be dealt with because there's pipes and other
 [24] things that Dekalb County said that they would
 [25] take on, which, you know, if -- we had to have

Page 94

[1] grants, so --
 [2] **MR. HOWE:** Well, we just need to
 [3] proceed with this window.
 [4] **COUNCILMEMBER FLEMING:** And we're also
 [5] including Old Winters Chapel to Oakcliff Road;
 [6] correct?
 [7] **COUNCILMEMBER SPANGLER:** What other
 [8] sidewalks can we ask for on this particular
 [9] order? You said you needed a list or is it --
 [10] **MR. HOWE:** This is time sensitive.
 [11] It's due the 31st.
 [12] **COUNCILMEMBER SPANGLER:** Time sensitive
 [13] --
 [14] **MAYOR JENKINS:** He wants to know if you
 [15] want him to make a list.
 [16] **MR. HOWE:** Yes, sir.
 [17] The list was kind of in general of
 [18] public-works projects, you know, across the
 [19] board. It didn't necessarily -- you know,
 [20] wasn't necessarily specific to sidewalks.
 [21] **COUNCILMEMBER SPANGLER:** Let me just
 [22] ask you to add Oakcliff Road, the sidewalk. The
 [23] whole sidewalk needs to be replaced. And the
 [24] sidewalks on Lower and Upper Pin Oak going to
 [25] Oakcliff School.

Page 95

[1] **MR. HOWE:** Upper and Lower Pin Oak.
 [2] **COUNCILMEMBER SPANGLER:** And that part
 [3] of Oakcliff which is in our jurisdiction.
 [4] **MR. HOWE:** Okay. Now, this is like the
 [5] LARP program, and that's why I like it. You
 [6] know, it's not -- there's not a whole list of
 [7] special considerations, you know. It's just you
 [8] either get the points or you don't, and it's
 [9] like LARP in that, you know, that the roads that
 [10] score the most points are the ones they pave.
 [11] It's irrespective of districts and --
 [12] And I do it on purpose: to keep
 [13] politics out of it.
 [14] **COUNCILMEMBER BATES:** One of the
 [15] criteria is turn lanes. Can we --
 [16] **MR. HOWE:** Turning lanes is -- yes.
 [17] **COUNCILMEMBER BATES:** Can we look at
 [18] turn lanes --
 [19] **MR. HOWE:** I believe that would, you
 [20] know --
 [21] **COUNCILMEMBER BATES:** -- down Buford
 [22] Highway to --
 [23] **MR. HOWE:** Sure.
 [24] **COUNCILMEMBER BATES:** -- get rid of our
 [25] suicide lanes?

Page 96

[1] **MR. HOWE:** Yes, sir. We were talking
 [2] about -- Oliver and I was talking, and that may
 [3] be something optimal for congress to deal with
 [4] because congress looks at things that --
 [5] **COUNCILMEMBER BATES:** Because that's a
 [6] U.S. highway.
 [7] **MR. HOWE:** -- that deal -- that cannot
 [8] only help us but Norcross and Chamblee as well.
 [9] You know, they don't want to be Doraville-
 [10] centric. They want to be more --
 [11] **COUNCILMEMBER BATES:** Got you. Okay.
 [12] **MR. HOWE:** -- district-centric.
 [13] **COUNCILMEMBER BATES:** I'll withdraw
 [14] that.
 [15] **COUNCILMEMBER ALEXANDER:** On the --
 [16] **MR. HOWE:** So that's -- we need to make
 [17] note of everything so we . . .
 [18] **COUNCILMEMBER ALEXANDER:** On Mr.
 [19] Spangler's request on Lower Pin Oak, there are
 [20] no sidewalks on Lower Pin Oak on the north side
 [21] of Oakcliff, so that's definitely a concern
 [22] there.
 [23] **MS. HOFFMEISTER:** And we have a lot of
 [24] school children --
 [25] **COUNCILMEMBER ALEXANDER:** Yes, you do.

Page 97

[1] **MS. HOFFMEISTER:** -- waiting there.
 [2] **COUNCILMEMBER ALEXANDER:** But they have
 [3] no sidewalks on that side of Oakcliff.
 [4] **COUNCILMEMBER FLEMING:** I did not hear
 [5] your request.
 [6] **COUNCILMEMBER BATES:** It was turn lanes
 [7] down Buford Highway to get rid of the suicide
 [8] lanes.
 [9] While we're at schools, Cary Reynolds
 [10] doesn't have sidewalks, does not, at least on
 [11] the Aztec side.
 [12] **COUNCILMEMBER PITTMAN:** So I guess we
 [13] need to provide an address to you, Mr. Howe?
 [14] And address to cut off there on Tilly Mill, the
 [15] last house possibly? Because obviously like Pam
 [16] pointed out, you can't say the Galloway
 [17] property, so if we can get that address and
 [18] include it in this.
 [19] **MR. HOWE:** Okay. What is their --
 [20] **COUNCILMEMBER PITTMAN:** I'm sorry?
 [21] **MR. HOWE:** What is that address?
 [22] **COUNCILMEMBER PITTMAN:** I will have to
 [23] get it.
 [24] **MR. HOWE:** Just eyeballing it, you
 [25] know, it looks like we're in the clear on right

Page 99

[1] motion to approve the resolution.
 [2] **MR. HOWE:** I think we should just say
 [3] sidewalks.
 [4] **COUNCILMEMBER ROCHE:** I'll second that.
 [5] **MR. HOWE:** I think that would be safe.
 [6] **MAYOR JENKINS:** Okay. We got a motion.
 [7] Do I get a second?
 [8] **COUNCILMEMBER ROCHE:** I just did.
 [9] **COUNCILMEMBER PITTMAN:** With changing
 [10] the Tilly Mill location out to Flowers Road.
 [11] **COUNCILMEMBER ALEXANDER:** They're going
 [12] to say it just says sidewalks now because there
 [13] are so many.
 [14] **MR. HOWE:** It just says sidewalks.
 [15] We're not going to say we got --
 [16] **COUNCILMEMBER ALEXANDER:** Got you.
 [17] Okay.
 [18] **ATTORNEY WEED:** When Luke submits the
 [19] application, I guess you'll have to be more
 [20] specific then. But for the purposes of the
 [21] resolution it will just be sidewalks.
 [22] **MR. HOWE:** It's not really -- you know,
 [23] a resolution is not. But I think it's that much
 [24] better, but sidewalks will do.
 [25] **ATTORNEY WEED:** I'm going to make it

Page 98

[1] of way, so do we really need -- you know,
 [2] because right of way is right of way.
 [3] **COUNCILMEMBER SPANGLER:** The sidewalk
 [4] wouldn't really affect Galloway's property,
 [5] would it?
 [6] **COUNCILMEMBER PITTMAN:** If it goes up
 [7] into his yard, it will. If he takes it all the
 [8] way up to Flowers Road, it will.
 [9] **COUNCILMEMBER SPANGLER:** Well, his
 [10] yard, the county owns.
 [11] **COUNCILMEMBER PITTMAN:** They do, but it
 [12] was designated as an historical, and we would
 [13] like to eliminate going up there if it's not
 [14] necessary because there's nothing past the
 [15] property and there's no homes or condos or
 [16] anything. The children do not walk past that.
 [17] Most of them are from the neighborhoods that are
 [18] on the other side.
 [19] **COUNCILMEMBER ROCHE:** Obviously it
 [20] makes sense to work all this out with the city
 [21] planner, too. I mean that's kind of under his
 [22] bailiwick, anyway, so --
 [23] **MR. HOWE:** Although grant money is
 [24] under the Mayor's bailiwick.
 [25] **COUNCILMEMBER BATES:** I'll make a

Page 100

[1] more generic and we'll run it by you again
 [2] signed, et cetera.
 [3] **COUNCILMEMBER SPANGLER:** Luke, do I
 [4] still need to give you that list or have you got
 [5] it now?
 [6] **MR. HOWE:** I think a list, just a
 [7] master list of everything we need to work on.
 [8] **COUNCILMEMBER SPANGLER:** Well, I mean I
 [9] gave you two.
 [10] **MR. HOWE:** Yes, sir. I got what you
 [11] gave me.
 [12] **COUNCILMEMBER FLEMING:** But the list
 [13] goes with the grant, correct, or the
 [14] application?
 [15] **MR. HOWE:** No, ma'am. What I meant by
 [16] a list was it doesn't have to be just sidewalks
 [17] or turning lanes. It could be anything that's
 [18] public-works related. And once we -- you know,
 [19] we -- we got -- Scott may have suggestions and,
 [20] you know, I have suggestions and the Mayor, but
 [21] I think that the Council really needs to weigh
 [22] in and give us your list.
 [23] **COUNCILMEMBER FLEMING:** Well, no. The
 [24] reason why my question was if we just -- you
 [25] know, just say, well, we want the money for

[1] sidewalks and not specifically state the fact
 [2] that we really need sidewalks where our schools
 [3] are, you know, saying that we need sidewalks
 [4] where our schools are would carry more weight
 [5] than --
 [6] **MR. HOWE:** Right.
 [7] **COUNCILMEMBER FLEMING:** -- we just need
 [8] sidewalks. Do you see where I'm coming from?
 [9] Maybe they would look at our request and approve
 [10] it possibly quicker if we identify that Pin Oak
 [11] and Aztec Road --
 [12] Is it Aztec that has Cary Reynolds?
 [13] **COUNCILMEMBER BATES:** Yes.
 [14] **COUNCILMEMBER FLEMING:** -- you know, we
 [15] need sidewalks on Aztec Road because it leads to
 [16] Cary Reynolds Elementary School. And to me, I
 [17] would think that would carry more weight than
 [18] just a --
 [19] **MR. HOWE:** That -- yes.
 [20] **COUNCILMEMBER FLEMING:** -- generic, I
 [21] want a grant for sidewalks.
 [22] **MR. HOWE:** That's how the grant -- you
 [23] have to do -- you have to prepare an application
 [24] for each.
 [25] **COUNCILMEMBER FLEMING:** Okay, that's --

[1] **CLERK BLACKMON:** Councilmember
 [2] Spangler?
 [3] **COUNCILMEMBER SPANGLER:** Yes.
 [4] **MAYOR JENKINS:** Thank you.
 [5] Charles Livingston.
 [6] **MR. LIVINGSTON:** What I'm going to talk
 [7] about is basically just a continuation of what I
 [8] discussed two weeks ago tonight at the last
 [9] Council meeting relative to annexation issues.
 [10] Before I start, I'd really like to go
 [11] on record as letting everybody know for sure
 [12] that I am definitely not against annexation.
 [13] The only thing that bothers me is I want to make
 [14] sure that there's no significant extra cost to
 [15] the city for doing this, that existing Doraville
 [16] citizens will have the many services such as
 [17] police, code and what-have-you, and that there
 [18] will be no new taxes to existing citizens to pay
 [19] for annexation.
 [20] I've had quite a little bit more
 [21] information available to me since I talked last
 [22] time two weeks ago, and one of them was a Carl
 [23] Vinson Institute study that was done in December
 [24] of 2006, and it gives me a little better under-
 [25] standing of what went into looking at all this.

[1] **MR. HOWE:** Like for Central, that's all
 [2] on the application.
 [3] **COUNCILMEMBER FLEMING:** Okay.
 [4] **MR. HOWE:** But you can give multiple
 [5] applications just as long -- there's a \$750,000
 [6] threshold.
 [7] **COUNCILMEMBER FLEMING:** That's fine. I
 [8] just wanted to be sure we were going to be
 [9] specific as to where the sidewalks were going to
 [10] be.
 [11] **MR. HOWE:** Oh, yeah. Yes, ma'am.
 [12] **COUNCILMEMBER FLEMING:** Okay.
 [13] **MR. HOWE:** Yes, ma'am.
 [14] **MAYOR JENKINS:** Call the roll.
 [15] **CLERK BLACKMON:** Councilmember
 [16] Alexander?
 [17] **COUNCILMEMBER ALEXANDER:** Yes.
 [18] **CLERK BLACKMON:** Councilmember Bates?
 [19] **COUNCILMEMBER BATES:** Yes.
 [20] **CLERK BLACKMON:** Councilmember Fleming?
 [21] **COUNCILMEMBER FLEMING:** Yes.
 [22] **CLERK BLACKMON:** Councilmember Pittman?
 [23] **COUNCILMEMBER PITTMAN:** Yes.
 [24] **CLERK BLACKMON:** Councilmember Roche?
 [25] **COUNCILMEMBER ROCHE:** Yes.

[1] There's a lot more than just costs for police
 [2] and what-have-you. We'll get into that in just
 [3] a minute.
 [4] But I think for the benefit of
 [5] everybody in the audience, it would be well to
 [6] share with you my present understanding of where
 [7] we stand on annexation.
 [8] As you-all know, it was voted on
 [9] December 4th and was defeated admittedly by a
 [10] flawed election. Due to a lawsuit by Eleanor
 [11] Crane, who lives in one of the areas to be
 [12] annexed, against Dekalb County for holding such
 [13] a fraud election, there's a real possibility, I
 [14] guess, that the election will be held again.
 [15] I attended a committee meeting last
 [16] Tuesday and also a called Council meeting on I
 [17] guess it was last Thursday where they talked
 [18] about this new election could possibly be held
 [19] either January 20th or January 27th.
 [20] It's my understanding -- and some of
 [21] you might correct me, but it's my understanding
 [22] that if this second election proceeds and is
 [23] passed -- it may or may not, but if it is
 [24] passed, then it's out of our hands. It's going
 [25] to happen.

Page 105

[1] And the problem that a lot of us see
[2] with it is that it was talked about in this
[3] committee meeting Tuesday night and I guess to
[4] some degree in the called Council meeting on
[5] Thursday, that the way the law is written
[6] regarding properties such as these areas that
[7] were going to be annexed, if these properties
[8] are in the hands of whatever jurisdiction they
[9] are in on the 1st of January, that that -- even
[10] though we might -- it might be voted to annex
[11] the area and be effective February 1st or some
[12] such date, that the moneys from taxation for
[13] these properties would go to Dekalb County,
[14] whoever was the jurisdiction at the time of the
[15] first of the year.

[16] And this is kind of a problem.
[17] Everybody that was in these meetings, it seemed
[18] to me -- the committee meetings and committee
[19] members and later more full Council -- it was a
[20] concern for them to some degree.

[21] The cost to the city for the services
[22] that we will provide could range from several
[23] hundred thousand dollars to several million
[24] dollars, and there's a possibility that we won't
[25] get any money from taxation for as long as a

Page 106

[1] year or a year and a half if the situation as I
[2] understand it takes place. And you know, these
[3] expenses that we're talking about here could
[4] basically drain our resources, the money that we
[5] have in the bank account, in our savings
[6] account.

[7] And you know, it may or may not happen.
[8] There was talk during these meetings about
[9] getting with Dekalb County and maybe working
[10] some of this stuff out. This may or may not
[11] happen. You know, Dekalb County is like
[12] everybody else; they are looking for money, too.
[13] And if they play hardball with us, we may be
[14] sucking air. And I just don't know. It's a
[15] little bit scary to me. I don't know about the
[16] rest of you, but there's certain of us that have
[17] talked about this.

[18] Just to give you an instance, the
[19] people that haven't seen this Carl Vinson
[20] Institute study, in that, they talked about in
[21] this new area to be annexed, expenses of a
[22] little over 7 million -- \$7,141,000 and income
[23] of \$6,964,000, which leaves a deficit of
[24] \$176,000 a year. And you know, it could be more
[25] or less than that. There are some questions

Page 107

[1] about the validity of that study.

[2] But I was going to give you just a
[3] little background about the Eleanor Crane
[4] situation. My wife and I met her at the most
[5] recent Doraville Citizens Police Academy and
[6] became good friends. And Eleanor invited me
[7] long before the November 4th election to come to
[8] her house and be a part of a neighborhood
[9] meeting she was having whereby the Mayor and
[10] John King were going to be present. John
[11] couldn't be present. Chuck was. And it was
[12] kind of like a question-and-answer session. And
[13] the Mayor made it clear that he really could not
[14] -- none of them could talk about things for or
[15] against annexation; it was just a question-and-
[16] answer session. And that's basically what it
[17] was.

[18] I sat there through the whole thing,
[19] and with respect -- out of respect to Eleanor, I
[20] kept my mouth shut. I didn't talk about any
[21] issues that I had regarding potential diminished
[22] services in areas where we were already citizens
[23] of Doraville, such as police, and code and what-
[24] have-you and potential for higher taxes and
[25] what-have-you, so I kept my mouth shut.

Page 108

[1] Now, this lawsuit by Eleanor, I
[2] understand from her that she was contacted by
[3] Dan Weber, the senator, about this, and I expect
[4] that Dan must have had a little help from
[5] somebody here to know that she was a person that
[6] might be amenable to a lawsuit such as this.
[7] She was picked up by Luke Howe, assistant to the
[8] Mayor, and taken to wherever she needed to go to
[9] make this happen. Our lawyer, Murray, has done
[10] some work on behalf of this lawsuit, as
[11] reflected in his invoices. And I expect that
[12] this is okay. This is not -- you know, you're
[13] not trying to influence citizens. This is just
[14] part of the City of Doraville, so I don't have a
[15] problem with that.

[16] But one of the questions that --
[17] I'm just about done here --

[18] One of the questions that comes up to
[19] me is, okay, we have a potential for really
[20] getting walloped in the pocketbook because of
[21] this, and my question is, okay, why are we doing
[22] this? I asked questions of you two weeks ago
[23] and haven't been given any answers, and I'm
[24] going to answer a little bit of it myself.
[25] I'm not going to go through each one,

Page 109

[1] but why and who. And I've been asking questions
[2] all over, and the one person that comes up is
[3] John King.
[4] John, your name -- you've been a very
[5] popular person.
[6] And you know, it's pretty well known
[7] that when John wants something, the Mayor goes
[8] along with it.
[9] Also, we have three Councilmen who are
[10] closely aligned with the Police Department. So
[11] near as I can tell, this is where this thing is
[12] coming from.
[13] And I may be wrong. I stand to be
[14] corrected, but this is -- this is what I come up
[15] with, and I wonder why. Why is anybody willing
[16] to go to this extreme and possibly deplete the
[17] City's bank account over some- -- through
[18] something like this?
[19] And I'll tell you what. I think it
[20] sounds like we're locked into this thing if the
[21] thing passes. It may or may not pass. And I
[22] don't know if there's any other outs. But if it
[23] passes, we potentially could be hurt very bad.
[24] And I would like each of you to really
[25] think about this and see if you can -- you know,

Page 110

[1] if we have any out if this happens, or maybe we
[2] ought to call it off before it ever happens.
[3] But it's scary out there.
[4] That's all I've got to say.
[5] **MAYOR JENKINS:** Thank you.
[6] **MS. HOFFMEISTER:** Bonita Hoffmeister,
[7] English Oak Drive.
[8] Charles, thank you for reminding us
[9] that we will be policing this area and governing
[10] this area for a half a year or a year, year and
[11] a half until we can collect the taxes on this
[12] area. Fully understand this, and I appreciate
[13] you calling this to our attention because we can
[14] also say when we take over this area so we can
[15] avoid that shortfall or that gap in collecting
[16] taxes and providing services.
[17] But as a resident, I for one can tell
[18] you why we would want to annex this area.
[19] Currently, if I were to sell my property, I
[20] would have to list it, and there is no way a
[21] realtor can drive a prospective buyer to my
[22] property. One way has the oil tanks. Another
[23] way has Waste Pro. Another way has Section 8
[24] and is overrun with what we now see in our
[25] neighborhoods as rising break-ins. These are

Page 111

[1] all areas, with the exception of the tank farm,
[2] that we have no control over.
[3] I work in Oakcliff Industrial Park. I
[4] have worked there for nine years. In the nine
[5] years I have worked there, three people have
[6] been shot to death.
[7] This is a drug area. We want police
[8] coverage in there. We want it cleaned up. I
[9] want that cleaned up more than I want my
[10] neighbor's yard mowed, because that will
[11] increase the value and the safety of my property
[12] more than anything. Thank you.
[13] - - -
[14] (Applause)
[15] - - -
[16] **MAYOR JENKINS:** Susan?
[17] **MS. FRAYSSE:** I agree with both of you.
[18] It is scary thinking about the shortfall, and
[19] that wasn't something anybody anticipated with
[20] the annexation. And the timing has worked out
[21] and it is going to be a hit, a wallop in the
[22] pocketbook. If we are ordered to have an
[23] election and if the annexation passes the second
[24] time, we're going to have to operate for a year
[25] and a half and provide services without the

Page 112

[1] revenues, the property tax.
[2] But if I understood the meetings I
[3] attended Thursday night -- which I don't know if
[4] you were able to come, Charles -- but there
[5] would be other revenues coming in associated
[6] with business licenses, and so that will --
[7] that's not quite as bad.
[8] I think it would be a short-term wallop
[9] but might potentially have a long-term increase
[10] in terms of our earnings potential by bringing
[11] in the commercial mix and the property tax that
[12] we're talking about.
[13] I can say three things. There's been a
[14] long history of discussion of annexation and the
[15] problems caused by the irregular borders. I've
[16] lived in Oakcliff Estates for 22 years, and
[17] people have talked about it ever since I got
[18] there, about the irregular, you know, sort of
[19] borders and about problems nearby. People have
[20] complained about the unincorporated Dekalb
[21] areas, crime primarily, but traffic also. And
[22] trucks is a big part of it. We can't regulate
[23] the trucks, and we have found out most recently
[24] we can't even get the trucks out of the tank
[25] farm areas in the most reasonable route because

Page 113

[1] a piece of that is unincorporated Dekalb over
[2] which we have no control.
[3] So I have learned increasingly there
[4] are many, many reasons that the annexation could
[5] potentially help. Nobody's saying it's going to
[6] automatically solve everything, but I think it's
[7] worth a shot.
[8] There's been a long history of
[9] discussions. I've been a part of three public
[10] meetings. We also had an Oakcliff neighbors'
[11] meeting. We've aired things out. People have
[12] discussed it. We've all read the Carl Vinson
[13] study. That went online in January of 2007, as
[14] Charles said. The senate meetings we had last
[15] year, the Dekalb delegation meetings.
[16] So I think at this point, the residents
[17] in those areas, many of whom I've gotten to know
[18] because of the library board and other groups
[19] I'm a part of, exercise groups and whatever, a
[20] lot of those people live in the unincorporated
[21] areas around Doraville. Many of them like our
[22] services. They come and use our recreation,
[23] they use our libraries, they want to be a part
[24] of our community, and they deserve a fair vote.
[25] So that's -- I think there's a long-

Page 114

[1] term need. And the short-term hit is scary, but
[2] I hope that we're all up to it. So I -- you
[3] know, we have no control over it. The judge
[4] will say if there's going to be a meeting -- I
[5] mean a vote, and then the people will vote, and
[6] then we're just going to have to work with it
[7] either way it goes.
[8] I agree with Tom Hart -- and I want
[9] this on the record -- that . . .
[10] I've always said 20 percent of the time
[11] I agree with him.
[12] And he said the other night when I was
[13] flummoxed, because I didn't really think about
[14] the implications of the short-term hit. But he
[15] said that maybe -- I mean we can't control if
[16] there is a re-vote, we can't control how the
[17] vote goes. But maybe if it fails, we will have
[18] other opportunities to carry out the annexation.
[19] There are three ways to do it.
[20] So I hope that long-term we can get our
[21] irregular borders evened out, and I appreciate
[22] everybody for hanging tough during this period
[23] of time when we have so much indecision that we
[24] can't control. So thanks.
[25] - - -

Page 115

[1] (Applause)
[2] - - -
[3] **MAYOR JENKINS:** Our --
[4] Go ahead, John. Come on up.
[5] **CHIEF KING:** The only thing, I want to
[6] kind of address just a few of your comments.
[7] By no stretch of the imagination is
[8] this annexation a John King annexation. We are
[9] trying to deal with -- several very tough
[10] questions were asked during the public hearings.
[11] There was a number -- numerous -- well, there
[12] were several public hearings conducted.
[13] My only comments have been is how do we
[14] influence crime in the periphery of Doraville?
[15] because it is affecting our current quality of
[16] life. A prime example that I mentioned is the
[17] Motel 6 at Chamblee Tucker and 85. That is
[18] affecting Doraville because Doraville citizens
[19] are being affected.
[20] The issues like Bonita mentioned just
[21] beyond our lines. The trucks going on Oakcliff.
[22] How many times we've heard about the Oakcliff
[23] trucks using Oakcliff. Our ability to influence
[24] that.
[25] And that's why I have mentioned this in

Page 116

[1] public hearings about the problems. DUIs. The
[2] people are being able to beat us in court
[3] because when they're making a U-turn on Winters
[4] Chapel, they're only making a left turn on half
[5] of Winters Chapel in the city and the other left
[6] turn is being made in unincorporated Dekalb.
[7] We're being beat on -- on very -- because our
[8] city limits are very, very jagged.
[9] North of Collier's Pharmacy, everything
[10] on the right side of Buford Highway is in Dekalb
[11] County. Our city limits goes the center of the
[12] road. So when there's an accident, you have
[13] Dekalb County Police and Doraville Police
[14] jockeying about who's going to handle the
[15] accident.
[16] That is what I propose: trying to
[17] simplify our city limits so it will make sense
[18] for enforcement.
[19] As far as where the lines went, the
[20] previous council drew the lines.
[21] This is not a John King, you know. And
[22] I get as much support from every member of the
[23] Council on different issue, not just three
[24] members of the Council, and the Mayor tells me
[25] no almost every day. So please don't think that

Page 117

[1] this is a John King annexation.
[2] If there was not grass roots support
[3] from both inside of Doraville and outside of
[4] Doraville, this annexation would have never gone
[5] anywhere. So please don't attach success or
[6] failure or whether this is a proper annexation
[7] because John King wants it.
[8] I want to be able to protect my
[9] community better, and that is the only reason
[10] why I've said we need to do something. I don't
[11] care what it was. I tried going to Dekalb
[12] County to try to get their assistance, but they
[13] have very limited resources.
[14] So please, sir, I would respectfully
[15] ask remove my name from whether this is a good
[16] idea or a bad idea because it has nothing --
[17] what John King says has nothing to do with it.
[18] **MAYOR JENKINS:** Our City Attorney is
[19] working with the County as we speak to work out
[20] a transition period, you might say, but we won't
[21] get into that tonight.
[22] Do you have any more, Mr. Livingston?
[23] Is that it?
[24] **MR. LIVINGSTON:** That's it.
[25] **MAYOR JENKINS:** Okay. Take Item 11

Page 118

[1] ahead of 10, please, sir. Take Wilton Avenue,
[2] Item No. 11, and then get 10 next.
[3] **MR. HAEBERLIN:** What you have before
[4] you tonight is a request for some variances that
[5] will allow a lot division of the property
[6] located at 3604 Wilton Avenue. That is the
[7] parent tract. You have the tax parcel identifi-
[8] cation identified in the report. It's
[9] approximately 0.485 plus or minus acres.
[10] Without going through in detail the
[11] report which has been supplied to you in advance
[12] on Friday, the property is R-1. The property
[13] can be subdivided with minor variances. The
[14] variances that have been addressed are lot
[15] depth, which is 120 feet's required by your
[16] code, and side yard building setbacks. Now, the
[17] side yard building setbacks are for the proposed
[18] lot which is essentially the back yard of the
[19] existing structure which fronts on Pine Street
[20] also known as Elizabeth Street, and that's from
[21] ten feet to five feet.
[22] Again, the granting of the variances
[23] does not unilaterally allow him to build two
[24] structures on a lot. It just allows him to
[25] proceed with the subdivision process that is

Page 119

[1] specified in our city code to then create two
[2] lots. The subdivision ordinance allows me to
[3] administratively sign off on lot division
[4] pursuant to the variances that are present.
[5] Existing conditions. You've got
[6] essentially a 1388 square foot house. It's a
[7] split ranch or some would call it a raised
[8] ranch.
[9] Under the standards of review, I think
[10] it's important to note -- and please refer to
[11] the exhibit in the back, the very back -- what
[12] is actually being looked at, you see two tracts.
[13] You see Tract A which contains the existing
[14] house and Tract B. You also see a flag portion
[15] or kind of a long finger of land that comes down
[16] Pine Street, the entire frontage, and comes down
[17] to Wilton Avenue. As proposed, the lot division
[18] would actually take away the corner-lot capacity
[19] of 3604 Wilton Avenue. That area that is a
[20] strip of land approximately 28.53 feet wide
[21] would then become a conservation easement area.
[22] Tract B is the piece of property that then the
[23] applicant or whomever would then be able to
[24] construct another dwelling on that site.
[25] So the variances are minor. As you see

Page 120

[1] from looking at Tract A, 111.13 feet in depth on
[2] the one side that is closest to Pine Street.
[3] That's a variance.
[4] You also see again -- and this is
[5] interpretive -- whether the flag portion
[6] actually has a depth requirement, that is
[7] interpretive because there are no building
[8] setbacks on the flag portion. There is a minor
[9] deviation in the survey which was corrected, and
[10] this is between the property of Tract B and the
[11] Culbreath (phonetic) property. There's a minor
[12] deviation in the surveying that's done. But
[13] basically Dekalb County says it's 120 feet in
[14] depth.
[15] So you, again, have minor variances.
[16] These minor variances are not within the
[17] administrative purview of the Mayor, which
[18] currently is in the code, so it has to come to
[19] you for a variance.
[20] You do have archival information that
[21] suggests variances have been approved in this
[22] area for the same exact thing, and is actually
[23] tangential from the subject property, which is
[24] 3615 Pine Street, which is an infill
[25] development, as well, that was broken off from

Page 121

[1] 3621 Wilton Avenue -- again, our applicant's
 [2] neighbor. The tolerances of those variance
 [3] exceed what is being requested here; that is,
 [4] they were far more extreme. Again "extreme" is
 [5] not to suggest their being subjective, but they
 [6] were larger than is being requested here. So
 [7] you did have similar characteristics.

[8] I want to draw attention to one of the
 [9] components of our comp plan, which is life cycle
 [10] redevelopment, is provide housing opportunities
 [11] for people as they age, allowing them to
 [12] downsize, to build single-story houses, have
 [13] handicapped accessibility. And that is the
 [14] focus of our applicant's -- and that's one of
 [15] the things that they have identified in their
 [16] letter of intent is that they intend to in the
 [17] future build a retirement home on Tract B and
 [18] that is what has necessitated the division of
 [19] the lot to then provide for an additional
 [20] building lot for the future.

[21] Under our recommendations -- and I
 [22] won't belabor these because the applicant has
 [23] some responses -- basically is in accord with
 [24] the planning methodology of the natural, human,
 [25] built environments. Natural is dealing with the

Page 122

[1] property, the landscaping per se. The human,
 [2] which would be the sidewalk or the pedestrian
 [3] mobility, and in some cases, in commercial
 [4] facilities, things like benches and lighting,
 [5] et cetera. And then the built environment is
 [6] what is to be constructed on the site.

[7] Now, there's been some code changes
 [8] that have affected how structures are developed
 [9] in the city, and one of them is the requirement
 [10] for a two-car garage. And then he has drawn
 [11] attention to that.

[12] In the back of the report, you do have
 [13] a side exhibit that kind of gives you a
 [14] schematic of where the next most adjacent infill
 [15] that resulted from variance is, and it is
 [16] tangential from the subject property. And on
 [17] the last page, as well, you have the side
 [18] exhibit.

[19] Now, this is all contingent upon your
 [20] approval of the variances and then the review of
 [21] the subdivision plat by me, the city planner, as
 [22] your designee, and then the recording of that
 [23] plat to create two legal lots, one being Tract A
 [24] essentially and one being Tract B.

[25] If there are any questions, please

Page 123

[1] direct them to me at this time. I would like to
 [2] have the opportunity for rebuttal after the
 [3] applicant has also had an opportunity to speak.

[4] And again, we do need to conduct a
 [5] public hearing. At some point in time, we'll
 [6] open the public hearing and ask for those in
 [7] favor, those against, and close the public
 [8] hearing.

[9] **COUNCILMEMBER FLEMING:** The side
 [10] setback, unless I didn't read it correctly,
 [11] would you tell me what the side setback from
 [12] Tract B to the Culbreaths' property is?

[13] **MR. HAEBERLIN:** It would be five feet
 [14] as --

[15] **COUNCILMEMBER FLEMING:** Five feet.

[16] **MR. HAEBERLIN:** -- as proposed.

[17] **COUNCILMEMBER FLEMING:** Could you --

[18] **MR. HAEBERLIN:** And -- uh-huh.

[19] **COUNCILMEMBER FLEMING:** That's what I
 [20] thought.

[21] Could you tell me, from the Culbreaths'
 [22] home, do you have any idea from their property
 [23] line to where their home presently sits on their
 [24] property?

[25] **MR. HAEBERLIN:** I have viewed the

Page 124

[1] property. I will tell you that the residual of
 [2] Pine Street is more 1980s construction of
 [3] typically tri-levels, multi-level houses, that
 [4] are actually placed closer to the side-lot lines
 [5] than the existing properties in the neighborhood
 [6] which are mostly 1950s ranches.

[7] I would guesstimate that the -- and I
 [8] don't know factually, but I would guesstimate
 [9] from viewing the side that the Culbreaths'
 [10] property is actually located closer to the side-
 [11] lot line than ten feet.

[12] Again, no fire issues result from a
 [13] five-foot building setback. In other words, you
 [14] do not have to provide a special fire rating for
 [15] single-family because you go down to five feet.

[16] However, if you get less than five
 [17] feet, you do jump into providing fire
 [18] suppression and various materials on that
 [19] elevation which shares the same elevation as
 [20] another dwelling. Say for example if the City
 [21] of Doraville were to allow houses to be seven
 [22] and a half feet apart, which many jurisdictions
 [23] do, there would have to be a new look at how
 [24] things would be constructed.

[25] **COUNCILMEMBER BATES:** Is it practical

Page 125

[1] to build a single-story two-car garage and fit
 [2] it in that footprint?
 [3] **MR. HAEBERLIN:** You know, again, you
 [4] have topography. That's the blessing of this
 [5] site is yes, I think it is possible. I mean
 [6] there are options for different housing
 [7] opportunities, particularly maybe a drive-under
 [8] or a detached garage. Certainly we don't need
 [9] to think in terms of a garage to be attached to
 [10] the house per se. Even a front-entry garage on
 [11] the front elevation. I think there's a lot of
 [12] different opportunities with creative housing to
 [13] actually achieve this. It's a fairly wide lot
 [14] for a modern building lot.
 [15] **COUNCILMEMBER BATES:** Wide from the
 [16] Wilton side or -- because it's certainly not
 [17] wide from the Pine Street side.
 [18] **MR. HAEBERLIN:** Actually with respect
 [19] to -- obviously, the many jurisdictions I've
 [20] worked in in 13 years, Tract B is a sizeable
 [21] building lot. I will tell you that most modern
 [22] lots that are being platted in jurisdictions
 [23] nowhere near have this frontage, and they are
 [24] still achieving much greater square footages
 [25] than your code requires, which your code only

Page 126

[1] requires 1250 plus a two-car garage.
 [2] **COUNCILMEMBER ROCHE:** I guess we'll
 [3] have the public part too, so --
 [4] **MR. HAEBERLIN:** But we also need to
 [5] hear from the applicant as well.
 [6] **COUNCILMEMBER FLEMING:** Did you have an
 [7] opportunity or was it in your position to
 [8] contact the Culbreaths and talk to them?
 [9] **MR. HAEBERLIN:** It is not a requirement
 [10] of the city code, and I did not want to impinge
 [11] the functioning of this hearing at this time.
 [12] I believe the gentleman will address
 [13] that he does have some letters from the property
 [14] owners addressing his request, in support of the
 [15] variances.
 [16] **COUNCILMEMBER FLEMING:** Thank you.
 [17] **MR. HAEBERLIN:** Uh-huh.
 [18] **MR. ALDERMAN:** Good evening.
 [19] **COUNCILMEMBER FLEMING:** Good evening.
 [20] **MR. ALDERMAN:** I'd just like to
 [21] recognize everybody here -- a couple of my
 [22] neighbors who are back there in support of this,
 [23] Hanno and Mr. Weiner.
 [24] **COUNCILMEMBER FLEMING:** She needs your
 [25] name, sir.

Page 127

[1] **MAYOR JENKINS:** Your name, sir?
 [2] **MR. ALDERMAN:** My name is Steve
 [3] Alderman, (spelling) A-L-D-E-R-M-A-N, 3604
 [4] Wilton Avenue.
 [5] Did you have a chance to submit the
 [6] package that I gave?
 [7] **MR. HAEBERLIN:** Correct.
 [8] He has submitted a rebuttal which I
 [9] gave to you guys -- that came in tonight
 [10] immediately before the meeting -- so that you
 [11] guys could start looking it over.
 [12] **MR. ALDERMAN:** And also there should
 [13] have been included another letter from
 [14] Mr. Weiner, a neighbor --
 [15] **MR. HAEBERLIN:** Yeah.
 [16] **MR. ALDERMAN:** -- in the street. Okay.
 [17] The original package should have had
 [18] letters from Mr. Culbreath -- the original
 [19] package you-all received back in November --
 [20] from Mr. Culbreath, from Mr. Fitzpatrick --
 [21] Mr. Culbreath is our neighbor to the west of
 [22] proposed Tract B -- from Mr. Kirkpatrick [sic],
 [23] who is our neighbor to the south of existing
 [24] Tract A; from our neighbor directly across the
 [25] street, not actually abutting our property, but

Page 128

[1] -- the Hambys, Ms. Inez Hamby and her support of
 [2] this; and from a neighbor who is in attendance
 [3] right now, Hanno -- who is, again, across the
 [4] street but he has a direct line of sight on both
 [5] the existing property and the proposed Tract B
 [6] -- and his support of it; as well as another
 [7] letter from a couple that have just recently
 [8] moved into the neighborhood who are to his west,
 [9] Hanno's west, but would have a line-of-sight
 [10] view of proposed Tract B. And in all instances,
 [11] the neighbors have expressed their support of
 [12] the proposed lot subdivide.
 [13] To your point or to your question as to
 [14] how far away the Culbreath property was --
 [15] **COUNCILMEMBER FLEMING:** Uh-huh.
 [16] **MR. ALDERMAN:** -- it is 10 feet.
 [17] Actually, I think it's slightly more than 10
 [18] feet. And then we were requesting the five-foot
 [19] side yard variance.
 [20] The purpose on the proposed new house
 [21] and the purpose behind that was to ensure that
 [22] the width of the house as you would view it from
 [23] the public thoroughfare would be more in line
 [24] with the rest of the houses in our neighborhood,
 [25] although, as Scott addressed, that particular

Page 129

[1] piece of land is in a strange position in that
[2] there are all either 1950s brick ranches or
[3] 1980s split levels. But we would want --
[4] they're generally, although, still approximately
[5] 500 foot wide, and with the requested side-yard
[6] variance of five foot, that would bring the
[7] proposed new house on Tract B to a 45-foot
[8] width.

[9] In regards to Councilman Bates'
[10] question as to whether or not a two-car garage
[11] could be put in there, my father is an architect
[12] and has done projects all over the world. He's
[13] pretty well known, or he was. He's been retired
[14] for quite some time now. And putting in a two-
[15] car garage, we would anticipate -- I would
[16] anticipate generally that it would actually go
[17] down underneath would be just my quick
[18] assumption. And a 45-foot width obviously is
[19] plenty of room for a three- or even four-car
[20] garage if, you know, that were desirable.

[21] But the condition of a two-car garage
[22] would be met with no problem. And of course,
[23] you know, my father, he would be submitting any
[24] house plans to the city planner, and I'm sure he
[25] would then give them to you guys to look at and

Page 130

[1] you would make a determination then.

[2] But really the sole purpose of this is
[3] we do like Doraville. We moved in here about 10
[4] years ago as renters, and we moved in when --
[5] this is my family right here, the two boys and
[6] my wife (indicating) -- the youngest boy was not
[7] even one year old. He was still crawling around
[8] when we moved in. And we ended up -- we saw the
[9] schools, we like the neighborhood, so we bought
[10] the house, and since then we've been fixing it
[11] up.

[12] And when we decided to look into the
[13] subdivision, the idea behind it is as we become
[14] empty nesters, we're not going to need as big a
[15] house as we currently have, and we definitely
[16] don't want laundry facilities downstairs and
[17] now, you know, we're 80 years old or whatever
[18] and we're trying to, you know, go up and down
[19] the stairs with laundry. Bad things happen. I
[20] mean we're looking at that with my wife's
[21] grandparents at the house they're at down on the
[22] south side of town.

[23] So we're looking to stay in the city.
[24] We like the city. We really do like the city.
[25] We like the schools. We've had our kids both go

Page 131

[1] to Oakcliff Elementary, and my youngest son is
[2] now at Sequoia Middle. My oldest boy, he's over
[3] at Chamblee High. He's a senior.

[4] And we like the house, too. We've put
[5] a lot of time and money into this house. I
[6] don't know if you folks had the chance to drive
[7] by. Brian, I know you live just around the
[8] corner.

[9] **COUNCILMEMBER BATES:** Every morning.
[10] **MR. ALDERMAN:** So you've seen the work
[11] we've done.

[12] And one of the things that we did do on
[13] the existing house, which I've mentioned, is we
[14] put in a drive-in underneath-the-house carport,
[15] and we were able to -- it's a one-car garage.
[16] It's not really a carport because it's totally
[17] enclosed. It's within the footprint of the
[18] existing house. It just utilized dead crawl
[19] space that had previously been there, that we
[20] were able to tap into because of the topography
[21] of the land. And you know, we were able to do
[22] that, and it was pretty creative, but it's just
[23] reinvesting back into the community.

[24] And as such, when I initially went to
[25] the engineer with the idea of subdividing the

Page 132

[1] lot, his first response was, "Okay. So we're
[2] going to bulldoze the house and put the line
[3] down the middle."

[4] And I said, "No. You're going to earn
[5] your money. We want to keep the existing house
[6] and then subdivide the land so that we can build
[7] more of a retirement, downsized house --
[8] potentially wider hallways, wider doors,
[9] wheelchair access, more one level."

[10] And I've even challenged my father that
[11] we want wheelchair ramps, no stairs in the
[12] house. And he kind of cocked his eyebrow at me,
[13] but he said he's up for the challenge.

[14] And a lot of this was also done at the
[15] urging of my father. I mean he's getting on in
[16] years and he's not in the best of health. And
[17] as a legacy to us, you know, he wants to design
[18] us a house. And we would like that of course.
[19] You don't look a gift horse in the mouth. And
[20] we like Doraville.

[21] So it just seemed logical to try and
[22] stay here, increase the tax base, make everybody
[23] happy; keep the front house as an heirloom to
[24] the kids or even as they go off to college, that
[25] could well be a house, you know, for them to

Page 133

[1] stay in and they have their little bit of
[2] privacy while we would have our, you know,
[3] retirement house back there, keep an eye on
[4] them, too, make sure what's going on.
[5] Then if they ever moved out, the front
[6] house could be a rental property. And as the
[7] landlord's living right there, again, you know,
[8] we would be able to keep a close eye on the
[9] property, what was going on, and it would be a
[10] supplement to us in our elderly years on a fixed
[11] income. So --
[12] **MAYOR JENKINS:** I think we need to take
[13] some questions now from the table.
[14] **COUNCILMEMBER ROCHE:** Well, I just had
[15] one question.
[16] I notice there are several conditions
[17] that have been listed here. Are you okay with
[18] those conditions?
[19] **MR. ALDERMAN:** Well, if you'd refer to
[20] the package that I've handed out this evening,
[21] the conditions, for the most part, I am
[22] acceptable to, and we do -- in fact, we agree
[23] with them.
[24] I have listed some of the potential
[25] objections or rebuttals that we would have in

Page 134

[1] order.
[2] For example, the first one is in
[3] Natural, Point No. 6, where it says the lot
[4] shall be sodded pin to pin with the exception of
[5] naturalized areas or groundcover areas per a
[6] landscape tree protection plan to be approved by
[7] the city planner.
[8] It just concerned me hearing him saying
[9] it needed to be sodded pin to pin. I thought
[10] that was a little bit ambiguous. And more
[11] importantly, currently it's just not -- it's not
[12] sustainable. It's not attainable. As you all
[13] know, we're in a level 4 drought and there are
[14] some various restrictions. This is detailed in
[15] the rebuttal.
[16] Now, the EPD -- the director of the EPD
[17] has given some exclusions. If you go before the
[18] county extension and do their required course,
[19] you are allowed to water between 12:00 and
[20] 10:00.
[21] However, having talked to an arborist
[22] or horticulturalist, the county extension
[23] officer and also UGA's ag department, you never
[24] want to water new grasses at night. That
[25] encourages the growth of fungus, fungicides;

Page 135

[1] it's going to kill it. You need to water in the
[2] mornings, in the daylight hours, and that way
[3] the water can get into the grass while it's
[4] still fairly cool, and then as the day
[5] progresses in the heat, it'll evaporate; you
[6] won't grow fungus.
[7] The restriction is that watering ends
[8] at 10:00 and the restriction is also it's only
[9] three days per week, and a further restriction
[10] is it's only for 10 weeks.
[11] Everybody I have talked to says that to
[12] ensure and promote good root growth of new sod
[13] or new plantings, you need more water than that.
[14] If you don't, chances are you're going to spend
[15] a lot of money and have an unsuccessful lawn.
[16] But I did notice, as I said, that
[17] provisions are made for natural groundcover and
[18] natural areas. And I think that after
[19] conferring with the staff and getting feedback,
[20] that was his intent; that it's not set in stone
[21] that it has to be sod. Other more sustainable,
[22] drought-resisting ground coverage could be used
[23] as opposed to sod. But I think the city planner
[24] just put sod in as that is by and large, you
[25] know, what's most common. So I think that's

Page 136

[1] addressed.
[2] Then if you go over to Human, Point 1.
[3] If you notice, currently right now if you go to
[4] the Doraville city code, Chapter 17, Streets and
[5] Sidewalks, Article 1 in general, Section 17-1
[6] through 17-25 is blank. There are no codes or
[7] ordinances currently for Doraville in Sidewalks.
[8] At this time, there is also no
[9] physically-existing sidewalk on either Pine
[10] Street or Wilton Avenue.
[11] My feeling is that until such time as
[12] Doraville city codes and ordinances -- and from
[13] what was discussed tonight, I obviously think
[14] that that is being addressed. But my feeling is
[15] that until such time as Doraville city codes and
[16] ordinances are drafted that specifically address
[17] residential sidewalks and are legally
[18] established and then either the city/county
[19] residents have put in place a definitive plan
[20] for the construction of and a definitive
[21] timetable for the completion of whole-street,
[22] interconnecting residential sidewalk in Wilton
[23] Avenue and Pine Street, I honestly deem that the
[24] condition of us privately financing a public-use
[25] sidewalk which would cover 120 feet of Wilton

Page 137

[1] Avenue only and 172 feet of Pine Street only is
[2] an unreasonable expectation, and that's at this
[3] time.
[4] I mean I think -- and you would agree
[5] of course -- that it would look silly to have
[6] one little bit of sidewalk on a corner.
[7] And again, I think Scott addressed
[8] this, and this is more to the point when we go
[9] to build our retirement home and we're empty-
[10] nesters, and I think that he is projecting in
[11] the future that there will be sidewalks, and at
[12] that time, that is a condition he has.
[13] I don't think that you had suggested
[14] that condition to happen tomorrow, for example?
[15] **MR. HAEBERLIN:** It would be an issue
[16] with the construction of the second house. And
[17] hopefully by then, the City will also put in
[18] some seed money and there will be some other
[19] opportunities for us to put sidewalks in the
[20] area and actually connect and have a gridwork in
[21] the city.
[22] **MR. ALDERMAN:** Okay. Then if you go to
[23] the section in the recommendations, Built,
[24] bullet point No. 2, most of the requirements
[25] here -- and in fact, all of the requirements

Page 138

[1] here by the city planner are definitely
[2] agreeable to us, as in brick siding, stone face
[3] siding; you know, no exposed cinder block
[4] foundation. In fact, we're in favor of that.
[5] One of the other points of, you know,
[6] building this retirement house is that we want
[7] as maintenance-free and as long-lasting a house
[8] as possible. Once we, you know, move into this
[9] proposed new house, we don't want to have to be
[10] painting, replacing cracked vinyl siding after a
[11] cold frost. I mean we want substantial and
[12] long-lasting construction materials to be used.
[13] However, the suggestion of
[14] architectural three-dimensional shingles be
[15] used, we currently have that on our roof. When
[16] we did it on our roof, we put it on the existing
[17] house. We do like the look.
[18] But again, going back to the point of
[19] what this proposed house is for -- it's a
[20] retirement home -- we want a sustainable, green,
[21] economic-friendly house. And currently we've
[22] seen a huge technological leap forward in solar
[23] energy. We're looking at solar shingles. We're
[24] looking at a geothermal heat system where it's a
[25] heat sink into the ground in the summertime;

Page 139

[1] drop the heat from the house into the ground and
[2] pick up the coolness to cool it; and in the
[3] wintertime, the reverse, because of course the
[4] ground stays at a constant temperature.
[5] That is a very, very good system,
[6] however, it does need electricity to run. The
[7] idea behind it is to have an all-encompassing
[8] system where we'd use solar collected from the
[9] solar shingles to power the geothermal unit.
[10] I did bring that up to my father. That
[11] was something that he immediately picked up on,
[12] and he said, "Geothermal's a great system;
[13] however, it doesn't go far enough. You need to
[14] connect it all to have a completely energy-
[15] efficient house."
[16] So I know where Scott was going with
[17] this. He was suggesting, you know, that it
[18] require architectural three-dimensional
[19] shingles. Again, it was just, you know, project
[20] out on the future that we use that. He had no
[21] idea that we really did want to get as
[22] environmentally-friendly and as self sufficient
[23] a house as possible.
[24] So I do not think there's any objection
[25] to the solar shingles even though they cannot be

Page 140

[1] dimensional. It's impossible. A solar cell has
[2] to be flat to actually be functional.
[3] The other thing is if we decided not to
[4] go with the solar cell, I do think that in 10
[5] years' time, it is going to be economically
[6] feasible -- especially considering President-
[7] elect Obama's stated decision that he will
[8] invest in alternative-energy fuels, I do think
[9] that in 10 years' time from now, it will
[10] definitely be economically feasible.
[11] However, if it's not, again in the
[12] interest of having as low a maintenance house as
[13] possible, we'd want a metal roof.
[14] Architectural three-dimensional
[15] shingles I know have a 30-year warranty. That's
[16] in a scientific lab. This is the real world.
[17] They're going to last 20 years/25. You know,
[18] once the leaves fall on them, they fall in the
[19] valleys, they deteriorate. You're up there
[20] walking on them, blowing them off; you take the
[21] asphalt off. The sun hits it, the cold hits it.
[22] They say 30 years, but in reality, just
[23] like when you look at your estimated highway
[24] mileage on your car at the lot, you're not going
[25] to get that. The same with 30 years on the

Page 141

[1] shingles.

[2] Whereas a metal roof, it's going to

[3] last 60 years. If we move into the house and we

[4] had a metal roof on it, that roof will not fail

[5] before we're gone and moved on to a better

[6] place.

[7] So again, I don't think -- I don't

[8] think the city planner's condition of a three-

[9] dimensional shingle was steadfast in and of

[10] itself.

[11] I don't think there's -- any objection

[12] from you, Scott, on solar shingles or metal

[13] roofing?

[14] **MR. HAEBERLIN:** That could be amended,

[15] and I would certainly support amended to have

[16] 3-D shingles as an option, solar roofing and

[17] standing seam, a metal roof. So that would give

[18] the applicant an option to choose among those

[19] three items.

[20] **MR. ALDERMAN:** And you know, if we did

[21] not go with the solar or the metal, we'd

[22] definitely use the architectural. That's what

[23] we chose on our existing house.

[24] **COUNCILMEMBER ROCHE:** To save a little

[25] time, were there any issues that you think are

Page 142

[1] still unreasonable that you have not worked out

[2] yet? I guess is what I was getting at.

[3] **MR. ALDERMAN:** Yeah. One last one

[4] would be -- I think it's going to be in Built,

[5] No. 4. It was the condition that all gravel be

[6] removed from Tract A.

[7] Doraville city code already covers

[8] that. Chapter 5, Section 40, Driveway

[9] Limitations and Maintenance; (b), existing

[10] driveways constructed with gravel for which a

[11] permit was obtained shall be replaced with

[12] either concrete, asphalt, pavers or brick within

[13] six years from the date of adoption of this

[14] article -- which the article it's referring to

[15] is the current code in 2006.

[16] So already, we're going to be required

[17] to take care of the gravel by 2012, and we fully

[18] intend on coming into compliance. I don't know

[19] if everybody noticed about that, but we

[20] certainly do. We're aware of it.

[21] Also on the south side of the existing

[22] house, Tract A, we have a gravel area, and that

[23] is a landscaping use only. It is not in any

[24] way, shape or form driving, parking or anything

[25] of the such. It is only landscaping. And

Page 143

[1] again, because of the topography of the land, we

[2] have a runoff that goes down there. Currently

[3] our rubbish or our trash can are behind the

[4] fence there. And if it rains and we try to take

[5] the trash can down to the street, we're only

[6] walking on maybe 20 foot or so of Georgia clay

[7] but we end up being about two inches taller than

[8] we used to be.

[9] So the stone that we have there, which

[10] is a granite gravel from Atlanta Landscape just

[11] up the road on Buford Highway, it's actually

[12] called number 47, landscaping purpose only.

[13] We already have the existing driveway

[14] going into the garage as well as a parking pad.

[15] **COUNCILMEMBER ROCHE:** Excuse me. But

[16] this would only take effect if you requested a

[17] building permit for your existing house.

[18] **MR. ALDERMAN:** Well, we do plan on,

[19] anticipate putting a deck on the existing house.

[20] **COUNCILMEMBER ROCHE:** Okay.

[21] **MR. ALDERMAN:** And basically by having

[22] this condition on there, number one, the

[23] condition is unnecessary as there already is a

[24] code covering removing the gravel parking lot.

[25] And the gravel to the side, the granite that we

Page 144

[1] have on the south side of the house is

[2] landscaping. I mean it's a practical

[3] landscaping application. So why there's any

[4] need to even consider removing it, I don't know,

[5] unless the city is going to deem that they

[6] decide that only round pebble gravel or slate

[7] flagstone or specific types of stones can only

[8] be used as landscaping, but currently that is

[9] not covered.

[10] **COUNCILMEMBER ROCHE:** Did you want

[11] to --

[12] **MR. HAEBERLIN:** There is -- currently,

[13] that's one of the issues that the Code

[14] Enforcement folks are struggling with. There is

[15] no definition of "mulch." The City is sorely

[16] lacking in a landscape ordinance, so it is

[17] interpretive.

[18] Obviously, if the Quality of Life folks

[19] saw a vehicle parked on this landscaped area, it

[20] would be considered as being used for storage of

[21] a vehicle. But otherwise, if it's just garbage

[22] cans and picnic tables, et cetera, then

[23] interpretively, based on the code we have in

[24] effect today, it could be looked at as mulch.

[25] **COUNCILMEMBER ROCHE:** Okay. So

Page 145

[1] professionally do you see any show-stoppers at
[2] this point?
[3] **MR. HAEBERLIN:** No, sir. I think there
[4] is confluence on the issues.
[5] **COUNCILMEMBER ALEXANDER:** I have a
[6] question.
[7] **COUNCILMEMBER ROCHE:** Okay. I didn't
[8] mean to cut you off.
[9] **MR. ALDERMAN:** No, no, no. It's gone
[10] way late.
[11] **COUNCILMEMBER ALEXANDER:** Mr.
[12] Haerberlin, on the correspondence from the
[13] applicant dated October 31st, page 2, paragraph
[14] 3 --
[15] **MR. HAEBERLIN:** Okay.
[16] **COUNCILMEMBER ALEXANDER:** -- it says he
[17] doesn't want to install. Hhe wants to have the
[18] driveway constructed of grass.
[19] **MR. HAEBERLIN:** That item, I did not
[20] address as a variance. I think at some future
[21] point of time -- and it was not listed
[22] specifically as a variance. It was not
[23] addressed because we were doing some rewrites of
[24] the city codes.
[25] There will probably be opportunities in

Page 146

[1] the future to do what he is wanting to do, and I
[2] think we'll probably need to do some minor code
[3] amendments. But it's sort of like grass cell
[4] type construction like they do in Florida, and
[5] that's certainly something I would entertain. I
[6] think that just at this time, we need some more
[7] information. And at that time, we will -- the
[8] applicant will benefit from some code changes
[9] that will allow him to do something like he
[10] would like to do except for the area that's in
[11] the public right-of-way. So some sort of grass
[12] cell type construction except for the public
[13] right-of-way.
[14] **COUNCILMEMBER ALEXANDER:** Okay. I
[15] don't think that answered my concern. So are we
[16] giving him permission to have a grass driveway?
[17] **MR. HAEBERLIN:** No, ma'am.
[18] **COUNCILMEMBER ALEXANDER:** Okay. When
[19] he constructs his home, what type of driveway is
[20] going to be constructed with the home?
[21] **MR. HAEBERLIN:** Based on the current
[22] code that's in effect, it would be either
[23] asphalt or concrete.
[24] **COUNCILMEMBER ALEXANDER:** Yes, sir.
[25] **MR. ALDERMAN:** Well, Ms. Alexander,

Page 147

[1] that's just an example of what we would like to
[2] do. It's called drivable grass. And it's a
[3] permeable substrate upon which the grass is put.
[4] It's actually environmentally friendly.
[5] As you know, currently Atlanta
[6] stormwater systems is struggling with a huge
[7] amount of runoff and pollutants from our cars.
[8] We're trying to alleviate that. It's an
[9] environmentally friendly and environmentally
[10] responsible driveway application.
[11] However, if in the projected time frame
[12] 10 years from now the City of Doraville still
[13] has not looked at that or does not have that in
[14] code or that's not available, if the City of
[15] Doraville still wants us to put in a solid-
[16] surface, monolithic concrete slab, that's what
[17] we'll do.
[18] **COUNCILMEMBER BATES:** What's the time
[19] frame on -- if the variances are approved,
[20] what's the time frame on --
[21] **MR. ALDERMAN:** Construction?
[22] **COUNCILMEMBER BATES:** -- construction?
[23] **MR. ALDERMAN:** When we're empty-
[24] nesters. My youngest boy, Austin, is 12. We
[25] don't anticipate him leaving the house until

Page 148

[1] he's -- well, at least until, we figure, 22. I
[2] mean he's going to go to college here in
[3] Georgia. We're not rich. We can't afford to
[4] send him out of state. We got to take advantage
[5] of --
[6] **COUNCILMEMBER FLEMING:** So you're
[7] requesting a variance to --
[8] **MR. ALDERMAN:** To subdivide the lot.
[9] **COUNCILMEMBER FLEMING:** -- to subdivide
[10] the lot for a 10-year plan down the road.
[11] **MR. ALDERMAN:** And the reason, again,
[12] my father is the architect. He's not in the
[13] best of health. He's in his 80s. He doesn't
[14] think he will live that long. He wants to
[15] design us a house. Of course he's got another
[16] land that it can go on, and the topography of
[17] it.
[18] Plus, to be honest, if something
[19] happened to me tomorrow, I'm driving down 285 or
[20] in the suicide lane and I'm head-on and killed,
[21] if the lot is subdivided, my wife now has the
[22] ability to where if she needed to financially
[23] -- I mean we do have life insurance, but, you
[24] know, God forbid something were to happen, she
[25] would have resources that she could tap into.

Page 149

[1] **COUNCILMEMBER BATES:** This question is
 [2] for Mr. Haerberlin and Mr. Weed.
 [3] Are there sunset provisions on the
 [4] variances that are passed, based upon do they
 [5] expire after a certain period of time, or once a
 [6] variance is passed, it's for the property deeded
 [7] forever?
 [8] Second question would be the
 [9] stipulations that you've referenced or the
 [10] recommendations, those would be tied to the
 [11] variances, so even if the property were sold,
 [12] would those restrictions be passed through on
 [13] the property?
 [14] **MR. HAEBERLIN:** That is correct.
 [15] Of course, there is opportunity for
 [16] this person or a subsequent buyer of the
 [17] property to request modification of any
 [18] variances or simply to ignore them completely --
 [19] in other words, build in confluence with the
 [20] code.
 [21] So I mean there is opportunities in the
 [22] future if this is not working for you, to come
 [23] back and amend any conditions that may be placed
 [24] on them tonight.
 [25] **MAYOR JENKINS:** Whatever we do here, we

Page 150

[1] need to move on.
 [2] **MR. HAEBERLIN:** We need to go to the
 [3] public hearing portion.
 [4] **MAYOR JENKINS:** Excuse me?
 [5] **MR. HAEBERLIN:** We need to go to the
 [6] public hearing portion and open the public
 [7] hearing.
 [8] **MAYOR JENKINS:** Okay. That's the pros
 [9] and the cons; is that correct?
 [10] **MR. HAEBERLIN:** Yes, sir.
 [11] **MAYOR JENKINS:** Okay. Do we have
 [12] anybody in the audience that's against it?
 [13] **MS. HOFFMEISTER:** I just have a
 [14] question.
 [15] **MAYOR JENKINS:** Bonita.
 [16] **MS. HOFFMEISTER:** I don't know whether
 [17] I'm for or against it.
 [18] **MAYOR JENKINS:** Bonita, please, you
 [19] didn't sign up for this item. If you don't have
 [20] the pro or the con --
 [21] **MS. HOFFMEISTER:** This is a public
 [22] hearing. This isn't an agenda meeting.
 [23] I have one question. A variance is
 [24] being requested because this doesn't fit within
 [25] our zoning ordinance or our codes?

Page 151

[1] **ATTORNEY WEED:** Yes, ma'am.
 [2] **MS. HOFFMEISTER:** I think it's our city
 [3] policy and procedures and part of our ordinance
 [4] for this to go to the community Planning
 [5] Commission. Is that not correct? And if not,
 [6] why not on this one?
 [7] **UNIDENTIFIED SPEAKER:** Yeah.
 [8] **MR. HAEBERLIN:** I'll defer to the
 [9] attorney because it's not required.
 [10] **ATTORNEY WEED:** Yeah, it's --
 [11] **MS. HOFFMEISTER:** Why is this not
 [12] required?
 [13] **MR. WEED:** It's not in the ordinance.
 [14] **MR. ANDERSON:** 6-22 doesn't say that?
 [15] **MS. HOFFMEISTER:** I mean they're
 [16] creating a lot that is not a standard size;
 [17] correct?
 [18] This is a variance. Then, it should go
 [19] before the community Planning Commission.
 [20] **ATTORNEY WEED:** It could if the
 [21] structure was designed to do that.
 [22] You know, my understanding is that
 [23] that's not required by I think Section 2-40 of
 [24] the code in the list of the authorities of the
 [25] Planning Commission, that the Mayor and Council

Page 152

[1] make that decision.
 [2] And in fact, I know that they make that
 [3] decision because under Section 14-02, it's the
 [4] Council that's listed as the determining body on
 [5] variances.
 [6] **MS. HOFFMEISTER:** The Council is always
 [7] the determining body. The Planning Commission
 [8] never is.
 [9] **ATTORNEY WEED:** I mean the --
 [10] **MS. HOFFMEISTER:** I just have a
 [11] question why it was not directed to them for
 [12] their recommendation first.
 [13] **UNIDENTIFIED SPEAKER:** As it generally
 [14] is.
 [15] **MS. HOFFMEISTER:** As it has been for
 [16] like two years.
 [17] **COUNCILMEMBER ROCHE:** Good question.
 [18] **MS. HOFFMEISTER:** When I'm -- when I'm
 [19] on the Dekalb Planning Commission and I see a
 [20] good developer, I follow them out and I ask them
 [21] about Doraville, and why don't they . . .
 [22] And they tell me two things: one,
 [23] because of our ethnic mix. Well, we can't do
 [24] anything about that. The other one is because
 [25] we have no policies and procedures that we

Page 153

[1] follow.

[2] This is a blatant disregard for all the

[3] policies and procedures we have done for the

[4] last two years.

[5] I don't have any objections pro or for

[6] this. My objection is we're not following our

[7] policies and procedures, and this needs to go

[8] before the Planning Commission first.

[9] **MAYOR JENKINS:** All right. Scott?

[10] **MR. HAEBERLIN:** Yes, sir.

[11] **MAYOR JENKINS:** Why didn't it go to the

[12] Planning Commission first?

[13] **MR. HAEBERLIN:** Because, again, it's

[14] not required.

[15] We recently addressed criteria and the

[16] scope of the items that are allowed. Now, there

[17] were many things that quite apparently did in

[18] the past go to the Planning Commission.

[19] Currently, the only thing that goes to the

[20] Planning Commission is rezoning. That's it.

[21] **ATTORNEY WEED:** I've just confirmed it.

[22] I mean it's not in the code.

[23] **MR. HAEBERLIN:** This was also discussed

[24] with the Planning Commission at their training

[25] meeting by Attorney Weed and his associate, that

Page 155

[1] **MR. HAEBERLIN:** Well, again, they're a

[2] recommending body.

[3] And I'm going to make a very unpopular

[4] statement. There is no requirement for

[5] municipalities to have a planning commission.

[6] There is no requirement that you hear

[7] variances. You could establish a board of

[8] zoning appeals.

[9] There are many different ways of

[10] governing; there are many different ways of

[11] adhering to land use.

[12] But technically, you could have a body,

[13] an independent body, a board of zoning appeals

[14] that you establish that you heard the variance

[15] that you had no involvement whatsoever in.

[16] And again, your planning commission

[17] would only be a recommendation. It would not be

[18] binding on the Council.

[19] **COUNCILMEMBER ROCHE:** I would just have

[20] to say -- and this is just my opinion at this

[21] point, and it's not like there's a motion for

[22] this. But personally, I think yes, it should go

[23] through the Planning Commission, but in this

[24] particular case, I don't know that we want to

[25] delay things another six weeks or whatever for

Page 154

[1] the entire scope of their purposes at this time

[2] is rezonings until the Council directs otherwise

[3] or changes the code.

[4] **MAYOR JENKINS:** Okay. Does the Council

[5] want it to go to the Planning Commission?

[6] **COUNCILMEMBER ROCHE:** How long -- when

[7] was this originally submitted? October 31st?

[8] **MR. ALDERMAN:** Correct.

[9] **COUNCILMEMBER FLEMING:** And the

[10] Planning Commission is aware that their only

[11] responsibility -- that we are directing them

[12] only to do rezonings; is that correct?

[13] **MR. HAEBERLIN:** Yes, ma'am. It was

[14] addressed by Attorney Weed and his associate

[15] Dana Maine at their training session. And

[16] Mr. Anderson was present as well as a number of

[17] other folks here that are in the audience that

[18] had objections to it. They have been aware

[19] since that time and have not directed an inquiry

[20] to the City Council in that time frame.

[21] **COUNCILMEMBER PITTMAN:** I mean given

[22] the fact that it is not required and even if we

[23] did decide, would it make that big of a

[24] difference now that we've heard what your

[25] professional opinion would be?

Page 156

[1] that process because it wasn't.

[2] I think it's something we should

[3] address. You know, I would be happy to put it

[4] on the agenda for next time to say that -- to

[5] define, you know, variances would also go to the

[6] citizen Planning Commission, because that's how

[7] it's been used before. Of course, before, we

[8] didn't have a city planner, either.

[9] But on the other hand, I don't think

[10] because of our lack of policy or lack of

[11] procedure, we shouldn't make -- you know, I

[12] think the people requesting this deserve an

[13] answer, so --

[14] **MR. HAEBERLIN:** You are actually in the

[15] public hearing session, so you're still hearing

[16] from folks, so --

[17] **MAYOR JENKINS:** Did I have anybody for

[18] it? Just raise your hand up.

[19] Against?

[20] **MS. CRAWFORD:** I'd like to ask a

[21] question before I ascertain whether I'm for or

[22] against it.

[23] Susan Crawford of Oakcliff. I just

[24] have a question.

[25] Does this set a precedent, then? So

Page 157

[1] could I then do the same thing with my back
 [2] yard? I mean how does this work?
 [3] **MAYOR JENKINS:** Is your lot big enough?
 [4] **MS. CRAWFORD:** I don't -- that's my
 [5] question.
 [6] **ATTORNEY WEED:** Actually, the answer is
 [7] no, ma'am.
 [8] Section 14-02 is very clear that the
 [9] existence of a nonconforming use of neighboring
 [10] land, buildings or structures in the same or
 [11] another district shall not constitute a reason
 [12] for a variance.
 [13] So even if all the other lemmings jump
 [14] off the cliff, that doesn't mean you get to.
 [15] No, ma'am, it's not a precedent.
 [16] **MS. CRAWFORD:** What makes this place
 [17] different than for mine if I have the same size
 [18] lot?
 [19] **ATTORNEY WEED:** Section 14-02. In each
 [20] case, the Council applies 1 through 7 of the
 [21] subsections of 14-02, which are the standards,
 [22] and every case stands on its own. Each case is
 [23] fact-specific, and each case, I'll instruct the
 [24] Council that they've got to find on each count
 [25] of 1 through 7. That's how it works.

Page 158

[1] **MS. CRAWFORD:** But if I were an empty-
 [2] nester already and if I had the same size lot,
 [3] would I not qualify?
 [4] **ATTORNEY WEED:** You could always seek
 [5] the variance and you'd present the same facts
 [6] about the variance, to the Council. Then they
 [7] would apply the law, which is 14-02 and
 [8] subsections, and they would determine if you
 [9] were qualified or not.
 [10] But the fact that other people got a
 [11] variance, it's irrelevant according to the
 [12] guidelines of the code.
 [13] **MS. CRAWFORD:** Okay. Thank you.
 [14] **ATTORNEY WEED:** It could be modified
 [15] where it would be relevant, but currently it's
 [16] irrelevant.
 [17] **MAYOR JENKINS:** Steph?
 [18] **MS. KOONTZ:** My only questions are a
 [19] couple things that just seem kind of strange to
 [20] me is that we're granting this guy to split his
 [21] lot in half to make two different pieces of
 [22] property, plus 10 years from now, he wants to
 [23] build a house, when, if you do do this, he could
 [24] turn around tomorrow and sell this property to
 [25] anybody.

Page 159

[1] And that just -- I mean that just seems
 [2] kind of far-fetched to me that you'd be planning
 [3] on building a house 10 years from now. It just
 [4] seems like he's trying to split his property up
 [5] to maybe sell the other piece of property is
 [6] what it looks like to me, just as another
 [7] citizen.
 [8] **COUNCILMEMBER BATES:** Well, and I
 [9] appreciate that, and that's why I wanted to make
 [10] sure that the restrictions that were attached to
 [11] the variances would be transferrable to any
 [12] future property owner.
 [13] So if that were to happen, which I
 [14] don't think it is, but if that were to happen,
 [15] the new owners would be under the same
 [16] restrictions and requirements that Mr. Alderman
 [17] would be under right now.
 [18] **MR. LEISEN:** Johannes Leisen, Wilton
 [19] Avenue. (Spelling) L-E-I-S-E-N is my last name;
 [20] first name, Johannes, J-O-H-A-N-N-E-S.
 [21] I'm actually a neighbor from the other
 [22] side of the street.
 [23] I think this is exactly the type of
 [24] houses we need to suggest as something,
 [25] something which is not a cookie cutter,

Page 160

[1] something which potentially can win
 [2] architectural awards, number one. So I think
 [3] good architectural ideas will be something very
 [4] good for Doraville.
 [5] Secondly, I know he has -- when we
 [6] moved to our house, which is nine years ago, one
 [7] year after him, his house was really in quite --
 [8] quite a state, which was poor, one of the
 [9] poorest conditions of the houses on Wilton
 [10] Avenue or Pine Street. Today, it's probably one
 [11] of the best conditions.
 [12] I can attest he has been working last
 [13] weekend with his two boys. He has all his
 [14] leaves out of his yard. I haven't. Actually,
 [15] working on it. So he's taking good care of it,
 [16] and he has renovated his house really to make it
 [17] one of the old '54 ranch houses to be a nice
 [18] house again.
 [19] So I would trust him with his words
 [20] here that he really intends building something
 [21] -- something nice and something which becomes a
 [22] showcase even for Doraville.
 [23] Thank you.
 [24] **MAYOR JENKINS:** Thank you.
 [25] Anybody else for or against?

Page 161

[1] **MR. WEINER:** Speak for very briefly,
 [2] without walking --
 [3] **MAYOR JENKINS:** Either way. Come on
 [4] up, sir.
 [5] **MR. WEINER:** Richard Weiner. I live on
 [6] 3644 Wilton, a couple houses down.
 [7] (Spelling) W-E-I-N-E-R, 3644 Wilton.
 [8] First of all, what Hanno said is
 [9] absolutely true. My only complaint about the
 [10] Aldermans is that they get the leaves out of
 [11] their yard sooner than anybody else does, making
 [12] the rest of us look bad.
 [13] This is a great family, these are great
 [14] neighbors, and the fact that they are willing to
 [15] invest in our neighborhood I think is wonderful.
 [16] And I want to support them and I want Council to
 [17] support them. We need more, not fewer, people
 [18] like this who believe in Doraville, who believe
 [19] in investing in our neighborhood.
 [20] I think it's pretty clear that Steve
 [21] has done his research and knows what he wants
 [22] and is capable of getting it.
 [23] I can't say enough. My wife taught the
 [24] boys when they were over at Oakcliff, and she
 [25] spoke about them and about the family before I

Page 162

[1] ever met them, very highly.
 [2] They're terrific folks and they've got
 [3] some great ideas, and I think we should support
 [4] them and not delay it.
 [5] **MAYOR JENKINS:** Anymore discussion at
 [6] the table?
 [7] - - -
 [8] (No response)
 [9] - - -
 [10] **MAYOR JENKINS:** Do I hear a motion?
 [11] **ATTORNEY WEED:** Mr. Mayor, I don't know
 [12] if Mr. Haeberlin's already provided it to you,
 [13] but the relevant application of the law is
 [14] Section 14-02, Variances.
 [15] The Council's got to find that each of
 [16] the following subject conditions exist.
 [17] I will not read them to you. I'm
 [18] assuming you have them. If you don't, I'll read
 [19] them very quickly.
 [20] Scott, did you provide them a copy of
 [21] the conditions?
 [22] **MR. HAEBERLIN:** They do have them in
 [23] the --
 [24] **ATTORNEY WEED:** You have them in the
 [25] packet; therefore, I won't waste your time by

Page 163

[1] reading them.
 [2] That's the standard of law to be
 [3] applied to these facts.
 [4] **COUNCILMEMBER ROCHE:** Well, I'll make a
 [5] motion that we grant the variances.
 [6] **COUNCILMEMBER BATES:** I'll second it.
 [7] **MAYOR JENKINS:** Anymore discussion?
 [8] **COUNCILMEMBER ROCHE:** Yeah. I just
 [9] want to say one thing.
 [10] A couple years ago, I had occasion to
 [11] do a lot of walking around District 81. And
 [12] part of it was over in sections where they had a
 [13] lot of infill housing, and the infill housing
 [14] basically was where they would build like a
 [15] almost four-story house. It basically destroyed
 [16] the neighborhoods because you have, you know,
 [17] two or three ranch houses and then suddenly
 [18] you'd have a big old whatever.
 [19] And it's always concerned me about
 [20] Doraville because one thing about Doraville is
 [21] we have a lot of small houses on big lots, and
 [22] I've always been very concerned that that sort
 [23] of thing is going to happen to us.
 [24] When I first saw this and I saw this
 [25] lot being subdivided, I thought what a brilliant

Page 164

[1] idea to keep that from happening. So I very
 [2] much support this. Thank you.
 [3] **COUNCILMEMBER FLEMING:** Mayor, I have a
 [4] comment, please. Mayor, I have a comment if
 [5] that will be all right.
 [6] **MAYOR JENKINS:** Yes.
 [7] **COUNCILMEMBER FLEMING:** I feel that the
 [8] Planning Commission was selected by the Council
 [9] and they've invested an awful lot of time and
 [10] effort into their position. It's a volunteer
 [11] position. And I respect them and give them much
 [12] praise of all the things that they've -- the
 [13] education they've gone through and the classes
 [14] that they've gone through, and I don't think we
 [15] should circumvent them.
 [16] Though I commend Mr. Haeberlin for --
 [17] he's an excellent city planner, but I don't want
 [18] to circumvent the Planning Commission in the
 [19] future. I think that they should at least be
 [20] advised of what's going on in the city as well.
 [21] And that's just my comment on the Planning
 [22] Commission issue.
 [23] **MAYOR JENKINS:** Thank you.
 [24] **COUNCILMEMBER FLEMING:** Thank you.
 [25] **MAYOR JENKINS:** We have a motion and a

Page 165

[1] second.
[2] Will you call the roll, please.
[3] **MR. HAEBERLIN:** Just one moment, sir.
[4] I want to make sure we have clarification both
[5] for myself and for the applicant.
[6] You've got a motion to approve. You
[7] did not say with stipulations, with the
[8] conditions, modifications. How are we to
[9] address that?
[10] So if that is the case, we need to look
[11] at the conditions and come to a concurrence now,
[12] not for interpretive value of the staff as to
[13] what is your intention.
[14] I think that there was discussion on
[15] No. 6 of the Natural Environment that regarding
[16] sod pin to pin with the exception of natural
[17] areas, we could say the lot shall be landscaped
[18] pin to pin with the exception of naturalized
[19] areas or groundcover as per approved landscape
[20] tree protection plan. This can or this may
[21] included sodded areas.
[22] So that gives us --
[23] **MR. ALDERMAN:** Right.
[24] **MR. HAEBERLIN:** -- an option.
[25] **COUNCILMEMBER ROCHE:** Okay.

Page 166

[1] **MR. HAEBERLIN:** Under Human, the
[2] sidewalks, is there any modification on how you
[3] want to structure that?
[4] **MR. ALDERMAN:** Well, I mean again it
[5] was just until the City establishes an actual
[6] ordinance and code for residential sidewalks
[7] because currently one does not exist and I do
[8] not think that -- if my understanding was
[9] correct, Scott, the sidewalks would be put in
[10] once the house on Tract B is --
[11] **MR. HAEBERLIN:** That is correct.
[12] **MR. ALDERMAN:** -- construction is
[13] started.
[14] **MR. HAEBERLIN:** That's correct.
[15] **MR. ALDERMAN:** That was really my only
[16] concern was that I was being required to put a
[17] sidewalk in as soon as or if the lot subdivision
[18] were granted. And I just thought it would be
[19] ridiculous that I would have to go out and put a
[20] sidewalk in tomorrow that would only service 120
[21] feet of Wilton and 172 feet of Pine Street.
[22] I'm assuming that within 10 years'
[23] time, the City will have on the books a plan and
[24] a course of action.
[25] **COUNCILMEMBER ROCHE:** Just to make

Page 167

[1] certain, though, Scott, if he wants a -- if he
[2] comes and gets a building permit to build a
[3] deck, does it mean he has to also build a
[4] sidewalk?
[5] **MR. HAEBERLIN:** Well, the approach I
[6] think we should take it, why don't we say five
[7] foot wide -- and this is to avoid that -- five-
[8] foot wide sidewalks shall be provided by the
[9] applicant on all property frontages, Wilton and
[10] Pine, commensurate with a building permit being
[11] issued to Tract B.
[12] Does that work for you?
[13] **MR. ALDERMAN:** Well, that gets the
[14] official clarification, which is what we were
[15] after.
[16] **MR. HAEBERLIN:** Then under number 2,
[17] the Built Environment, architectural three-
[18] dimensional shingles, solar shingles or standing
[19] seam metal roofing shall be provided. That's
[20] how we will be amending that condition.
[21] **MR. ALDERMAN:** Well, they would be
[22] options.
[23] **COUNCILMEMBER ALEXANDER:** You would be
[24] adding it; correct?
[25] **MR. HAEBERLIN:** Correct. There would

Page 168

[1] be three options: architectural three-
[2] dimensional shingles, solar shingles, or
[3] standing seam. Or we might even say any
[4] combination thereof. That will help you even
[5] further.
[6] And then the last one is No. 4, the
[7] gravel areas. The area to the southern boundary
[8] is considered a landscaped area and I think,
[9] again, he's aptly addressed that he feels it's
[10] addressed by city code. I'm willing to let Item
[11] No. 4 go and let the controlling ordinance that
[12] is in effect control that, and that will be I
[13] believe in 2012 that those would have to be
[14] removed.
[15] **MR. ALDERMAN:** By 2012, yeah.
[16] **COUNCILMEMBER ROCHE:** Okay. Then I'll
[17] modify my motion to say I make a motion that we
[18] grant these variances along with the conditions
[19] and the amendments and additions made.
[20] **MR. HAEBERLIN:** As stated by staff.
[21] **COUNCILMEMBER ROCHE:** As stated by
[22] staff.
[23] **ATTORNEY WEED:** And agreed to by the
[24] applicant.
[25] **COUNCILMEMBER ROCHE:** And agreed by the

Page 169

[1] applicant.

[2] **MR. HAEBERLIN:** Yes, sir.

[3] **MAYOR JENKINS:** Do I get a second?

[4] **COUNCILMEMBER BATES:** Second.

[5] **MAYOR JENKINS:** I only have one thing

[6] to say on it.

[7] I'm a little confused. I'm certainly

[8] not against it, but I do not understand the 10-

[9] year period. That is a little bit confusing,

[10] and I don't understand that.

[11] Why didn't you wait 10 years to come in

[12] here and do this?

[13] **MR. ALDERMAN:** Well, again, Mayor --

[14] and I think this addresses the other gentleman's

[15] concern as well -- my father is the one who

[16] would be designing this house, and --

[17] **MAYOR JENKINS:** Yeah, I understand.

[18] **MR. ALDERMAN:** -- to be honest, he's

[19] terminal. He's not going to last 10 years.

[20] **MAYOR JENKINS:** Well --

[21] **MR. ALDERMAN:** He might not last six

[22] months.

[23] **MAYOR JENKINS:** Why wait 10 years to do

[24] it, then?

[25] **MR. ALDERMAN:** (Gesturing) Money.

Page 170

[1] **MAYOR JENKINS:** Well, that's all I

[2] wanted to know.

[3] Anymore discussion?

[4] - - -

[5] (No response)

[6] - - -

[7] **MAYOR JENKINS:** Call the roll, please.

[8] **CLERK BLACKMON:** Councilmember

[9] Alexander?

[10] **COUNCILMEMBER ALEXANDER:** Yes.

[11] **CLERK BLACKMON:** Councilmember Bates?

[12] **COUNCILMEMBER BATES:** Yes.

[13] **CLERK BLACKMON:** Councilmember Fleming?

[14] **COUNCILMEMBER FLEMING:** Yes.

[15] **CLERK BLACKMON:** Councilmember Pittman?

[16] **COUNCILMEMBER PITTMAN:** Yes.

[17] **CLERK BLACKMON:** Councilmember Roche?

[18] **COUNCILMEMBER ROCHE:** Yes.

[19] **CLERK BLACKMON:** Councilmember

[20] Spangler?

[21] **COUNCILMEMBER SPANGLER:** Yes.

[22] **MAYOR JENKINS:** Okay.

[23] **COUNCILMEMBER SPANGLER:** Mayor, I'd

[24] like to make a motion at this time that we

[25] postpone the meeting until either the next

Page 171

[1] meeting or a later date.

[2] **MAYOR JENKINS:** Do I have a second?

[3] **COUNCILMEMBER ALEXANDER:** Do we not

[4] have another public hearing?

[5] **MR. HAEBERLIN:** Yes, you do.

[6] **ATTORNEY WEED:** Yes.

[7] **MAYOR JENKINS:** Which one is the public

[8] hearing?

[9] **MR. HAEBERLIN:** O-I.

[10] **ATTORNEY WEED:** It's the zoning

[11] ordinance.

[12] You could begin the public-hearing

[13] portion and then move it be called to order, and

[14] then you could move it until a date certain.

[15] And that would be compliant with the law, and

[16] you wouldn't have to re-advertise then if you

[17] want to do that.

[18] **MAYOR JENKINS:** It is advertised.

[19] That's what he's saying.

[20] **COUNCILMEMBER SPANGLER:** He's just

[21] saying, though, that we could -- against --

[22] repeat?

[23] **ATTORNEY WEED:** You can call the public

[24] hearing to order and then reset it to a date

[25] certain, and you wouldn't have to re-advertise.

Page 172

[1] **MAYOR JENKINS:** Do we need this motion

[2] first?

[3] **ATTORNEY WEED:** Yes, if you -- well, I

[4] mean no, sir.

[5] If you're interested in how I would

[6] handle this if you want to wind everything down

[7] tonight, then what I would suggest you do is

[8] make a motion to modify your agenda -- strike

[9] that.

[10] The next item, we're back at O-I/O-W;

[11] correct?

[12] **MAYOR JENKINS:** Right.

[13] **ATTORNEY WEED:** So that's what's on

[14] there now.

[15] Then I would recommend you call that

[16] hearing to order, and if you want to set it off

[17] to a date certain, you could do that, and then

[18] you'd revisit Councilman Spangler's motion, in

[19] my opinion.

[20] **MAYOR JENKINS:** Do you want to make

[21] that motion?

[22] **COUNCILMEMBER SPANGLER:** Yeah, but you

[23] have to open up the public hearing first for O-I

[24] and O-W and then we'll postpone it -- till the

[25] next meeting, Mr. Weed?

Page 173

[1] **MAYOR JENKINS:** Scott, come on up.
 [2] We're going to open up the public hearing.
 [3] **MR. HAEBERLIN:** So would you like for
 [4] me to go through my presentation at this time?
 [5] **COUNCILMEMBER ROCHE:** No.
 [6] **COUNCILMEMBER PITTMAN:** No.
 [7] **ATTORNEY WEED:** That's up to them, but
 [8] you don't have to.
 [9] **COUNCILMEMBER PITTMAN:** We're just
 [10] opening it up.
 [11] **COUNCILMEMBER ROCHE:** We're opening it
 [12] up so we can postpone it.
 [13] **MAYOR JENKINS:** Okay. We're going to
 [14] open up.
 [15] Now, do I have a motion that we
 [16] postpone it?
 [17] **COUNCILMEMBER SPANGLER:** I make a
 [18] motion that we postpone the meeting at this time
 [19] and pick up --
 [20] **MAYOR JENKINS:** The public hearing.
 [21] **COUNCILMEMBER SPANGLER:** -- the public
 [22] hearing at the next meeting, Council meeting.
 [23] **ATTORNEY WEED:** Which would be January
 [24] --
 [25] **MAYOR JENKINS:** 5th.

Page 175

[1] Spangler?
 [2] **COUNCILMEMBER SPANGLER:** Yes.
 [3] **ATTORNEY WEED:** Mr. Mayor, if I can be
 [4] heard very briefly, I have one very short item
 [5] for Executive Session. So if you choose to
 [6] terminate the meeting, could we go into
 [7] Executive Session very quickly for pending and
 [8] future litigation and then come back and close
 [9] out the whole thing?
 [10] It won't take more than five minutes
 [11] but it won't wait.
 [12] **MAYOR JENKINS:** Okay. Well, let's tell
 [13] the audience, then, that as soon as we finish
 [14] with Executive Session, there won't be any more
 [15] meeting. So you can either stay out here or go
 [16] ahead and leave.
 [17] **COUNCILMEMBER ROCHE:** Merry Christmas.
 [18] **COUNCILMEMBER BATES:** Move to go into
 [19] Executive Session.
 [20] **COUNCILMEMBER ROCHE:** Second.
 [21] **ATTORNEY WEED:** For pending and future
 [22] litigation.
 [23] **MAYOR JENKINS:** Do I get a second?
 [24] **COUNCILMEMBER BATES:** Move to go into
 [25] Executive Session for pending and future

Page 174

[1] **ATTORNEY WEED:** -- 5th.
 [2] **MAYOR JENKINS:** I believe.
 [3] **CLERK BLACKMON:** Yes.
 [4] **ATTORNEY WEED:** You have to do it a
 [5] date certain. That's fine.
 [6] **MAYOR JENKINS:** Okay. Do I get a
 [7] second on that?
 [8] **COUNCILMEMBER ROCHE:** I'll second it.
 [9] **MAYOR JENKINS:** Anymore discussion?
 [10] - - -
 [11] (No response)
 [12] - - -
 [13] **MAYOR JENKINS:** Call the roll, please.
 [14] **CLERK BLACKMON:** Councilmember
 [15] Alexander?
 [16] **COUNCILMEMBER ALEXANDER:** Yes.
 [17] **CLERK BLACKMON:** Councilmember Bates?
 [18] **COUNCILMEMBER BATES:** Yes.
 [19] **CLERK BLACKMON:** Councilmember Fleming?
 [20] **COUNCILMEMBER FLEMING:** Yes.
 [21] **CLERK BLACKMON:** Councilmember Pittman?
 [22] **COUNCILMEMBER PITTMAN:** Yes.
 [23] **CLERK BLACKMON:** Councilmember Roche?
 [24] **COUNCILMEMBER ROCHE:** Yes.
 [25] **CLERK BLACKMON:** Councilmember

Page 176

[1] litigation.
 [2] **MAYOR JENKINS:** Second?
 [3] **CLERK BLACKMON:** Mr. Roche seconded.
 [4] **MAYOR JENKINS:** Call the roll, please.
 [5] **CLERK BLACKMON:** Councilmember
 [6] Alexander?
 [7] **COUNCILMEMBER ALEXANDER:** Yes.
 [8] **CLERK BLACKMON:** Councilmember Bates?
 [9] **COUNCILMEMBER BATES:** Yes.
 [10] **CLERK BLACKMON:** Councilmember Fleming?
 [11] **COUNCILMEMBER FLEMING:** Yes.
 [12] **CLERK BLACKMON:** Councilmember Pittman?
 [13] **COUNCILMEMBER PITTMAN:** Yes.
 [14] **CLERK BLACKMON:** Councilmember Roche?
 [15] **COUNCILMEMBER ROCHE:** Yes.
 [16] **CLERK BLACKMON:** Councilmember
 [17] Spangler?
 [18] **COUNCILMEMBER SPANGLER:** Yes.
 [19] **MAYOR JENKINS:** Okay. We'll go into
 [20] Executive Session, please. Everybody will have
 [21] to leave.
 [22] - - -
 [23] (Executive Session)
 [24] - - -
 [25] (Attorney Weed reported that a motion

Page 177

[1] was made by Councilmember Bates to come out of
[2] Executive Session, that the motion was seconded
[3] by Councilmember Fleming, and that the motion
[4] passed unanimously.)
[5] - - -
[6] **MAYOR JENKINS:** Meeting come back to
[7] order.
[8] Murray, what have we got to report?
[9] **ATTORNEY WEED:** Nothing to report,
[10] Mayor.
[11] **MAYOR JENKINS:** Okay. How long, John?
[12] **CHIEF KING:** Just two minutes.
[13] **MAYOR JENKINS:** Okay. One minute's
[14] already gone.
[15] **CHIEF KING:** All right, sir. I'll go
[16] quickly on the base of the clock, sir.
[17] Just real quick, I know there's been
[18] some comments in the media or in the
[19] neighborhood about a high-speed chase that
[20] officers were involved in.
[21] And basically this is a group of
[22] individuals -- six Hispanic males which we
[23] believe to be members of a local gang were
[24] coming through the city of Doraville.
[25] And Officer Shirley and Lieutenant

Page 178

[1] Mahar began following them. And a Dekalb County
[2] police car gave a lookout of a carjacking late
[3] last night. Our officers engage -- it was right
[4] around midnight, and they try to stop the car
[5] with Dekalb County.
[6] The vehicle would not stop. Dekalb
[7] County further updated the lookout that the
[8] subjects, the six individuals in this truck, one
[9] of those king-cab trucks, were heavily armed and
[10] had committed a carjacking in unincorporated
[11] Dekalb. They'd also been connected to a robbery
[12] -- a couple of robberies in Chamblee.
[13] But they followed these individuals and
[14] engaged them in a high-speed chase. They were
[15] able to block -- get in front of one of the cars
[16] and block them off to keep them from going into
[17] the residential areas as they went onto 285.
[18] We tried to get assistance of Cobb and
[19] the city of Atlanta, and the agencies just could
[20] not respond in time. They ended up going into
[21] Douglas County, and Douglas County was able to
[22] hit the vehicle and basically knock it off the
[23] road.
[24] The individuals -- two AK 47s and a
[25] number of other weapons were recovered from the

Page 179

[1] vehicles, and those individuals have now been
[2] connected to a number of robberies in this
[3] borderline between us, Dekalb County and
[4] Chamblee.
[5] So it was, you know, great work done
[6] not only by our officers but in connection with
[7] Dekalb County Police and Douglas County Police
[8] Department. So I just want to give our officers
[9] and the other law enforcement agents big kudos
[10] on this.
[11] **COUNCILMEMBER FLEMING:** I have a
[12] question.
[13] **CHIEF KING:** Yes, ma'am.
[14] **COUNCILMEMBER FLEMING:** In situations
[15] like that, do our officers continue the pursuit?
[16] **CHIEF KING:** Yes, ma'am.
[17] The reason they continued, because they
[18] were tied into a series of crimes in Doraville,
[19] so we -- and because of the high likelihood of
[20] weapons involved. Our policies are very strict
[21] of what we're allowed to chase somebody. A
[22] minor traffic offense would not be allowed. But
[23] because there was a forcible felony, a
[24] carjacking, involved, that's what rose to the
[25] level where we would -- we had to apprehend

Page 180

[1] these individuals or they would continue to prey
[2] on our community.
[3] **COUNCILMEMBER FLEMING:** So there was
[4] Douglas? Did you say Douglas County?
[5] **CHIEF KING:** Douglas County, Dekalb
[6] County --
[7] **COUNCILMEMBER FLEMING:** And Doraville.
[8] **CHIEF KING:** -- and our officers; yes,
[9] ma'am.
[10] **COUNCILMEMBER FLEMING:** Thank you.
[11] **CHIEF KING:** Thank you, ma'am.
[12] And also, we finally got a court order.
[13] And I'm going to pass this on to you,
[14] ma'am (presenting). If you could pass it to the
[15] rest of the Council members.
[16] And we received a court order from
[17] Dekalb County where we've been awarded \$46,272.
[18] Normally, I know you're used to seeing when
[19] there's a drug case, that would go into the
[20] asset forfeiture accounts. But because this is
[21] a gambling case, this goes into the general
[22] fund.
[23] **MAYOR JENKINS:** Pass it on over.
[24] **CHIEF KING:** If I can get a receipt
[25] from the City Clerk tomorrow, that would be

[1] fine, ma'am.
 [2] **CLERK BLACKMON:** I will put it in the
 [3] box.
 [4] **COUNCILMEMBER FLEMING:** All right.
 [5] **CHIEF KING:** So every bit helps.
 [6] But you know, this is a case -- it took
 [7] about two months to clear it through the court,
 [8] but the court order attached to it is what gives
 [9] us the right to be able to put this money into
 [10] the general fund.
 [11] **COUNCILMEMBER ROCHE:** Now, these guys
 [12] -- these people were actually charged and
 [13] convicted with a crime?
 [14] **CHIEF KING:** Yes, sir. They were
 [15] charged with commercial gambling and keeping a
 [16] house -- disorderly house, and those cases went
 [17] to Dekalb County.
 [18] Well, no. They went to our court and
 [19] one case was sent over to Dekalb County.
 [20] **COUNCILMEMBER ROCHE:** So they were
 [21] convicted. It's not like they just lost their
 [22] property.
 [23] **CHIEF KING:** It's two separate cases,
 [24] sir. One of them is a civil case, the property,
 [25] and the other one is the criminal case that

[1] **C E R T I F I C A T E**
 [2] **STATE OF GEORGIA]**
 [3] **COUNTY OF DEKALB]**
 [4] I hereby certify that the foregoing transcript
 [5] was taken down, as stated in the caption, and the
 [6] proceedings were reduced to typewriting under my
 [7] direction and control.
 [8] I further certify that the transcript is a true
 [9] and correct record of the evidence given at the said
 [10] proceedings.
 [11] I further certify that I am neither a relative
 [12] or employee or attorney or counsel to any of the
 [13] parties, nor financially or otherwise interested in
 [14] this matter.
 [15] This the 29th day of December, 2008.
 [16]
 [17] _____
 [18] Theresa Bretch, CCR
 [19] Permit No. B-755
 [20]
 [21]
 [22] [SEAL]
 [23]
 [24]
 [25]

[1] apparently is still ongoing, sir.
 [2] **COUNCILMEMBER BATES:** Motion to
 [3] adjourn.
 [4] **COUNCILMEMBER SPANGLER:** Second.
 [5] **MAYOR JENKINS:** Call the roll.
 [6] **CLERK BLACKMON:** Councilmember
 [7] Alexander?
 [8] **COUNCILMEMBER ALEXANDER:** Yes.
 [9] **CLERK BLACKMON:** Councilmember Bates?
 [10] **COUNCILMEMBER BATES:** Yes.
 [11] **CLERK BLACKMON:** Councilmember Fleming?
 [12] **COUNCILMEMBER FLEMING:** Yes.
 [13] **CLERK BLACKMON:** Councilmember Pittman?
 [14] **COUNCILMEMBER PITTMAN:** Yes.
 [15] **CLERK BLACKMON:** Councilmember Roche?
 [16] **COUNCILMEMBER ROCHE:** Yes.
 [17] **CLERK BLACKMON:** Councilmember
 [18] Spangler?
 [19] **COUNCILMEMBER SPANGLER:** Yes.
 [20] **MAYOR JENKINS:** Meeting adjourned.
 [21] - - -
 [22] (Meeting adjourned at 10:15 p.m. the same
 [23] day.)
 [24] -o0o-
 [25]

	2 137:24;145:13;167:16 20 84:20;114:10;140:17; 143:6 2005 25:25 2006 103:24;142:15 2007 113:13 2012 142:17;168:13,15 20th 104:19 22 45:5;112:16;148:1 2-279 32:12 24/7 73:25 2-40 151:23 25th 34:3 2-75 31:22 27th 104:19 28.53 119:20 285 148:19;178:17 2-89 32:21	60 141:3 60s 76:13 6-22 151:14	74:11;166:24 active 21:4 Active 21:5 activities 83:2 actual 22:22;48:10; 81:8;166:5 actually 8:6,22;9:24; 10:6,19;11:20;12:11; 18:4;51:13;52:5;63:17; 65:13;69:6;84:9;90:9,15; 119:12,18;120:6,22; 124:4,10;125:13;127:25; 129:16;137:20;140:2; 143:11;147:4;156:14; 159:21;181:12 Actually 125:18; 128:17;157:6;160:14 add 12:7,10;21:10; 27:15;29:17;31:14;94:22 added 15:21 adding 23:19;167:24 additional 7:23;37:4,5, 5;121:19 additions 168:19 address 11:10;12:6; 17:7;19:24;35:15;36:25; 47:24;68:17;97:13,14,17, 21;115:6;126:12;136:16; 145:20;156:3;165:9 addressed 32:11; 57:15;118:14;128:25; 136:1,14;137:7;145:23; 153:15;154:14;168:9,10 addresses 169:14 addressing 126:14 adhering 155:11 adjacent 85:1;122:14 adjourn 182:3 adjourned 182:20,22 adjust 23:22 administrative 120:17 administratively 119:3 admit 43:2 admittedly 104:9 adopted 34:22 adoption 142:13 adult 70:25 advance 118:11 advantage 7:18;148:4 advertised 171:18 advise 43:9;62:5;63:19 advised 164:20 affect 98:4 affected 115:19;122:8 affecting 115:15,18 affidavit 50:3;51:1; 52:10,17;53:4;55:18 affirmative 32:2 afford 148:3 ag 134:23 again 33:15;35:19; 43:18;47:4;54:7;59:7; 66:12;85:24;90:5;100:1;	104:14;120:4,15;121:1; 123:4;125:3;128:3;133:7; 137:7;138:18;140:11; 141:7;143:1;148:11; 153:13;155:1,16;160:18; 166:4;168:9;169:13 Again 118:22;121:4; 124:12;139:19 against 22:8;41:6; 54:24;69:2;103:12; 104:12;107:15;123:7; 150:12,17;156:22; 160:25;169:8;171:21 Against 156:19 age 16:6;121:11 agencies 178:19 agency 6:21;18:9 agenda 6:25;31:10; 56:20;58:4,6;60:17,20; 61:15;73:12;80:17; 150:22;156:4;172:8 agents 179:9 ago 24:3;51:13;66:9; 73:5;79:8;103:8,22; 108:22;130:4;160:6; 163:10 agree 21:12;43:13;84:7; 111:17;114:8,11;133:22; 137:4 agreeable 138:2 agreed 80:17;168:23,25 agreement 10:13;28:4 agreements 11:23 agrees 79:22 ahead 61:4;65:24; 81:16;91:21;115:4;118:1; 175:16 aid 86:20 air 55:16;106:14 aired 113:11 aisles 71:22;72:21 AK 178:24 Alabama 9:19;13:12 alcohol 8:12;70:3,5,8, 12,15 Alcohol 70:7 Alderman 127:3;159:16 ALDERMAN 126:18, 20;127:2,12,16;128:16; 131:10;133:19;137:22; 141:20;142:3;143:18,21; 145:9;146:25;147:21,23; 148:8,11;154:8;165:23; 166:4,12,15;167:13,21; 168:15;169:13,18,21,25 A-L-D-E-R-M-A-N 127:3 Aldermans 161:10 Alexander 5:8;6:6; 26:11;60:25;62:10;67:6; 77:25;102:16;146:25; 170:9;174:15;176:6; 182:7
\$		7		
\$176,000 106:24 \$46,272 180:17 \$500 20:17 \$6,964,000 106:23 \$7,141,000 106:22 \$750,000 87:2;102:5		7 80:9;106:22;157:20,25 70s 76:13		
[8		
[sic] 78:8;127:22		8 110:23 80 130:17 80s 148:13 81 163:11 85 115:17		
0		9		
0.485 118:9		90 12:24;14:9;17:16 90- 12:23		
1	3	A		
1 136:2,5;157:20,25 10 17:20;118:1,2; 128:16,17;130:3;135:10; 140:4,9;147:12;158:22; 159:3;166:22;169:11,19, 23 10- 169:8 10:00 134:20;135:8 10:15 182:22 10-minute 64:5 10-year 148:10 11 117:25;118:2 11/25/08 4:20;5:1 111.13 120:1 12 147:24 12/1/08 4:20;5:22;6:1 12:00 134:19 120 17:16;118:15; 120:13;136:25;166:20 122,000 14:24 1250 126:1 12th 49:24 13 125:20 1388 119:6 14-02 152:3;157:8,19, 21;158:7;162:14 15 11:21 16.5 10:7;15:20 16th 59:3 17 136:4 17-1 136:5 172 137:1;166:21 17-25 136:6 17th 3:5 18 85:18 18th 3:4,9 19 10:9;15:20 1950s 124:6;129:2 1980s 124:2;129:3 1st 105:9,11	3 70:7;145:14 30 32:9,14;33:5,5,21; 34:1,5;36:6,24;37:10; 38:1,4;41:8;42:5,13;44:1, 12,16;47:6,12;59:10; 84:19;140:22,25 30-day 30:24;31:24; 35:14;37:24;39:18;40:6; 44:9 30-year 140:15 31st 94:11;145:13;154:7 35 53:13 35-page 48:5 3604 118:6;119:19; 127:3 3615 120:24 3621 121:1 3644 161:6,7 3-D 141:16	abiding 73:24 ability 75:1;115:23; 148:22 able 7:23;11:6;17:10; 19:3;51:16;55:22;71:10; 73:1;112:4;116:2;117:8; 119:23;131:15,20,21; 133:8;178:15,21;181:9 absolute 53:15 absolutely 12:15;77:9; 161:9 Absolutely 35:20;46:11 Abstain 6:9 abutting 127:25 Academy 107:5 acceptable 133:22 access 132:9 accessibility 121:13 accident 116:12,15 accidents 88:24 accomplish 68:18 accord 121:23 accordance 58:19 according 158:11 account 13:14;22:24, 25;106:5,6;109:17 accountant 21:17 accounts 11:5,19,24; 16:23,25;20:4;21:3;24:6; 180:20 accused 44:19;57:22 achieve 125:13 achieving 125:24 acre 85:18,19 acres 118:9 across 94:18;127:24; 128:3 act 32:1;37:9;72:19 action 53:20;59:11,15;		
	4			
	4 134:13;142:5;168:6,11 40 142:8 40,000 14:24 45-foot 129:7,18 47 143:12 47s 178:24 4th 48:5;104:9;107:7			
	5			
	5 24:24;142:8 50 85:19 500 21:1;129:5 54 160:17 5th 173:25;174:1			
	6			
2	6 67:21;115:17;134:3; 165:15			

ALEXANDER 5:9,23, 25;6:7;14:23;15:1;26:12; 28:17;30:4;61:1,6,10,17; 62:11;67:7,21;70:23; 73:16,22;74:9,15,20,23; 80:3,6;96:15,18,25;97:2; 99:11,16;102:17;145:5, 11,16;146:14,18,24; 167:23;170:10;171:3; 174:16;176:7;182:8
aligned 109:10
alive 57:14,21
all-encompassing 139:7
alleviate 147:8
allow 71:25;85:19; 118:5,23;124:21;146:9
allowed 134:19;153:16; 179:21,22
allowing 73:23;121:11
allows 118:24;119:2
almost 116:25;163:15
alone 68:10
along 81:19;109:8; 168:18
altered 20:21
alternative-energy 140:8
although 128:25;129:4
Although 98:23
altogether 24:10
always 11:11;16:5; 18:12;32:4,5;33:11; 34:10;62:5;114:10;152:6; 158:4;163:19,22
ambiguous 134:10
amenable 108:6
amend 26:5;149:23
amended 141:14,15
amending 167:20
amendment 86:23
amendments 146:3; 168:19
among 141:18
amount 19:5;147:7
analogous 58:20
analogy 33:22;38:21; 44:13;47:4;59:10
Anderson 154:16
ANDERSON 151:14
annex 105:10;110:18
annexation 91:11; 103:9,12,19;104:7; 107:15;111:20,23; 112:14;113:4;114:18; 115:8,8;117:1,4,6
annexed 104:12;105:7; 106:21
announce 10:2
answered 146:15
anticipate 129:15,16; 143:19;147:25
anticipated 89:13;

111:19
Anymore 66:25;162:5; 163:7;170:3;174:9
apart 124:22
apartments 85:22
apologies 54:12
apologize 37:22;42:1; 54:1,6,7;67:23
apparently 37:17;53:6; 153:17;182:1
appeals 155:8,13
appear 32:7,11;37:15
appears 31:22
Applause 29:5;111:14; 115:1
applicant 119:23; 121:22;123:3;126:5; 141:18;145:13;146:8; 165:5;167:9;168:24; 169:1
applicant's 121:1,14
application 24:13; 86:19;87:15;99:19; 100:14;101:23;102:2; 144:3;147:10;162:13
applications 19:14; 20:11;102:5
applied 163:3
applies 37:25;59:12; 157:20
apply 33:6;34:16;45:10; 76:22;77:20;158:7
applying 76:25
appointed 34:14
appreciate 34:17; 41:24;110:12;114:21; 159:9
apprehend 179:25
approach 35:4;69:5; 71:9;167:5
appropriate 44:24; 81:25
approval 28:10;122:20
approve 4:19;6:1;99:1; 101:9;165:6
approved 120:21; 134:6;147:19;165:19
approximately 118:9; 119:20;129:4
apty 168:9
arbitrary 87:20
arborist 134:21
architect 129:11; 148:12
architectural 69:15,16, 20;70:14;77:19;79:6; 138:14;139:18;141:22; 160:2,3;167:17;168:1
Architectural 79:19; 140:14
archival 120:20
area 10:24,25;68:4; 71:16,17;77:16,16;78:9;

87:16;105:11;106:21; 110:9,10,12,14,18;111:7; 119:19,21;120:22; 137:20;142:22;144:19; 146:10;168:7,8
areas 104:11;105:6; 107:22;111:1;112:21,25; 113:17,21;134:5,5; 135:18;165:17,19,21; 168:7;178:17
arguably 22:1;37:8; 57:4
argument 43:23;47:16, 20
armed 178:9
around 10:23;78:4; 90:15;113:21;130:7; 131:7;158:24;163:11; 178:4
arrival 29:22
art 45:10
article 142:14,14
Article 136:5
ascertain 156:21
aspect 68:12
asphalt 140:21;142:12; 146:23
assemblages 83:1
asset 180:20
assign 70:10
assigned 69:9
assist 82:18;85:3
assistance 8:14; 117:12;178:18
assistant 108:7
associate 153:25; 154:14
associated 112:5
Association 6:22
assume 83:15
assuming 39:2;162:18; 166:22
assumption 129:18
assure 4:1
Atlanta 10:23;143:10; 147:5;178:19
attach 117:5
attached 85:21;125:9; 159:10;181:8
attainable 134:12
attempt 76:9,16
attempted 43:10
attendance 128:2
attended 104:15;112:3
attention 18:10;110:13; 121:8;122:11
attest 18:14;160:12
attorney 49:16;52:1; 151:9
Attorney 117:18; 153:25;154:14;176:25
ATTORNEY 21:12; 22:19;23:9;31:15;33:14;

34:8;35:17,20;36:22,24; 37:1,7,21;38:5,8;39:5,8, 12,20,23;42:10,24;46:11, 25;47:15,19;57:1;58:9, 15,18;59:4,17,21;60:4, 14,19;61:12,18;62:1; 63:6,10,17,22,25;66:2; 68:21;70:18,20;71:3,14; 72:4;73:12;75:20;76:12, 22;77:12;79:10,13,21,24; 83:14;84:2;92:8,13; 99:18,25;151:1,10,20; 152:9;153:21;157:6,19; 158:4,14;162:11,24; 168:23;171:6,10,23; 172:3,13;173:7,23;174:1, 4;175:3,21;177:9
audience 104:5;150:12; 154:17;175:13
audit 27:3,6,21
auditing 8:11
audits 8:6
August 13:11
Austin 147:24
authorities 151:24
authority 22:2;46:15
authorize 86:19
automatic 32:16
automatically 33:8; 38:25;47:7;57:13,20; 113:6
available 7:17;17:15; 103:21;147:14
Avenue 29:23;86:21,21; 87:4;88:23;92:2,4,7,16; 118:1,6;119:17,19;121:1; 127:4;136:10,23;137:1; 159:19;160:10
avoid 110:15;167:7
awarded 13:10,14; 180:17
awards 160:2
aware 20:15;48:16; 85:15;142:20;154:10,18
away 9:20;38:2;119:18; 128:14
awesome 29:24
awful 164:9
Aztec 97:11;101:11,12, 15

B

back 11:1;22:10;27:12; 36:1;41:25;43:21;49:4; 52:8;64:18;66:15,21; 91:13,15,18,18;118:18; 119:11,11;122:12; 126:22;127:19;131:23; 133:3;138:18;149:23; 157:1;172:10;175:8; 177:6
background 107:3

bad 45:25;72:10,22; 109:23;112:7;117:16; 161:12
Bad 130:19
bag 22:20
balliwick 98:22,24
balance 12:6
balances 17:1,14;21:4; 24:17
balancing 72:19
ball 83:5;86:7
bands 71:4
bank 106:5;109:17
bankrupt 11:16
bankruptcy 17:11
Barker 30:17;40:8
BARKER 35:3,7;36:23, 25;40:8;42:6,16;46:1,3; 52:6
B-A-R-K-E-R 40:10
Barker's 35:12
base 84:21;132:22; 177:16
based 16:6;50:14; 55:23;87:8,19;144:23; 149:4
Based 146:21
basically 40:23;53:19; 103:7;106:4;107:16; 120:13;121:23;143:21; 163:14,15;177:21;178:22
basis 41:20;44:4;48:22
Bates 5:10;6:8;26:13; 62:12;67:8;102:18; 170:11;174:17;176:8; 177:1;182:9
BATES 4:21,24;5:3,11; 6:9;13:8,20;14:2,7,15,21; 15:4,25;20:6,12;22:11; 23:10;25:11;26:3,14; 28:18;35:11,18;36:18; 37:3,20,22;38:6;39:1,7,9, 16,22,25;41:24;42:8,11, 22;45:14;62:13;67:9; 71:8;72:1,74;22,25;75:6, 15;76:11,18,24;77:8; 87:14,24;88:5,10,15; 95:14,17,21,24;96:5,11, 13;97:6;98:25;101:13; 102:19;124:25;125:15; 131:9;147:18,22;149:1; 159:8;163:6;169:4; 170:12;174:18;175:18, 24;176:9;182:2,10
Bates' 129:9
bear 59:7
beat 116:2,7
became 76:14;107:6
become 68:24;83:1; 119:21;130:13
becomes 160:21
began 178:1
begin 57:24;171:12

<p>begun 39:19 behalf 108:10 behind 40:5;128:21; 130:13;139:7;143:3 belabor 121:22 belaboring 42:1 Bell 73:19 benches 122:4 benefit 104:4;146:8 besides 9:2 best 22:7;28:22;43:8; 132:16;148:13;160:11 better 24:25;29:9,16,20, 20;43:5;45:3;72:25; 89:18;99:24;103:24; 117:9;141:5 beverage 70:4,15 Beverage 70:8 beverages 70:5,8,12 beyond 30:23;33:5; 42:5;47:22,22;115:21 bidden 4:7 big 79:14,17;112:22; 130:14;154:23;157:3; 163:18,21;179:9 bill 23:12,19;66:12 billed 66:9 billing 65:14;66:17,20 binding 155:18 birth 11:13;18:20;19:11, 16;20:7 bit 76:19;103:20;106:15; 108:24;133:1;134:10; 137:6;169:9;181:5 Blackmon 25:24;47:24 BLACKMON 5:7,10,12, 14,16,18;6:5,8,10,12,14, 16;13:24;14:4,13,18,25; 15:3;20:10,13,21;21:1,5; 22:13;26:2,10,13,15,17, 19,21;48:7,12;50:4,7; 51:1;52:12,16,21;53:11, 13,18;60:24;62:9,12,14, 16,19,21;63:2;66:8,12; 67:5,8,10,12,14,16; 102:15,18,20,22,24; 103:1;170:8,11,13,15,17, 19;174:3,14,17,19,21,23, 25;176:3,5,8,10,12,14, 16;181:2;182:6,9,11,13, 15,17 blank 136:6 blatant 153:2 blissing 125:4 block 89:22;138:3; 178:15,16 blocks 79:2 blowing 140:20 blue 79:22 board 94:19;113:18; 155:7,13 body 152:4,7;155:2,12, 13</p>	<p>Bonita 77:23;110:6; 115:20;150:15,18 book 82:5 books 16:15;19:6;78:7; 166:23 borderline 179:3 borders 112:15,19; 114:21 both 22:6;30:6;70:17; 86:20;91:22;111:17; 117:3;128:4;130:25; 165:4 bothers 103:13 bought 130:9 boundary 168:7 box 181:3 boxes 3:7;30:6 boy 130:6;131:2;147:24 boys 130:5;160:13; 161:24 break 64:5,6 break-ins 110:25 Brian 131:7 brick 84:21;129:2; 138:2;142:12 bridge 88:5,7 Bridge 88:11 brief 7:1;30:20 briefly 161:1;175:4 brilliant 163:25 bring 14:5;41:17;80:16; 129:6;139:10 bringing 86:15;112:10 broken 120:25 brother 71:12 brought 29:7 brown 8:25 buck 41:2 Buford 73:18;78:14; 88:1,25;95:21;97:7; 116:10;143:11 build 81:2;118:23; 121:12,17;125:1;132:6; 137:9;149:19;158:23; 163:14;167:2,3 building 74:24;75:23; 81:20;85:9;118:16,17; 120:7;121:20;124:13; 125:14,21;138:6;143:17; 159:3;160:20;167:2,10 buildings 77:5;157:10 built 121:25;122:5 Built 137:23;142:4; 167:17 bulldoze 132:2 bullet 137:24 bunch 82:9 bureau 12:14,20;19:21 burner 91:13,15 bus 90:16 business 8:5;23:13; 67:22;68:10,11,13;71:10; 74:2,2;75:1,2,4;76:16;</p>	<p>77:17;83:18;112:6 Business 74:24 businesses 68:2,3; 74:6;87:12 buyer 110:21;149:16 buys 84:11</p> <p style="text-align: center;">C</p> <p>cage 71:15,16;72:22,23 call 54:23;65:8;74:3,24; 80:12;83:21,25;84:4; 110:2;119:7;165:2; 171:23;172:15 Call 5:6;6:4;26:9;60:23; 62:8;67:4;102:14;170:7; 174:13;176:4;182:5 called 104:16;105:4; 143:12;147:2;171:13 calling 4:5;49:17; 110:13 came 33:13;76:17;127:9 camping 49:1 can 7:3;8:24;9:3,10,12, 14;11:14;12:4,9;15:9,24; 16:21;17:2,2,6;18:14; 20:21;21:19,19;22:7,10; 23:9;24:7,24;27:7,8,15; 28:11;29:14;31:3,14; 32:24;33:11,24;36:12,16; 37:13;38:17,18;41:17,20; 44:3,10;45:5;57:19;58:3, 7;61:18;62:3;63:11,12; 65:7,11;66:2;68:3,4,21, 24;69:1,8,8,16,25;70:10; 71:17;72:4,9,18,20,21; 75:23;76:2;77:14;78:17, 18;79:1,14;80:19;83:20, 22,24;84:6,15;85:3;87:1, 2;89:14,19,21,21;93:2,3; 94:8;97:17;102:4;109:11, 25;110:11,13,14,17,21; 112:13;114:20;118:13; 132:6;135:3;143:3,5; 144:7;148:16;160:1,12; 165:20;171:23;173:12; 175:3,15;180:24 Can 4:21,24;52:6;95:15, 17 canine 29:8,8 cans 144:22 capable 161:22 capacity 119:18 capped 20:23 capturing 20:6 car 129:15;140:24; 178:2,4 care 69:22;117:11; 142:17;160:15 careful 83:11 caring 69:23 carjacking 178:2,10; 179:24</p>	<p>Carl 103:22;106:19; 113:12 Carolina's 13:14 carport 131:14,16 carry 56:7;101:4,17; 114:18 carrying 21:14 cars 81:2;147:7;178:15 Cary 97:9;101:12,16 case 31:18,20;32:16; 43:6,8;45:16;59:12;64:1; 65:23;155:24;157:20,22, 22,23;165:10;180:19,21; 181:6,19,24,25 cases 122:3;181:16,23 cashier's 71:15,16; 72:21,23 cast 34:19 Catch 45:5 cation 118:8 caused 112:15 caution 83:7 caveat 90:23 cell 140:1,4;146:3,12 center 68:5;116:11 central 77:17 Central 86:21;87:4,7, 11;89:6,7;91:3;92:14; 102:1 centric 96:10 CEO 90:4;91:16 certain 4:11;17:18;69:9; 71:25;77:16,21;80:19,20; 106:16;149:5;167:1; 171:14,25;172:17;174:5 57:7,22;60:15;76:25; 89:24;125:16;141:15; 142:20;146:5;169:7 Certainly 125:8 certiorari 32:25 cetera 12:6;17:12; 45:18,19;84:22;100:2; 122:5;144:22 chairman 52:7 Chairman 30:15 challenge 132:13 challenged 132:10 Chamblee 96:8;115:17; 131:3;178:12;179:4 chance 81:15;127:5; 131:6 chances 13:2;20:1; 135:14 change 19:14;59:2; 60:12;78:17 changes 82:13;85:25; 122:7;146:8;154:3 changing 99:9 Chapel 88:2,9,11;94:5; 116:4,5 Chapter 136:4;142:8 characteristics 121:7</p>	<p>charged 34:13;181:12, 15 Charles 103:5;110:8; 112:4;113:14 charter 21:24;22:1,2; 61:14 chase 177:19;178:14; 179:21 Chattanooga 78:6,25 check 8:5,9;23:8 checked 13:12 cheesy 79:12 Chestnut 88:22,24;89:6 Chief 74:19 CHIEF 15:8;115:5; 177:12,15;179:13,16; 180:5,8,11,24;181:5,14, 23 children 90:13,13; 96:24;98:16 chime 83:8 choose 16:22;141:18; 175:5 chose 9:20;141:23 Christmas 28:21; 30:11;54:21;175:17 Chuck 107:11 cinder 138:3 circumvent 164:15,18 cities 7:2,3,10;10:23; 11:21;12:23;18:14;78:4, 16 citizen 156:6;159:7 citizens 28:20;29:12; 40:15;103:16,18;107:22; 108:13;115:18 Citizens 107:5 city 4:10;8:8;12:1,25; 13:6;18:10;49:4;68:3; 78:5,6;81:10;82:3,20; 86:11;98:20;103:15; 105:21;116:5,8,11,17; 119:1;122:9,21;126:10; 129:24;130:23,24,24; 134:7;135:23;136:4,12, 15;137:21;138:1;141:8; 142:7;144:5;145:24; 151:2;156:8;164:17,20; 168:10;177:24;178:19 City 18:13;25:5,5,22; 36:15;40:25;45:16,20,21; 48:2,6;65:7,9;70:2;89:5; 108:14;117:18;124:20; 137:17;144:15;147:12, 14;154:20;166:5,23; 180:25 city/county 136:18 city-building 76:4 City's 83:18;109:17 civil 181:24 clarification 165:4; 167:14 classes 164:13</p>
--	---	---	---	--

Claus 28:24;29:3
Claus's 29:22
clay 143:6
cleaned 111:8,9
clear 4:12;33:18;35:13;
38:12,19;43:24;57:25;
69:24;71:20;72:14,20;
76:6;82:6;90:24;93:21;
97:25;107:13;157:8;
161:20;181:7
clearly 59:9;69:16;
83:19
Clerk 13:21;25:5,22;
28:12;35:22,22,22,25;
36:3;48:6;180:25
CLERK 5:7,10,12,14,16,
18;6:5,8,10,12,14,16;
13:24;14:4,13,18,25;
15:3;20:10,13,21;21:1,5;
22:13;26:2,10,13,15,17,
19,21;48:7,12;50:4,7;
51:1;52:12,16,21;53:11,
13,18;60:24;62:9,12,14,
16,19,21;63:2;66:8,12;
67:5,8,10,12,14,16;
102:15,18,20,22,24;
103:1;170:8,11,13,15,17,
19;174:3,14,17,19,21,23,
25;176:3,5,8,10,12,14,
16;181:2;182:6,9,11,13,
15,17
client 62:5
cliff 157:14
clinic 75:14,16
clock 177:16
close 4:4;88:22;89:6;
123:7;133:8;175:8
closed 40:5;72:17
closely 109:10
closer 124:4,10
closes 30:11
closest 33:22;38:21;
44:13;45:9;47:4;58:19;
59:10;120:2
closing 3:5
cluster 53:16
Cobb 73:5;178:18
cocked 132:12
code 32:2,12;33:6;
34:25;82:8,12,17;85:25;
103:17;107:23;118:16;
119:1;120:18;122:7;
125:25,25;126:10;136:4;
142:7,15;143:24;144:23;
146:2,8,22;147:14;
149:20;151:24;153:22;
154:3;158:12;166:6;
168:10
Code 70:8;144:13
codes 136:6,12,15;
145:24;150:25
co-exist 82:8
cold 138:11;140:21

collect 8:8;10:11;12:2;
15:18,19;16:17;17:23;
19:13;21:15,19;22:14;
24:7,18;110:11
collected 12:25;16:2,
15;17:2,17;26:1;139:8
collecting 10:4,16;
13:5,18;18:7;110:15
collection 6:21;7:5;
8:21;9:17;10:10,14,15;
13:2,15;15:17;18:1,9;
19:12;22:9;23:13;28:5
collections 10:19,21,
22
collectors 8:21,22,23
college 132:24;148:2
Collier's 116:9
combination 71:19;
168:4
coming 28:16;29:23;
41:7,25;90:4;101:8;
109:12;112:5;142:18;
177:24
commend 77:25;
164:16
commensurate 167:10
comment 3:10;164:4,4,
21
comments 115:6,13;
177:18
commercial 67:22;
68:4;76:21,23;77:10;
85:1;112:11;122:3;
181:15
commission 78:3;
155:5,16
Commission 33:19;
34:2;35:15;39:2,18;
40:11;45:21;47:13;151:5,
19,25;152:7,19;153:8,12,
18,20,24;154:5,10;
155:23;156:6;164:8,18,
22
committed 178:10
committee 30:17;31:2,
6,8;46:9;53:25;78:1;
104:15;105:3,18,18
Committee 30:15;
31:25;32:9,23;48:18,23;
50:16,17;52:3,25;57:12;
58:23
common 68:23;135:25
commonsensical
72:12
communicating 45:20
communities 68:23
community 113:24;
117:9;131:23;151:4,19;
180:2
comp 7:18;80:13;121:9
Comp 88:21
companies 8:7;10:16
company 9:19,20;

10:18;12:9;15:16;19:12;
64:17
company's 9:20
compile 89:19
complainant 41:15
complained 41:6;
112:20
complaining 32:24;
33:9,10;36:1;44:25
complaint 30:19;31:2;
32:1,15,17,18,22;33:8,
13,19;34:4,7;35:2,24;
36:4,7;37:9;38:24;40:13;
41:7;42:3;43:17,19;
46:18,21;48:3,14;50:1;
52:18;54:23,24;55:1;
56:19;58:8,10;59:5,6;
63:7;161:9
complaintant 46:3,7,
12,12,15,20;59:15
complaints 35:21;
48:11
complaint's 47:5
completely 68:7;69:21;
72:16;139:14;149:18
completion 136:21
complex 77:2
compliance 142:18
compliant 171:15
comply 37:17
components 121:9
con 150:20
concept 76:3
concern 51:10;63:15;
75:7;96:21;105:20;
146:15;166:16;169:15
concerned 73:23;
78:11;134:8;163:19,22
concerns 68:12
concrete 142:12;
146:23;147:16
concurrence 165:11
condition 129:21;
136:24;137:12,14;141:8;
142:5;143:22,23;167:20
conditions 119:5;
133:16,18,21;149:23;
160:9,11;162:16,21;
165:8,11;168:18
condominium-style
85:20
condos 98:15
conductive 68:10
conduct 75:2,3;123:4
conducted 115:12
conferring 135:19
confirmed 153:21
conflicted 43:6
confluence 145:4;
149:19
confused 169:7
confusing 169:9
Congress 96:3,4

connect 137:20;139:14
connected 178:11;
179:2
connection 179:6
cons 150:9
conservation 119:21
consider 27:3;42:17;
81:25;144:4
considerations 87:22;
95:7
considered 144:20;
168:8
considering 140:6
constant 139:4
constitute 77:22;
157:11
constitutional 77:13
constraint 36:19
constraints 37:6
construct 119:24
constructed 122:6;
124:24;142:10;145:18;
146:20
construction 45:12;
124:2;136:20;137:16;
138:12;146:4,12;147:22;
166:12
Construction 147:21
constructs 146:19
construe 44:6
construed 45:7
consulted 22:4
contact 65:4;126:8
contacted 108:2
contained 86:4
contains 119:13
content-neutral 69:22
context 63:20;83:19
contingency-based
10:11
contingent 122:19
continuation 103:7
continue 12:10;56:3,4;
81:1;179:15;180:1
continued 179:17
contract 13:11
control 68:25;81:9;
111:2;113:2;114:3,15,16,
24;168:12
controlling 168:11
conundrum 75:12
conversation 90:2
convicted 181:13,21
cookie 159:25
cool 135:4;139:2
coolness 139:2
copies 52:25;53:2
copy 48:10;49:25;50:2,
3;162:20
Corally 14:1
corner 90:15;131:8;
137:6
corner-lot 119:18

Corporation 10:3
corrected 63:18;
109:14;120:9
correctly 45:4;123:10
correspondence
145:12
cost 10:12;27:9,13;28:2;
103:14;105:21
costs 87:17;104:1
council 11:23;61:14,19;
116:20
Council 4:13;18:18;
20:14;23:17,20;28:20;
29:12;31:13;32:13,13,15,
21;33:7,13,23;34:21;
35:4,16;36:15;38:1,1,23;
39:4,11,13,24;40:20;
41:18;43:9,10;44:8,15;
45:16,20;47:6,22;55:7;
57:8;65:2;82:15;83:10,
21;86:1;89:10,24;100:21;
103:9;104:16;105:4,19;
116:23,24;151:25;152:4,
6;154:2,4,20;155:18;
157:20,24;158:6;161:16;
164:8;173:22;180:15
Councillor 77:24
Councilman 43:22;
60:15;63:18;129:9;
172:18
Councilmember 5:7,
10,12,14,16,18;6:5,8,10,
12,14,16;26:10,13,15,17,
19,21;60:24;62:9,12,14,
16,19,21;67:5,8,10,12,
14,16;102:15,18,20,22,
24;103:1;170:8,11,13,15,
17,19;174:14,17,19,21,
23,25;176:5,8,10,12,14,
16;177:1,3;182:6,9,11,
13,15,17
COUNCILMEMBER
4:21,24;5:3,5,9,11,13,
15,17,20,23,25;6:3,7,9,
11,13,15,18;13:8,20;
14:2,7,15,21,23;15:1,4,
25;17:22;20:6,12,19,24;
22:11,16;23:7,10,24;19;
25;4:7,11,14,21,23;26:3,
4,8,12,14,16,18,20,23,
24;27:2,10,20,24;28:3,7,
15,17,18;29:1,18;30:4,8;
33:12,25;35:11,18;36:18;
37:3,20,22;38:6;39:1,7,9,
16,22,25;41:24;42:8,11,
22;45:14,15;46:2,23;
47:8,17,23;48:8,21;49:6,
9,23;50:14,20,23;51:9,
25;53:19;54:3,9,15,17;
55:12,15,19;56:9,13,18,
21,22,23;58:7,13,16,22,
25;59:1,14;60:1,7,9,11,
16,21;61:1,4,6,8,10,17,

<p>22;62:11,13,15,17,20,23; 63:8,12,14;64:4,12,19, 22,24;65:1,6,9,12,15,17, 20,22,25;66:4,11,16,19, 24;67:7,9,11,13,15,18, 21;70:16,19,23;71:8; 72:1;73:4,14,16,21,22; 74:5,9,14,15,16,20,22, 23,25;75:5,6,13,15,16; 76:11,18,24;77:4,8;79:5, 12,19,23;80:1,3,6,11; 83:3;85:5;86:6,10,13; 87:14,24;88:4,5,8,10,12, 15,17,19;89:1,2;90:1; 91:1,9,14,24;92:6,12,15, 22,25;93:6,9,11,14,19; 94:4,7,12,21;95:2,14,17, 21,24;96:5,11,13,15,18, 25;97:2,4,6,12,20,22; 98:3,6,9,11,19,25;99:4,8, 9,11,16;100:3,8,12,23; 101:7,13,14,20,25;102:3, 7,12,17,19,21,23,25; 103:3;123:9,15,17,19; 124:25;125:15;126:2,6, 16,19,24;128:15;131:9; 133:14;141:24;143:15, 20;144:10,25;145:5,7,11, 16;146:14,18,24;147:18, 22;148:6,9;149:1;152:17; 154:6,9,21;155:19;159:8; 163:4,6,8;164:3,7,24; 165:25;166:25;167:23; 168:16,21,25;169:4; 170:10,12,14,16,18,21, 23;171:3,20;172:22; 173:5,6,9,11,17,21; 174:8,16,18,20,22,24; 175:2,17,18,20,24;176:7, 9,11,13,15,18;179:11,14; 180:3,7,10;181:4,11,20; 182:2,4,8,10,12,14,16,19 councilmen 47:9 Councilmen 59:18; 109:9 Council's 162:15 counsel 43:3,9;48:2; 55:21,21 counseled 43:3,12 count 157:24 county 98:10;134:18,22 County 90:3;93:24; 104:12;105:13;106:9,11; 116:11,13;117:12,19; 120:13;178:1,5,7,21,21; 179:3,7,7;180:4,5,6,17; 181:17,19 couple 3:3;51:12;68:15; 126:21;128:7;158:19; 161:6;163:10;178:12 course 11:9;12:3,8; 15:22;16:12;28:22;44:3; 79:15;89:17;129:22;</p>	<p>132:18;134:18;137:5; 139:3;148:15;149:15; 156:7;166:24 court 10:21;14:22;15:5; 32:24;33:1,11;57:18; 116:2;180:12,16;181:7,8, 18 Court 92:23 courts 15:7 cover 44:11;136:25 coverage 67:22;71:25; 111:8;135:22 covered 41:9;68:7; 74:4;76:8;144:9 covering 143:24 covers 15:22;142:7 cracked 138:10 crafting 75:21 Crane 104:11;107:3 Crawford 156:23 CRAWFORD 156:20; 157:4,16;158:1,13 crawl 131:18 crawling 130:7 create 119:1;122:23 created 9:3 creating 151:16 creation 71:15 creative 125:12;131:22 credit 12:14,20;19:21 Credit 10:3;11:21 crime 112:21;115:14; 181:13 crimes 179:18 criminal 181:25 criteria 95:15;153:15 criterion 7:12 critical 60:5 crystallize 81:5 Culbreath 120:11; 127:18,20,21;128:14 Culbreaths 126:8 Culbreaths' 123:12,21; 124:9 current 82:4;115:15; 142:15;146:21 currently 17:19;30:22; 38:11;57:1;61:13;120:18; 130:15;134:11;136:3,7; 138:15,21;144:8,12; 147:5;158:15;166:7 Currently 30:18; 110:19;143:2;153:19 curtain 72:17 curtains 72:6 cut 22:6;87:22;90:9,20; 97:14;145:8 cutoff 22:3;24:1 cutter 159:25 cycle 121:9</p>	<p>D Dan 108:3,4 Dana 154:15 data 8:22;17:5 databases 11:15 date 4:3;11:12;19:11,24; 20:7;30:18;34:5,6;48:10; 59:2;105:12;142:13; 171:1,14,24;172:17; 174:5 dated 145:13 dates 11:9;12:5;18:20; 19:16 daughter 78:14 day 12:24;41:9;88:20; 89:3;116:25;135:4; 182:23 daylight 135:2 days 12:24;15:15;17:16; 32:10,14;33:5,5,21;34:1, 5;36:7,22,24;37:10;38:2; 41:9;42:13;44:1,13,16; 47:6,12;59:11;135:9 de 59:5 dead 131:18 deal 11:18;16:4;38:14; 41:20;44:21;45:23;49:5, 12;62:2;70:1,13;71:6,8; 72:4;96:3,7;115:9 dealing 49:2;58:6; 121:25 deals 23:5;38:22;44:8, 14 dealt 47:5;49:21;69:4, 14;70:2;71:15;72:18; 93:23 death 111:6 debate 80:22 debris 8:25;9:1 debt 7:5;9:17;10:4,14, 15,17;12:2,13;13:5,15; 16:6,8,10;19:17;21:15; 25:20;28:5 debt-collection 9:21, 22 debtor 12:16;15:16; 17:9 debts 10:7;16:5;26:6 deceased 11:16 December 8:10;49:24; 59:3;103:23;104:9 decide 4:15;10:14; 144:6;154:23 decided 130:12;140:3 decision 33:2;36:20; 37:2,25;56:11,12,13; 140:7;152:1,3 decisions 40:14;87:21 decision's 46:21 deck 143:19;167:3 declined 50:16 decrepit 92:5 deeded 149:6 deem 136:23;144:5</p>	<p>defeat 69:12 defeated 104:9 defend 50:16 defense 44:22,24;60:2 defer 151:8 deficit 106:23 define 156:5 defined 71:16 definite 93:2 definitely 17:18;70:1,6; 85:24;96:21;103:12; 130:15;138:1;140:10; 141:22 definition 144:15 definitive 136:19,20 degree 105:4,20 Dekalb 90:20;93:24; 104:12;105:13;106:9,11; 112:20;113:1,15;116:6, 10,13;117:11;120:13; 152:19;178:1,5,6,11; 179:3,7;180:5,17;181:17, 19 delay 155:25;162:4 delegation 113:15 deliberate 62:3 delineation 38:12,19 delinquent 8:4 dealing 85:17 department 54:24; 134:23 Department 29:22,23; 109:10;179:8 deplete 109:16 depth 118:15;120:1,6, 14 deserve 113:24;156:12 design 69:15,17,20; 70:14;77:20;132:17; 148:15 designate 77:14 designated 77:16; 98:12 designed 8:19;151:21 designee 122:22 designing 169:16 desirable 129:20 desire 71:11 destroyed 163:15 detached 85:22;125:8 detail 118:10 detailed 134:14 deteriorate 140:19 determination 22:5; 35:23;36:8;39:14;57:17; 130:1 determinations 38:15 determination's 36:9 determine 17:10;36:12; 37:4,10;158:8 determined 47:1,21 determining 152:4,7 develop- 86:4</p>	<p>developed 122:8 developer 81:19; 152:20 developer's 85:12 development 85:20; 120:25 Development 82:7; 86:3 deviation 120:9,12 device 8:19,23;9:13 die 63:25 dies 63:22,24;64:2 difference 23:24; 154:24 different 16:5;17:8; 21:6;68:2;75:22;82:10; 116:23;125:6,12;155:9, 10;157:17;158:21 differently 23:20 difficult 61:13 dimensional 140:1; 141:9;167:18;168:2 diminished 107:21 direct 33:3;82:23;86:2; 123:1;128:4 directed 152:11;154:19 directing 154:11 direction 25:4;77:10; 86:1 direct-line 32:7 directly 33:20;57:15; 127:24 director 134:16 directs 154:2 discuss 27:5;57:5; 60:13,17;61:7;80:8 discussed 41:10; 103:8;113:12;136:13; 153:23 discussion 25:10;61:3; 66:25;112:14;162:5; 163:7;165:14;170:3; 174:9 discussions 113:9 dismiss 38:17,18; 46:13;59:5 dismissal 32:16;37:25; 38:3;39:19 dismissed 32:23;33:8; 38:24;46:13,18,24;47:2, 3,7,12;57:13,20;58:11; 59:11 dismisses 58:10 disorderly 181:16 display 69:1;76:2,10 displays 76:6 disregard 153:2 district 77:17,18,21; 157:11 District 163:11 district-centric 96:12 districts 89:18;95:11 division 118:5;119:3,</p>
---	--	--	---	--

<p>17;121:18 doctor 75:17 documentation 61:7 documents 49:17,18; 52:13;59:3 dogs 28:25 dollars 9:10;105:23,24 donation 30:6 donations 30:5 done 18:7;23:3;37:13; 41:18,22;48:15,22;50:13; 64:23;70:22;73:3;76:5; 80:4;103:23;108:9,17; 120:12;129:12;131:11; 132:14;153:3;161:21; 179:5 Donna 90:22 door 74:7,7 doors 40:6;74:6,21; 75:9;132:8 Doraville 7:7;18:14; 21:23;73:11;78:1;79:3,4; 82:16,24;103:15;107:5, 23;108:14;113:21; 115:14,18,18;116:13; 117:3,4;124:21;130:3; 132:20;136:4,7,12,15; 142:7;147:12,15;152:21; 160:4,22;161:18;163:20, 20;177:24;179:18;180:7 Doraville- 96:9 DOT 86:20;89:22 Douglas 178:21,21; 179:7;180:4,4,5 down 3:8;9:6,11;19:3; 23:23;29:23;56:3,4; 64:15,18;72:21;76:14; 77:7;78:25;84:10;88:9; 95:21;97:7;119:15,16; 124:15;129:17;130:18, 21;132:3;143:2,5;148:10, 19;161:6;172:6 downsize 121:12 downsized 132:7 downstairs 130:16 downtown 77:16,18; 78:9,18,23 downtowns 76:15 drafted 136:16 drain 106:4 draw 84:15;85:3;121:8 drawn 122:10 drew 116:20 drink 8:13;27:4,5 drivable 147:2 drive 78:24,25;110:21; 131:6 Drive 88:22,24;110:7 drive-in 131:14 drivers 9:4 drive-under 125:7 driveway 143:13; 145:18;146:16,19;147:10</p>	<p>Driveway 142:8 driveways 142:10 driving 75:19;142:24; 148:19 drop 139:1 drops 16:12 drought 134:13 drought-resisting 135:22 drug 111:7;180:19 dry 87:23 due 8:15;12:6;40:4; 62:17;94:11 Due 104:10 DUIs 116:1 duplexes 90:18 during 54:21;106:8; 114:22;115:10 dwelling 119:24;124:20</p>	<p>else 38:2;41:11;106:12; 160:25;161:11 e-mail 89:10 employee 54:25 empty 130:14 empty- 137:9;147:23; 158:1 enclosed 131:17 encourage 21:21 encourages 134:25 end 143:7 ended 130:8;178:20 ends 81:8;135:7 energy 138:23 energy- 139:14 enforcement 116:18; 179:9 Enforcement 144:14 engage 178:3 engaged 178:14 engineer 131:25 English 110:7 enough 9:25;18:4; 80:25;139:13;157:3; 161:23 ensure 128:21;135:12 entertain 13:7;146:5 entertainment 70:25 entire 119:16;154:1 entirely 81:24 entities 49:13 environment 73:25; 122:5 Environment 165:15; 167:17 environmentally 147:4,9,9 environmentally-friendly 139:22 environments 121:25 EPD 134:16,16 equipment 71:13 error 40:4 errors 50:10;53:25 especially 42:17;140:6 essentially 21:14; 31:23;33:1;44:20;57:3; 118:18;119:6;122:24 establish 15:13;155:7, 14 establish- 8:14 established 40:12; 136:18 establishes 166:5 establishment 69:10, 25;70:5,25;71:23,24 establishments 27:8; 68:8;73:23 estate 73:7 Estates 112:16 estimate 27:9 estimated 87:16; 140:23</p>	<p>et 12:6;17:12;45:18,19; 84:22;100:2;122:5; 144:22 ethics 31:11;33:12; 34:4,7;42:4;47:10;48:3, 11;49:25;54:23;55:1,2,3; 56:19;57:6,9,9,15;58:4; 63:6 Ethics 30:15;31:25; 32:8,23;33:1,19;34:1,10, 12,21;35:14;36:5,6,19; 38:13;39:2,13,17;40:11, 25;43:2,25;44:2,12;45:2, 21;47:12;48:17,23;50:16, 17;51:18;52:3;57:12; 58:23;59:19 ethnic 152:23 evaporate 135:5 even 17:11;19:5;30:8; 35:22;41:9,10;46:17; 105:9;112:24;129:19; 130:7;132:10,24;139:25; 144:4;149:11;154:22; 157:13;160:22;168:3,4 Even 125:10 evened 114:21 evening 29:21;60:17; 91:25;126:18,19;133:20 event 29:20 eventually 57:18 everybody 11:12; 41:11,20;71:12;75:19; 80:24;103:11;104:5; 106:12;114:22;126:21; 132:22;142:19 Everybody 78:12; 105:17;135:11;176:20 everybody's 41:22 everyone 29:19,25 evidence 62:3 evidently 48:9 exact 120:22 exactly 4:6;30:21; 159:23 Exactly 75:5 examination 75:21 example 73:17;77:15; 84:17;115:16;124:20; 134:2;137:14;147:1 exceed 121:3 excellent 7:25;8:1; 164:17 except 146:10,12 exception 111:1;134:4; 165:16,18 excise 8:12 exclusionary 70:24 exclusions 134:17 excuse 58:23 Excuse 4:23;61:2; 143:15;150:4 executive 62:4 Executive 61:25;175:5,</p>	<p>7,14,19,25;176:20,23; 177:2 exercise 113:19 exhibit 119:11;122:13, 18 exist 162:16;166:7 existence 157:9 existing 103:15,18; 118:19;119:13;124:5; 127:23;128:5;131:13,18; 132:5;138:16;141:23; 142:9,21;143:13,17,19 Existing 119:5 expanded 37:12 expect 74:11;108:3,11 expectation 137:2 expenses 106:3,21 experience 10:18 expire 149:5 exposed 138:3 expressed 128:11 extend 88:22;89:7 extension 134:18,22 extra 103:14 extreme 109:16;121:4,4 eye 133:3,8 eyeballing 97:24 eyebrow 132:12</p>
E				
	<p>earn 132:4 earnings 112:10 easement 119:21 easily 11:14;20:3 easy 19:10,19;59:24 eBay 7:22 economically 140:5,10 economic-friendly 138:21 economy 85:7 educating 34:13 education 164:13 effect 143:16;144:24; 146:22;168:12 effective 105:11 efficient 7:11;9:9; 139:15 effort 22:9,10;164:10 efforts 15:17 either 7:10;8:3;15:20; 21:16,18;36:9,16;48:16; 56:9,16;57:13,20;93:5; 95:8;104:19;114:7;129:2; 136:9,18;142:12;146:22; 156:8;170:25;175:15 Either 89:6;161:3 elapsed 40:6 elderly 133:10 Eleanor 104:10;107:3, 6,19;108:1 elect 140:7 election 104:10,13,14, 18,22;107:7;111:23 electricity 139:6 element 75:23 Elementary 101:16; 131:1 elevation 124:19,19; 125:11 eliminate 98:13 Elizabeth 118:20</p>			F
				<p>face 138:2 facets 85:23 facilities 122:4;130:16 facility 75:8 fact 33:23;37:11;43:15, 16;44:14;48:20;53:3; 62:18;81:21;101:1; 133:22;137:25;138:4; 152:2;154:22;158:10; 161:14 facto 59:5 facts 36:13;44:10; 158:5;163:3 fact-specific 157:23 factually 124:8 fail 141:4 failed 44:21 fails 32:13;36:13;43:25; 44:8;114:17 failure 46:19;117:6 fair 40:21;49:3;51:3,4; 113:24 fairly 125:13;135:4 fairness 41:5,16;44:19, 25 fall 140:18,18 family 85:21;130:5; 161:13,25 far 16:2;20:7;55:21; 57:8;84:24;116:19;121:4; 128:14;139:13 far-fetched 159:2</p>

<p>farm 111:1;112:25 father 129:11,23; 132:10,15;139:10; 148:12;169:15 fault 43:19 favor 76:25;77:9;123:7; 138:4 fax 48:6;52:17 faxed 49:15 faxing 50:10 feasible 91:6;140:6,10 feasibly 59:2 February 105:11 fee 15:19,23 feedback 74:10;135:19 feel 17:2;41:5;46:7,9; 63:16;78:20,24;164:7 feeling 136:11,14 feels 79:4;168:9 fees 9:25;10:6,10;15:21, 22 feet 84:19,20;118:21,21; 119:20;120:1,13;123:13, 15;124:11,15,17,22; 128:16,18;136:25;137:1; 166:21,21 feet's 118:15 felony 179:23 fence 143:4 few 115:6 fewer 161:17 field 72:14 fifaing 22:11 figure 148:1 figured 56:1 figures 14:5 file 12:20;17:10 filed 30:19 filing 41:7;46:5 filled 30:6 finally 180:12 finance 25:5 financially 148:22 financing 8:2;136:24 find 9:25;10:10;11:15, 16;15:15;17:5,9;19:4,8, 19;34:15;67:24;74:17; 157:24;162:15 finding 37:11;82:14 findings 35:15 fine 35:7;83:23;102:7; 174:5;181:1 finer 10:21 finger 119:15 finish 175:13 fire 124:12,14,17 Fire 29:23 firm 50:15 first 4:2;27:1;28:9;33:4; 43:1;44:1,22;48:14,25; 49:20,21;52:22;54:8; 66:13;78:2;105:15;132:1; 134:2;152:12;153:8,12;</p>	<p>159:20;163:24;172:2,23 First 161:8 fit 125:1;150:24 Fitzpatrick 127:20 five 85:8,10;118:21; 123:13;124:15,16;129:6; 167:6;175:10 Five 123:15 five- 167:7 five-foot 124:13;128:18 fixed 133:10 fixing 130:10 flag 119:14;120:5,8 flagstone 144:7 flat 140:2 flawed 104:10 Fleming 5:12;6:10; 26:15;58:8,10;62:14; 67:10;102:20;170:13; 174:19;176:10;177:3; 182:11 FLEMING 5:13;6:11; 25:23;26:16,24;27:2,10, 20,24;28:3,7,15;33:25; 47:23;48:8;49:23;50:14, 20,23;54:17;55:12,15; 56:9,13,18,22;58:22; 59:1,14;60:7,11,16; 62:15;63:8;67:11;70:16, 19;74:5;91:24;92:6,12, 15,22;93:9;94:4;97:4; 100:12,23;101:7,14,20, 25;102:3,7,12,21;123:9, 15,17,19;126:6,16,19,24; 128:15;148:6,9;154:9; 164:3,7,24;170:14; 174:20;176:11;179:11, 14;180:3,7,10;181:4; 182:12 Florida 13:13;146:4 Flowers 86:24;98:8; 99:10 flummoxed 114:13 focus 121:14 folks 82:11,16,18;84:16; 85:15;131:6;144:14,18; 154:17;156:16;162:2 follow 7:4;152:20;153:1 followed 40:12;57:24; 58:1;178:13 following 153:6; 162:16;178:1 foot 73:17;119:6;129:5, 6;143:6;167:7,8 footages 125:24 footprint 125:2;131:17 forbid 148:24 forced 9:22 forcible 179:23 forever 149:7 forfeiture 180:20 forget 30:10 Forget 39:5</p>	<p>form 34:11,12;142:24 formal 34:2;36:11;37:11 formed 34:20 formulate 86:2 fortunate 9:25 forum 62:3 forward 36:10,20; 138:22 found 78:16;112:23 foundation 138:4 four 38:18 four-car 129:19 four-square-mile 81:20 four-story 163:15 Fourth 66:7 frame 31:25;37:12;44:9, 21;59:6;147:11,19,20; 154:20 frankly 43:1;45:25; 57:17 fraud 104:13 FRAYSSE 111:17 free 75:2 Friday 28:21;118:12 friendly 147:4,9 friends 107:6 frivolous 36:12 front 41:11;91:25; 125:11;132:23;133:5; 178:15 frontage 119:16;125:23 frontages 167:9 front-entry 125:10 fronts 118:19 frost 138:11 fuel 64:14,15 fuels 140:8 full 28:23;105:19 fully 142:17 Fully 110:12 fun 30:2 functional 140:2 functioning 126:11 fund 180:22;181:10 fundamental 44:18 funds 17:23 fungicides 134:25 fungus 134:25;135:6 furber 31:13;53:20; 135:9;168:5;178:7 future 121:17,20; 137:11;139:20;145:20; 146:1;149:22;159:12; 164:19;175:8,21,25</p>	<p>181:15 gang 177:23 gap 92:20;110:15 garage 122:10;125:1,8, 9,10;126:1;129:10,15,20, 21;131:15;143:14 garbage 8:20,22;9:2; 144:21 Garbage 8:21 gave 53:1;100:9,11; 127:6,9;178:2 gee 78:12 general 7:19;82:2; 94:17;136:5;180:21; 181:10 General 3:10;4:8,13 generally 71:21;129:4, 16;152:13 generic 100:1;101:20 generous 30:5 Gentile 86:23;92:16,19 gentleman 126:12 gentleman's 169:14 Georgia 6:21;143:6; 148:3 geothermal 138:24; 139:9 Geothermal's 139:12 Gesturing 169:25 gets 27:16;29:20;84:9; 167:2,13 gift 132:19 given 9:3;35:21;40:12, 13,19;48:23;52:24;53:7; 108:23;134:17;154:21 gives 103:24;122:13; 165:22;181:8 giving 73:25;146:16 glad 12:1,22;15:23; 27:12 glass 74:6,7;76:6;79:9 GM 80:12,18;82:2,19,25; 84:11 GMA 6:20;7:2,8,8;5; 10:4 God 148:24 goes 4:15;31:13;33:5; 38:2;42:5;66:10;80:23; 98:6;100:13;109:7;114:7, 17;116:11;143:2;153:19; 180:21 good 9:13;13:4,6,16; 28:24;107:6;117:15; 135:12;139:5;152:20; 160:3,4,15 Good 79:23;126:18,19; 152:17 goods 8:25;9:1 Gordon 30:12,14 go-round 54:8 go-through 30:20 GovDeal 7:21 governing 110:9;</p>	<p>155:10 government 7:12,22; 8:16;9:9,14;10:19,20 governmental 44:20 governments 7:8,24; 10:5;16:7 GPS 8:19 grading 91:7 grandfathering 69:18 grandparents 130:21 granite 143:10,25 grant 7:16;86:20;89:22; 98:23;100:13;101:21,22; 163:5;168:18 Grant 30:12,15;47:24; 49:7;52:12;53:8 GRANT 30:14;31:9; 35:1;40:2;48:25;49:8,10; 50:2,6,9,19;51:3,24;53:9, 12,15,23;54:5,14;55:24; 59:20 granted 73:18;166:18 granting 118:22;158:20 grants 86:25;94:1 grass 117:2;135:3; 145:18;146:3,11,16; 147:2,3 grasses 134:24 gravel 142:5,10,17,22; 143:10,24,25;144:6; 168:7 gravy 16:17 great 11:1;22:19;24:8; 29:19;30:7;81:13;139:12; 161:13,13;162:3;179:5 greater 13:2;125:24 green 138:20 gridwork 137:20 ground 135:22;138:25; 139:1,4 groundcover 134:5; 135:17;165:19 ground-mounted 84:21 group 177:21 groups 113:18,19 grow 135:6 growth 134:25;135:12 guess 23:10;45:22; 65:1;71:3;73:8;79:3; 80:13,22;81:3;97:12; 99:19;104:14,17;105:3; 126:2;142:2 guesstimate 124:7,8 guidelines 158:12 Gustav 49:3 guy 72:10,23;158:20 guys 51:14;89:17;127:9, 11;129:25;181:11</p>
		G		
		<p>gain 21:11 Galloway 90:10,18; 93:20;97:16 Galloway's 98:4 gambling 180:21;</p>		
		H		<p>Haber 92:24</p>

<p>Haeberlin 68:15;80:8; 145:12;149:2;164:16 HAEBERLIN 81:23; 83:6;84:14;85:14;86:9, 12;118:3;123:13,16,18, 25;125:3,18;126:4,9,17; 127:7,15;137:15;141:14; 144:12;145:3,15,19; 146:17,21;149:14;150:2, 5,10;151:8;153:10,13,23; 154:13;155:1;156:14; 162:22;165:3,24;166:1, 11,14;167:5,16,25; 168:20;169:2;171:5,9; 173:3 Haeberlin's 162:12 hairs 47:18 half 64:16;106:1;110:10, 11;111:25;116:4;124:22; 158:21 hall 4:10;81:25;82:22; 83:4,7,9,22;84:1 Hall 45:21;65:7,10;89:5 hallways 132:8 Hamby 128:1 Hambys 128:1 hand 156:9,18 handed 133:20 handcapped 121:13 handle 116:14;172:6 hands 89:4;104:24; 105:8 hanging 114:22 Hanno 126:23;128:3; 161:8 Hanno's 128:9 Hapeville 70:2 happen 43:18;45:4; 46:19;54:6;58:11;104:25; 106:7,11;108:9;130:19; 137:14;148:24;159:13, 14;163:23 happened 45:1;52:23; 54:7;90:21;148:19 happening 164:1 happens 22:20;24:7; 32:8;33:18,21,22;38:13, 20,22;42:5;43:24;44:8, 11,15,17;47:5;81:18,21; 110:1,2 happy 132:23;156:3 hard 12:18 hardball 106:13 hard-to-collect 25:3 Hart 29:3;114:8 hate 77:5;79:8;86:3 have-you 107:24 head 54:24 head-on 148:20 health 132:16;148:13 hear 32:9;38:2;97:4; 126:5;155:6;162:10 heard 8:18;48:25;56:20;</p>	<p>78:12;115:22;154:24; 155:14;175:4 hearing 32:14;36:11; 37:5,12;42:14;43:25; 44:9,12,15;45:1;57:9; 123:5,6,8;126:11;134:8; 150:3,6,7,22;156:15,15; 171:4,8,24;172:16,23; 173:2,20,22 hearings 81:14;115:10, 12;116:1 heat 135:5;138:24,25; 139:1 heavily 178:9 heirloom 132:23 held 104:14,18 Hello 30:14 help 7:3,9;8:20;12:1,22; 13:4;50:17;81:22;96:8; 108:4;113:5;168:4 helped 28:20;29:12 helpful 11:11;34:18; 68:22 helping 7:2;29:19 helps 181:5 Helton 6:19 HELTON 6:23;13:10; 15:11;16:3,21;18:5,8,13, 22;19:1,20;20:8;21:3; 22:14;23:25;25:18,20; 27:7,11,18,23;28:1,4,9, 14 here's 22:20;34:9;41:1; 45:18 Hhe 145:17 high 16:11;20:20;24:17; 179:19 High 131:3 high-balance 20:4 higher 16:25;20:23; 107:24 highest 17:13 highlight 29:21 highly 7:21;77:25;162:1 high-speed 177:19; 178:14 highway 96:6;140:23 Highway 73:18;88:1,25; 95:22;97:7;116:10; 143:11 Hill 78:15 himself 79:15 Hispanic 177:22 historic 77:15,18 historical 90:11;98:12 historically 76:12 history 112:14;113:8 hit 111:21;114:1,14; 178:22 hits 140:21,21 Hoffmeister 110:6 HOFFMEISTER 77:24; 96:23;97:1;110:6;150:13,</p>	<p>16,21;151:2,11,15;152:6, 10,15,18 holding 55:18;104:12 holds 46:15 holidays 41:7,17,19 home 121:17;123:22, 23;137:9;138:20;146:19, 20 homes 98:15 honest 53:16;148:18; 169:18 honestly 136:23 hope 8:17;114:2,20 hopefully 22:10;34:17; 43:18;137:17 Hopefully 11:5 horizontal 82:9 horns 28:25 horse 132:19 horticulturalist 134:22 hospital 3:7 hospitals 10:20 hotel 74:1,21 Hotel 75:8 hotel/motel 8:12;27:6 hours 135:2 house 28:23;68:5; 97:15;107:8;119:6,14; 125:10;128:20,22;129:7, 24;130:10,15,21;131:4,5, 13,18;132:2,5,7,12,18, 23,25;133:3,6;137:16; 138:6,7,9,17,19,21; 139:1,15,23;140:12; 141:3,23;142:22;143:17, 19;144:1;147:25;148:15; 158:23;159:3;160:6,7,16, 18;163:15;166:10; 169:16;181:16,16 household 8:21;9:2 houses 121:12;124:3, 21;128:24;159:24;160:9, 17;161:6;163:17,21 housing 121:10;125:6, 12;163:13,13 Howe 80:12;86:15; 97:13;108:7 HOWE 86:18;87:18; 23;92:3,10,18,23;93:1, 13,15;94:2,10,16;95:1,4, 16,19,23;96:1,7,12,16; 97:19,21,24;98:23;99:2, 5,14,22;100:6,10,15; 101:6,19,22;102:1,4,11, 13 huge 138:22;147:6 Hugo 88:11 human 121:24;122:1 Human 136:2;166:1 hundred 14:11,11,14, 19;105:23 hurricanes 49:3</p>	<p>hurry 41:21 hurt 24:20;88:14;109:23 hurts 90:6 hypothetical 31:19,20; 33:16 hypothetically 33:3; 46:6</p>	<p>11:6;12:9;15:10;16:24; 17:15;18:19;19:18;20:7; 24:14;27:17,22;36:4; 48:24;49:1,7;50:18; 61:16;62:18;67:23; 103:21;120:20;146:7 informed 48:23 initial 35:23;36:8,9; 42:15 initially 131:24 initiative 36:1 input 4:17;81:4 inquiry 154:19 inside 68:8;73:6;75:22; 76:7;117:3 insight 32:20 install 145:17 instance 85:13;106:18 instances 128:10 instead 23:19 Institute 103:23;106:20 instruct 157:23 instructed 40:24 instructing 40:25 instruction 46:8 insurance 7:14,15;8:5, 6;148:23 intend 121:16;142:18 intends 160:20 intent 121:16;135:20 intention 165:13 interconnecting 136:22 interest 12:7;15:21; 70:6;140:12 interested 82:12;172:5 interesting 75:10 interpret 51:17;52:2; 55:22 interpretation 35:1; 40:3 interpretive 120:5,7; 144:17;165:12 interpretively 144:23 interviews 78:5 into 22:4;26:25;49:14; 54:19;61:24;69:25;71:21, 22,22;72:10;74:1;88:1; 98:7;103:25;104:2; 109:20;117:21;124:17; 128:8;130:12;131:5,20, 23;135:3;138:8,25;139:1; 141:3;142:18;143:14; 148:25;164:10;175:6,18, 24;176:19;178:16,20; 179:18;180:19,21;181:9 invest 140:8;161:15 invested 164:9 investing 161:19 invited 107:6 invoices 108:11 invoke 36:14 involved 70:21;78:15;</p>
		I		
		<p>idea 13:22;14:8,21;15:4, 7;22:19;55:17;81:3; 117:16,16;123:22; 130:13;131:25;139:7,21; 164:1 ideas 89:16;160:3;162:3 identi- 118:7 identifica- 17:14 identification 11:9; 12:12 identifications 20:2 identified 118:8;121:15 identify 101:10 identifying 18:19 ignore 149:18 lke 49:3 illegible 35:25 illuminated 84:19 imagination 115:7 immediately 127:10; 139:11 impinge 126:10 implication 33:7 implications 114:14 important 23:16;119:10 importantly 134:11 impossible 140:1 inadvertent 40:4;53:25 Inaudible 88:4 inches 143:7 include 19:15;26:5; 70:24;86:23;92:1,7,16; 97:18 included 92:14;127:13; 165:21 includes 92:3 including 94:5 income 106:22;133:11 increase 66:22;76:16; 111:11;112:9;132:22 increasingly 113:3 indecision 114:23 independent 155:13 indicating 92:4;130:6 individuals 177:22; 178:8,13,24;179:1;180:1 Industrial 111:3 Inez 128:1 infill 120:24;122:14; 163:13,13 influence 108:13; 115:14,23 information 4:7;7:5;</p>		

<p>177:20;179:20,24 involvement 155:15 irregular 112:15,18; 114:21 irrelevant 158:11,16 irrespective 95:11 issue 12:19;23:3,5; 30:22;32:11,19;45:19; 51:16;61:23;72:7;116:23; 137:15;164:22 issued 167:11 issues 60:13,18;63:9; 68:1;90:25;91:7,12;93:2, 22;103:9;107:21;115:20; 124:12;141:25;144:13; 145:4 item 30:12;61:15;73:13; 145:19;150:19;172:10; 175:4 Item 67:21;80:9;117:25; 118:2;168:10 itemize 87:15 itemized 31:4 items 18:24;25:3;71:9; 141:19;153:16</p>	<p>J-O-H-A-N-N-E-S 159:20 John 15:6;107:10,10; 109:3,4,7;115:4,8; 116:21;117:1,7,17; 177:11 judge 114:3 judgment 36:16;46:14; 57:23 jump 68:19;124:17; 157:13 jurisdiction 36:14; 95:3;105:8,14 jurisdictions 124:22; 125:19,22</p>	<p>Landscape 143:10 landscaped 144:19; 165:17;168:8 landscaping 122:1; 142:23,25;143:12;144:2, 3,8 lane 148:20 lanes 95:15,16,18,25; 97:6,8;100:17 language 31:23;32:3; 33:20;45:8 large 85:17,17;135:24 larger 121:6 LARP 95:5,9 last 9:18;11:10;12:5; 14:5;19:24;40:9;66:5; 97:15;103:8,21;104:15, 17;113:14;122:17; 140:17;141:3;142:3; 153:4;159:19;160:12; 168:6;169:19,21;178:3 late 15:21;145:10;178:2 later 105:19;171:1 laundry 130:16,19 law 22:22;37:18;50:15; 51:17;52:2;57:18;73:24; 105:5;158:7;162:13; 163:2;171:15;179:9 lawn 135:15 law-office/medical-office 77:2 Lawrenceville 49:19 laws 52:4,5;55:22,22 lawsuit 104:10;108:1,6, 10 lawyer 45:23;51:18; 108:9 lawyers 43:5;49:13; 51:23 lay 56:16 LCI 88:21 leading 80:22 leads 101:15 leap 138:22 learned 113:3 least 12:5;24:11;40:16; 72:25;81:16;97:10;148:1; 164:19 leave 175:16;176:21 leaves 106:23;140:18; 160:14;161:10 leaving 147:25 left 116:4,5 legacy 132:17 legal 34:10;43:3;48:1; 55:21;56:25;122:23 legally 136:17 Legally 51:18 legible 36:2 Leisen 159:18 LEISEN 159:18 L-E-I-S-E-N 159:19 lemmings 157:13</p>	<p>less 10:8;16:10;106:25; 124:16 letter 18:1,9;20:17; 47:25;50:15;61:11; 121:16;127:13;128:7 letters 17:25;18:12; 19:7;29:13;126:13; 127:18 letting 103:11 level 33:19;39:20,24; 47:6;132:9;134:13; 179:25 levels 129:3 liability 7:19 libraries 113:23 library 113:18 license 8:5,8;73:18 licenses 112:6 lien 22:8 Lieutenant 177:25 life 43:20;89:4;115:16; 121:9;148:23 Life 18:6;19:7;144:18 light 89:4,6 lighting 28:21;122:4 lights 9:12;13:23,25; 78:10 liked 29:9 likelihood 179:19 likely 16:25;82:10 likewise 11:19 Likewise 46:17 limbs 9:5 limitations 34:24 Limitations 142:9 limited 117:13 limits 116:8,11,17 line 33:4;123:23;124:11; 128:4,23;132:2 line-of-sight 128:9 lines 115:21;116:19,20; 124:4 linking 87:11 liquor 8:13 list 84:22;89:16,19,23; 94:9,15,17;95:6;100:4,6, 7,12,16,22;110:20; 151:24 listed 133:17,24;145:21; 152:4 literally 47:3 litigation 175:8,22; 176:1 little 14:10;76:19; 103:20,24;106:15,22; 107:3;108:4,24;133:1; 134:10;137:6;141:24; 169:7,9 live 81:15;113:20;131:7; 148:14;161:5 lived 112:16 lives 78:14;104:11 living 85:1;133:7</p>	<p>Livingston 103:5; 117:22 LIVINGSTON 103:6; 117:24 local 7:8,24;8:16;9:14; 10:5;177:23 locate 9:22;11:15;12:21 located 17:3;118:6; 124:10 locating 9:10 location 8:25;71:21; 83:17;99:10 locations 9:5 locked 109:20 logical 132:21 long 13:8;55:16;73:5; 84:4;102:5;105:25;107:7; 112:14;113:8;119:15; 148:14;154:6;177:11 long- 113:25 longer 76:2 long-lasting 138:7,12 long-term 112:9;114:20 look 7:9,12,13;15:12; 45:7,9;71:22,22;72:10; 88:1;93:3;95:17;101:9; 124:23;129:25;130:12; 132:19;137:5;138:17; 140:23;161:12;165:10 looked 22:4;119:12; 144:24;147:13 looking 9:7;67:25;69:3; 73:15;82:21;86:7;103:25; 106:12;120:1;127:11; 130:20,23;138:23,24 lookout 178:2,7 looks 45:25;79:3;84:25, 25;96:4;97:25;159:6 lose 21:11 lost 181:21 lot 3:10;6:25;10:18,21; 15:22;18:8,25;19:3,17; 21:8;30:2;49:2;76:13; 78:16;79:13;80:22;87:20; 88:12,13;89:12;93:22; 96:23;104:1;105:1; 113:20;118:5,14,18,24; 119:3,17;121:19,20; 124:11;125:11,13,14,21; 128:12;131:5;132:1,14; 134:3;135:15;140:24; 143:24;148:8,10,21; 151:16;157:3,18;158:2, 21;163:11,13,21,25; 164:9;165:17;166:17 lots 75:20;119:2;122:23; 125:22;163:21 Louisiana 49:2 love 7:1;18:22;77:7 loved 29:8;30:9 low 140:12 lower 10:1 Lower 94:24;95:1;</p>
<p style="text-align: center;">J</p> <p>jagged 116:8 January 54:19;66:13, 20;83:5;104:19,19;105:9; 113:13;173:23 JENKINS 3:2;4:23;5:1, 4,6,21,24;6:2,4,19;15:6, 9;16:18;17:24;18:6,11, 15;21:9;25:6,9,16,19; 26:7,9,25;27:15,19;28:8, 13,19;29:2,7;30:3,10; 31:7,12;35:5,9;50:21,25; 51:6;52:8,14,19;54:11, 16,20;55:14,17;56:6,12, 14,25;60:23;61:2;62:6; 63:1,3,21,23;64:6,10; 65:4,11,24;66:14,18,23, 25;67:4,19;77:23;80:2,5, 7,9;83:24;84:4;86:17; 90:21;94:14;99:6;102:14; 103:4;110:5;111:16; 115:3;117:18,25;127:1; 133:12;149:25;150:4,8, 11,15,18;153:9,11;154:4; 156:17;157:3;158:17; 160:24;161:3;162:5,10; 163:7;164:6,23,25;169:3, 5,17,20,23;170:1,7,22; 171:2,7,18;172:1,12,20; 173:1,13,20,25;174:2,6, 9,13;175:12,23;176:2,4, 19;177:6,11,13;180:23; 182:5,20 job 13:6 jockeying 116:14 Johannes 159:18,20</p>	<p style="text-align: center;">K</p> <p>keep 4:3,5;95:12;132:5, 23;133:3,8;164:1;178:16 keeping 16:8;181:15 kept 52:23;107:20,25 kids 28:23;29:8;130:25; 132:24 Kids 30:9 kill 135:1 killed 148:20 kind 11:8;12:9;20:8; 55:20;68:10;80:14;82:8, 22,23;91:20;93:4;94:17; 98:21;105:16;107:12; 115:6;119:15;122:13; 132:12;158:19;159:2 King 107:10;109:3; 115:8;116:21;117:1,7,17 KING 15:8;115:5; 177:12,15;179:13,16; 180:5,8,11,24;181:5,14, 23 king-cab 178:9 Kirkpatrick 127:22 knock 178:22 knowing 68:14;75:7 knowledge 90:14 known 11:10;12:6; 19:24;109:6;118:20; 129:13 knows 11:12;161:21 KOONTZ 158:18 Kroger 81:1 kudos 179:9</p>	<p style="text-align: center;">L</p> <p>lab 140:16 lack 46:8;156:10,10 lacking 144:16 land 119:15,20;129:1; 131:21;132:6;143:1; 148:16;155:11;157:10 landlord's 133:7 landscape 134:6; 144:16;165:19</p>		

<p>96:19,20 lowered 10:6 lowest 10:9 Luke 86:17;99:18; 100:3;108:7</p>	<p>114:15,17;125:7;143:6; 159:5 Maybe 24:12;101:9 mayor 4:10 Mayor 7:4;9:17;19:6; 26:24;27:2;28:11;31:16; 38:23;39:3,11,13;54:17; 62:25;63:19;64:4;100:20; 107:9,13;108:8;109:7; 116:24;120:17;151:25; 162:11;164:3,4;169:13; 170:23;175:3;177:10 MAYOR 3:2;4:23;5:1,4, 6,21,24;6:2,4,19;15:6,9; 16:18;17:24;18:6,11,15; 21:9;25:6,9,16,19;26:7,9, 25;27:15,19;28:8,13,19; 29:2,7;30:3,10;31:7,12; 35:5,9;50:21,25;51:6; 52:8,14,19;54:11,16,20; 55:14,17;56:6,12,14,25; 60:23;61:2;62:6;63:1,3, 21,23;64:6,10;65:4,11, 24;66:14,18,23,25;67:4, 19;77:23;80:2,5,7,9; 83:24;84:4;86:17;90:21; 94:14;99:6;102:14;103:4; 110:5;111:16;115:3; 117:18,25;127:1;133:12; 149:25;150:4,8,11,15,18; 153:9,11;154:4;156:17; 157:3;158:17;160:24; 161:3;162:5,10;163:7; 164:6,23,25;169:3,5,17, 20,23;170:1,7,22;171:2, 7,18;172:1,12,20;173:1, 13,20,25;174:2,6,9,13; 175:12,23;176:2,4,19; 177:6,11,13;180:23; 182:5,20 Mayor's 3:4;98:24 mean 45:16,16;47:3,3; 59:17;68:21;72:7;73:4, 16;74:19;75:17;77:7; 80:19;83:14,20;85:5,6; 88:21;89:3,24;91:21; 98:21;100:8;114:5,15; 125:5;130:20;132:15; 137:4;138:11;144:2; 145:8;148:2,23;149:21; 151:15;152:9;153:22; 154:21;157:2,14;159:1; 166:4;167:3;172:4 means 24:9;51:21,23; 87:10 meant 40:3;100:15 measuring 93:16 mechanism 34:20 mechanisms 17:5 media 177:18 mediation 43:7 medical 75:14,16 meet 56:4</p>	<p>meeting 14:5;25:24; 37:16,17,18;38:14,15; 40:5,18,21,22;41:12; 44:1;51:12;82:1,22;83:4, 7,9,13,16,21,25;91:17; 103:9;104:15,16;105:3,4; 107:9;113:11;114:4; 127:10;150:22;153:25; 170:25;171:1;172:25; 173:18,22,22;175:6,15 Meeting 3:2;64:10; 177:6;182:20,22 meetings 11:24;51:12; 55:25;105:17,18;106:8; 112:2;113:10,14,15 Meetings 37:18 meets 28:10;57:12 member 31:2;35:3,7; 61:14,19;116:22 members 28:20;29:12; 89:11;105:19;116:24; 177:23;180:15 ment 86:5 mention 3:3 mentioned 88:20; 115:16,20,25;131:13 ments 8:15 merchandise 76:10 merits 89:24 Merry 175:17 mess 59:25 messed 59:22,24 met 107:4;129:22;162:1 metal 140:13;141:2,4, 12,17,21;167:19 methodology 121:24 methods 10:16 metro 10:23 microphone 30:13; 35:10;52:9 middle 132:3 Middle 131:2 midnight 178:4 might 17:25;75:9;76:6; 82:11;83:2;84:14;87:4,5; 104:21;105:10,10;108:6; 112:9;117:20;168:3; 169:21 mileage 140:24 Mill 86:23;87:5,6,9;90:3, 24;92:23;93:4;97:14; 99:10 million 105:23;106:22 mind 4:14;59:7;80:14; 84:12 mindful 71:5 mine 157:17 mini-blinds 72:6,8,16 minor 118:13;119:25; 120:8,11,15,16;146:2; 179:22 minus 118:9 minute 79:7;104:3</p>	<p>minutes 4:19;5:22;6:1; 175:10;177:12 minute's 177:13 missing 50:5,21;51:2 mix 49:14;112:11; 152:23 mixed 22:20;82:5 mixed-use 86:4 mobility 122:3 modern 125:14,21 modification 149:17; 166:2 modifications 165:8 modified 158:14 modify 168:17;172:8 moment 165:3 money 7:11,11;8:20,20; 9:8;22:10;71:18;87:5; 89:12,12;91:3;98:23; 100:25;105:25;106:4,12; 131:5;132:5;135:15; 137:18;181:9 Money 169:25 moneys 105:12 monolithic 147:16 month 45:17,17;66:10 monthly 12:8 months 24:3;32:18; 46:21;55:6;58:17,21; 59:13;66:9,15;169:22; 181:7 more 7:10,11;9:9;16:9, 25;17:19;21:20;23:17; 24:9;25:9;36:11;37:11; 49:13,14;67:23;79:6; 80:7;81:5;96:10;99:19; 100:1;101:4,17;103:20; 104:1;105:19;106:24; 111:9,12;117:22;121:4; 124:2;128:17,23;132:7,9; 134:10;135:13,21;137:8; 146:6;161:17;175:10,14 morning 131:9 mornings 135:2 most 12:23;16:24; 17:14,15;69:14;70:13; 78:18;85:15;95:10;107:4; 112:23,25;122:14; 125:21;133:21;135:25; 137:24 Most 74:6;98:17 mostly 124:6 Motel 115:17 motion 4:20;5:2;25:2; 26:5;27:16,19;56:15,19, 24;58:3;60:12,12;62:6; 63:22,24,25;64:2;65:16, 16,18;80:5;99:1,6; 155:21;162:10;163:5; 164:25;165:6;168:17,17; 170:24;172:1,8,18,21; 173:15,18;176:25;177:2, 3</p>	<p>Motion 5:21,25;182:2 motorcade 30:11 Motorcade 3:4 Motors 4:8,14 mounted 8:24 mouth 107:20,25; 132:19 move 36:20;138:8; 141:3;150:1;171:13,14 Move 175:18,24 moved 5:3,23;128:8; 130:3,4,8;133:5;141:5; 160:6 moving 77:9 mowed 111:10 much 18:2;20:22;21:11; 30:7;56:1;70:10;71:18, 18;75:11;76:1,1;81:8; 99:23;114:23;116:22; 125:24;164:2,11 mulch 144:15,24 multi-level 124:3 multiple 87:1;102:4 Municipal 6:22 municipalities 68:16; 155:5 Murphy 13:21;14:7 MURPHY 14:10,17,19; 18:17,24;19:2;23:15 Murray 21:9;31:14; 56:25;108:9;177:8 must 78:8;108:4 mutual 79:17 myself 34:19;108:24; 165:5</p>
		<p>M</p>	<p>N</p>	<p>name 4:11;11:9;12:3; 19:25;21:8;22:24;30:14; 40:9;109:4;117:15; 126:25;127:1,2;159:19, 20 national 17:7 natural 121:24;135:17, 18;165:16 Natural 121:25;134:3; 165:15 naturalized 134:5; 165:18 nature 55:4;71:4;85:2 near 39:24;109:11; 125:23 nearby 112:19 nearest 44:6;45:9 necessarily 46:5; 68:17,25;73:24;75:18; 94:19,20 necessary 98:14 necessitated 121:18 necessity 42:2 need 3:3;12:4,8;18:20; 19:14;20:25;26:1;36:2,3;</p>

37:10,11;45:22;55:20;
65:18;66:15,16,20;84:7,
11;86:22;89:22,23;94:2;
96:16;97:13;98:1;100:4,
7;101:2,3,7,15;114:1;
117:10;123:4;125:8;
126:4;130:14;133:12;
135:1,13;139:6,13;144:4;
146:2,6;150:1,2,5;
159:24;161:17;165:10;
172:1
needed 19:10;40:1;
50:18;51:4;94:9;108:8;
134:9;148:22
needs 36:20;37:4;
94:23;100:21;126:24;
153:7
neighbor 121:2;127:14,
21,23,24;128:2;159:21
neighborhood 107:8;
124:5;128:8,24;130:9;
161:15,19;177:19
neighborhoods 98:17;
110:25;163:16
neighboring 157:9
neighbors 126:22;
128:11;161:14
neighbor's 111:10
neighbors' 113:10
neon 78:9;79:2
nester 158:2
nesters 130:14;137:10;
147:24
new 8:17;9:22;11:5,7;
59:6,6;65:14;66:6,18,19;
76:3;90:4;91:15;103:18;
104:18;106:21;124:23;
128:20;129:7;134:24;
135:12,13;138:9;159:15
New 84:6;88:2
newer 20:10
newly 20:14
news 85:8
next 8:3;27:16;29:16;
30:1,12;66:17,20;79:14,
17;118:2;122:14;156:4;
170:25;172:10,25;173:22
nice 28:24;29:2;30:20,
20;160:17,21
night 28:22;105:3;
112:3;114:12;134:24;
178:3
nine 111:4,4;160:6
nobody's 43:19
Nobody's 113:5
nonconforming 157:9
none 107:14
non-exclusive 10:13
Norcross 96:8
normal 51:22
Normally 180:18
north 96:20
North 116:9

note 96:17;119:10
notice 133:16;135:16;
136:3
noticed 142:19
notorious 16:7
November 34:3;48:4;
107:7;127:19
nowhere 90:12;125:23
number 11:13;12:13,
17;19:11,22;20:9;27:7;
68:9;115:11;143:12,22;
154:16;160:2;167:16;
178:25;179:2
numbers 12:19;18:21;
19:16;24:21
numerous 115:11

O

o0o- 182:24
Oak 94:24;95:1;96:19,
20;101:10;110:7
Oakcliff 88:1,13;94:5,
22,25;95:3;96:21;97:3;
111:3;112:16;113:10;
115:21,22,23;131:1;
156:23;161:24
Obama 89:11
Obama's 89:20;140:7
objection 139:24;
141:11;153:6
objections 133:25;
153:5;154:18
objectively 34:24
observation 74:10
obtain 11:24
obtained 53:2;142:11
obviously 70:23,25;
90:2;97:15;125:19;
129:18;136:13
Obviously 98:19;
144:18
occasion 163:10
occur 43:4
occurs 33:23;38:23
October 145:13;154:7
off 20:23;21:18;22:7;
28:11;68:6;76:17;88:7,
22;90:10,20;91:19;97:14;
110:2;119:3;120:25;
132:24;140:20,21;145:8;
157:14;172:16;178:16,22
offense 59:19;179:22
offer 7:9;32:21
offers 7:8
office 73:7;77:10
office-building/ 77:1
officer 72:24;134:23
Officer 177:25
officers 177:20;178:3;
179:6,8,15;180:8
offices 48:1;72:3
official 72:15;167:14

officials 78:5
often 69:14
of-way 90:25
O-I 171:9;172:23
O-I/O-W 172:10
oil 110:22
old 10:8;16:10,11;17:20;
130:7,17;160:17;163:18
Old 88:2,10;94:5
older 19:17;20:11;92:7
oldest 131:2
Oliver 96:2
once 33:15;37:25;59:7;
88:6;100:18;140:18;
149:5;166:10
Once 40:19;47:4;138:8
one 4:2;9:25;21:6;
23:15;30:19,22;34:8;
36:9,16;40:14;43:22;
44:1;45:13;49:21;52:22;
56:10;58:10,11;66:18,20;
68:9;75:12;76:1;78:3,17;
80:23;89:2;90:12,23;
92:7,19;103:22;104:11;
108:16,25;109:2;110:17;
120:2;121:8,14;122:9,23,
24;130:7;131:12;132:9;
133:15;134:2;137:6;
142:3;143:22;144:13;
150:23;151:6;152:22,24;
160:2,6,8,10,17;163:9,
20;165:3;166:7;168:6;
169:5,15;171:7;175:4;
178:8,15;181:19,25
One 95:14;108:18;
110:22;138:5;142:3;
177:13;181:24
one-car 131:15
ones 4:15;17:1;20:11;
95:10
ongoing 182:1
online 113:13
only 9:4;12:11;17:7;
24:24;26:5;32:20;37:25;
39:12;77:21;82:15,19;
96:8;103:13;115:5,13;
116:4;117:9;125:25;
135:8,10;137:1,1;142:23,
25;143:5,12,16;144:6,7;
153:19;154:10,12;
155:17;158:18;161:9;
166:15,20;169:5;179:6
Only 93:7
onto 178:17
opaque 69:24;71:4,17,
25;72:13,22;78:8
open 40:18,22;41:12;
42:14;44:2;71:11;123:6;
150:6;172:23;173:2,14
Open 37:18
opening 173:10,11
operate 111:24
operations 9:15

opinion 55:2;57:10;
58:5,9;62:1;81:16;
154:25;155:20;172:19
opportunities 114:18;
121:10;125:7,12;137:19;
145:25;149:21
opportunity 6:24;7:25;
123:2,3;126:7;149:15
opposed 135:23
optimal 96:3
option 141:16,18;
165:24
options 125:6;167:22;
168:1
order 3:2;9:2;19:12;
41:8;64:10;84:23;91:17;
94:9;134:1;171:13,24;
172:16;177:7;180:12,16;
181:8
ordered 111:22
ordinance 31:11,21;
33:17;34:22;38:11;42:4;
43:23;44:4,7,11,22;45:8,
12;47:10;57:6,10,16;
58:4,19;59:8;69:7,15,17,
17,19,20;70:4,15;78:2,7;
119:2;144:16;150:25;
151:3,13;166:6;168:11;
171:11
ordinances 34:16;45:6;
68:16;70:14;75:21;82:4;
136:7,12,16
ordinarily 45:6;69:4;
73:3;75:24
ordinary 40:15;45:11
original 46:5;48:17,18;
51:10;52:13,24;59:5;
90:19;127:17,18
originally 93:6;154:7
originals 53:2
others 40:17;82:16
otherwise 144:21;
154:2
ought 110:2
ourselves 19:4
out 3:4;4:10;9:12,19;
11:15,16;16:4;17:25;
18:1;19:7,8;20:18;23:4;
24:2;29:13,13;30:11;
34:15;43:5,6,8;44:22;
55:16;56:1;59:9;68:24;
74:17;76:19;81:22;82:14;
87:15;95:13;97:16;98:20;
99:10;104:24;106:10;
107:19;110:1,3;111:20;
112:23,24;113:11;
114:18,21;117:19;133:5,
20;139:20;142:1;148:4;
152:20;160:14;161:10;
166:19;175:9,15;177:1
outer 71:20;72:20
outs 109:22
outside 9:5;43:9;57:6;

83:17;117:3
outstanding 10:1,4,7,
17;12:2,13;13:15;15:15;
21:4;25:20;26:6;30:23
over 10:8;11:25;12:13;
13:1,2;14:8,11;15:16;
16:9,12,19,20,22,23,24;
17:16,17,19;19:21;20:17;
21:1;23:18;24:22;25:19,
22;39:15;54:18,20;55:6,
7,13,16;56:10;68:5;
69:12;81:9;87:9,10;
106:22;109:2,17;110:14;
111:2;113:1;114:3;
127:11;129:12;131:2;
136:2;161:24;163:12;
180:23;181:19
over-90s 13:22
overdue 18:2
overheard 30:18
overrun 110:24
overturn 33:1
O-W 172:24
own 35:25;39:3;157:22
owner 21:6,7;22:18,25;
69:11;159:12
owners 19:8;22:8;
126:14;159:15
owns 19:9;98:10

P

package 127:6,17,19;
133:20
packet 48:17,18;50:8;
162:25
pad 143:14
page 122:17;145:13
pages 53:14
painting 138:10
Pam 6:19;18:18;97:15
panel 36:6
Panel 34:10,12,21;36:5,
19;38:13;39:13;43:2,25;
44:2,12;45:2;59:19
Panel's 33:2
paper 77:6;79:9
paperwork 49:14;50:12
paragraph 145:13
parcel 43:16;118:7
parent 9:20;118:7
park 74:2;87:5,6,10
Park 29:23;86:21;88:23;
89:7;91:3,6;92:1,4,7,15,
111:3
parked 144:19
parking 49:2;142:24;
143:14,24
parse 76:18
part 23:14;39:6;42:25;
43:16;51:11;95:2;107:8;
108:14;112:22;113:9,19,
23;126:3;133:21;151:3;

163:12
participate 7:15;82:17
participates 7:7
particular 42:25;43:17;
 45:23;82:2;94:8;128:25;
 155:24
particularly 70:4;
 77:20;125:7
Particularly 76:14
partly 51:10
parts 32:12
party 9:23;32:24;33:9,
 11;36:2;43:7;44:19;45:1
pass 109:21;180:13,14
Pass 180:23
passed 104:23,24;
 149:4,6,12;177:4
passes 33:21;109:21,
 23;111:23
passing 41:2
past 20:16;64:13;90:14;
 98:14,16;153:18
patently 36:13
paths 56:2
Patricia 40:8
P-A-T-R-I-C-I-A 40:9
Patty 30:16
pave 95:10
pavers 142:12
pay 23:18;103:18
paying 66:6,8
Peachtree 88:2
pebble 144:6
pedestrian 88:13;122:2
pending 175:7,21,25
Penn 10:2;11:20;13:9,9
Pennsylvania 13:13
people 19:4;53:16;69:3;
 71:17;75:2;78:20;81:15;
 84:10;106:19;111:5;
 112:17;113:20;114:5;
 116:2;121:11;156:12;
 158:10;161:17;181:12
People 112:19;113:11
per 85:18,19;122:1;
 125:10;134:5;135:9;
 165:19
percent 10:7,9;15:20,
 20;24:24;114:10
percentage 16:2;69:9
percentages 16:4,11
perfectly 47:15;71:23
perform 27:13
period 17:18;30:24;
 31:24;32:18;37:24;
 114:22;117:20;149:5;
 169:9
periphery 115:14
permeable 147:3
permissible 71:23
permission 65:2;
 146:16
permissive 32:4

permit 142:11;143:17;
 167:2,10
person 11:7;12:16;
 22:24;25:5;51:22;57:21;
 108:5;109:2,5;149:16
personally 79:8;155:22
Personally 77:4
personnel 18:4;57:4,5;
 60:13,17;61:23;63:8,10,
 15
perspective 84:16
Pharmacy 116:9
phone 20:8;53:17
phonetic 120:11
physically-existing
 136:9
pick 9:5;16:21;90:5;
 91:18;139:2;173:19
picked 9:1;108:7;
 139:11
pickup 20:17
picnic 144:22
piece 38:3;76:7;113:1;
 119:22;129:1;159:5
pieces 90:5;91:18;
 158:21
pin 134:4,4,9,9;165:16,
 16,18,18
Pin 94:24;95:1;96:19,20;
 101:10
Pine 118:19;119:16;
 120:2,24;124:2;125:17;
 136:9,23;137:1;160:10;
 166:21;167:10
Pinetree 75:8
pinpoint 8:24
Pinpoint 8:18
pipes 93:23
Pittman 5:14;6:12;
 26:17;62:16;67:12;87:25;
 102:22;170:15;174:21;
 176:12;182:13
PITTMAN 5:5,15;6:13;
 26:18;29:18;30:8;53:19;
 54:3,15;61:4,8,22;62:17;
 64:19,24;65:9,20;67:13;
 88:4,8,17;89:1;90:1;91:1,
 9,14;92:25;93:6,11,14,
 19;97:12,20,22;98:6,11;
 99:9;102:23;154:21;
 170:16;173:6,9;174:22;
 176:13;182:14
place 13:4;17:21;70:20;
 73:2,17;91:17;106:2;
 136:19;141:6;157:16
placed 124:4;149:23
places 70:13;75:22;
 76:14
plain 51:7
plainly 31:24
plan 80:13;86:11;90:6,
 19;91:10;121:9;134:6;
 136:19;143:18;148:10;

165:20;166:23
Plan 88:21
Planned 82:7;86:3
planner 81:10;86:11;
 98:21;122:21;129:24;
 134:7;135:23;138:1;
 156:8;164:17
planner's 141:8
planning 78:3;121:24;
 155:5,16;159:2
Planning 151:4,19,25;
 152:7,19;153:8,12,18,20,
 24;154:5,10;155:23;
 156:6;164:8,18,21
plans 129:24
plantings 135:13
plastered 76:15
plat 122:21,23
plate 79:18
platted 125:22
play 106:13
please 5:6;6:4,19;28:3;
 30:1,13;35:4,8;52:6;
 60:23;62:8;116:25;117:5,
 14;118:1;119:10;122:25;
 150:18;164:4;165:2;
 170:7;174:13;176:4,20
pleased 10:2
pleasure 30:16
pleasy 129:19
plus 23:22;118:9;126:1;
 158:22
Plus 148:18
pm 182:22
pocketbook 108:20;
 111:22
point 24:11;36:6;37:23;
 38:20;39:10,17;40:7;
 44:5;49:11;50:9;51:5;
 52:1;82:23;90:14;113:16;
 123:5;128:13;137:8,24;
 138:18;145:2,21;155:21
Point 134:3;136:2
pointed 97:16
points 87:8,10,11,20;
 95:8,10;138:5
pole 84:18
police 103:17;104:1;
 107:23;111:7;178:2
Police 29:22;107:5;
 109:10;116:13,13;179:7,
 7
police-powers 69:17
policies 152:25;153:3,
 7;179:20
policing 110:9
policy 15:13;151:3;
 156:10
politics 95:13
pollutants 147:7
poor 160:8
poorest 160:9
popular 109:5

portion 21:15;119:14;
 120:5,8;150:3,6;171:13
position 34:14;126:7;
 129:1;164:10,11
positive 78:18
possession 48:13;
 50:11
possibility 104:13;
 105:24
possible 7:1;125:5;
 138:8;139:23;140:13
possibly 21:5;27:3;
 46:16;82:18;97:15;
 101:10;104:18;109:16
postpone 170:25;
 172:24;173:12,16,18
potential 107:21,24;
 108:19;112:10;133:24
potentially 88:22;
 109:23;112:9;113:5;
 132:8;160:1
potholes 9:11
potluck 18:3
power 139:9
practical 124:25;144:2
praise 164:12
precedent 156:25;
 157:15
preclude 72:2
predecessor 34:12
preference 84:23
prepare 101:23
present 35:15;52:6;
 83:10;104:6;107:10,11;
 119:4;154:16;158:5
presentation 6:20;
 173:4
presenting 28:11;
 180:14
presently 123:23
President 89:20
President- 140:6
President-elect 89:11
pretty 4:3;8:3;51:7;
 56:1;70:10;87:12,22;
 109:6;129:13;131:22;
 161:20
prevent 69:3
preventing 69:21
prevents 32:17;69:24
previous 23:17;25:24;
 116:20
previously 9:18;131:19
prey 180:1
primarily 112:21
prime 115:16
prior 56:1;90:10
prior- 93:15
priorities 89:16
priority 93:16
Priscilla 18:16;21:17
privacy 75:1,23;133:2
private 72:2

privately 136:24
privilege 70:10
pro 150:20;153:5
Pro 110:23
probably 43:13;57:17;
 64:23;79:18;82:21;83:8;
 145:25;146:2;160:10
problem 42:25;69:10;
 72:6,15;73:9,10;74:12,
 18,19;105:1,16;108:15;
 129:22
problems 21:6;112:15,
 19;116:1
procedural 31:4
procedure 57:2,11,24,
 25;59:9,18;60:2;156:11
procedures 30:21,25;
 31:10;34:4;48:16;151:3;
 152:25;153:3,7
proceed 27:21,25;
 38:16;80:16;91:22;94:3;
 118:25
proceeds 104:22
process 13:4;17:20,21;
 24:4;118:25;156:1
processes 17:5;30:21
professional 154:25
professionally 145:1
program 7:6;21:21,25;
 95:5
programs 7:14,15,17;
 8:2;89:20
progresses 135:5
progressing 91:16
prohibit 72:5
prohibition 77:13
project 79:14;139:19
projected 147:11
projecting 137:10
projects 82:25;85:15;
 87:1;89:13;94:18;129:12
promote 135:12
prone 42:20
prong 70:3
proper 42:20;117:6
properly 8:15;34:3;
 40:24;41:18;43:3,12
properties 22:12;83:1;
 105:6,7,13;124:5
property 7:20;17:11;
 19:8,9;22:8,15,17;23:1;
 25:25;80:12,18;90:10,19;
 93:20;97:17;98:4,15;
 110:19,22;111:11;112:1,
 11;118:5,12,12;119:22;
 120:10,11,23;122:1,16;
 123:12,22,24;124:1,10;
 126:13;127:25;128:5,14;
 133:6,9;149:6,11,13,17;
 158:22,24;159:4,5,12;
 167:9;181:22,24
property's 24:6
propose 116:16

<p>proposed 11:23; 118:17;119:17;123:16; 127:22;128:5,10,12,20; 129:7;138:9,19 proprietary 71:9 pros 150:8 prospective 110:21 protect 117:8 protection 134:6; 165:20 provide 7:23;8:13; 45:17;51:13,14;61:19; 82:5;97:13;105:22; 111:25;121:10,19; 124:14;162:20 provided 48:2;90:16; 162:12;167:8,19 provider 9:23;10:4 provides 22:3 providing 110:16; 124:17 provision 45:10;82:7 provisions 135:17; 149:3 public-safety 72:15 public 10:20;55:13; 56:4;61:24;62:3;68:12; 72:9;74:12;75:7;81:4,14, 12;116:1;123:5,6,7; 126:3;128:23;146:11,12; 150:3,6,6,21;156:15; 171:4,7,23;172:23;173:2, 20,21 Public 8:18 public-hearing 171:12 public-safety 70:6 public-use 136:24 public-works 94:18; 100:18 pull 11:1;84:11 purchase 90:25 purchased 8:7 purpose 69:13;75:24, 25;95:12;128:20,21; 130:2;143:12 purposes 99:20;154:1 pursuant 119:4 pursue 22:7 pursued 83:2 pursuit 179:15 purview 120:17 put 4:10;23:11;56:20; 61:15;70:16;78:2;80:17; 90:7;91:11,14,18,20; 129:11;131:4,14;132:2; 135:24;136:19;137:17, 19;138:16;147:3,15; 156:3;166:9,16,19;181:2, 9 Put 60:16 puts 61:14 putting 129:14;143:19</p>	<p style="text-align: center;">Q</p> <p>qualified 158:9 qualify 158:3 quality 115:15 Quality 18:6;19:7; 144:18 quandary 75:11 quarter 64:13;65:14; 66:6,7 question-and- 107:15 question-and-answer 107:12 quick 129:17;177:17 quicker 13:1;18:10; 101:10 quickly 7:16;162:19; 175:7;177:16 quite 103:20;112:7; 129:14;153:17;160:7,8 quorum 83:9,16 quote 27:12 quote/unquote 72:2</p> <p style="text-align: center;">R</p> <p>R-1 118:12 racks 69:1 rains 143:4 raise 44:23;156:18 raised 64:13;119:7 ramps 132:11 ranch 119:7,8;160:17; 163:17 ranches 124:6;129:2 range 105:22 rate 10:9;12:7;66:21,21 rates 23:23;64:14,18 rather 31:17;32:3;34:6; 41:20;62:2;70:9 rating 124:14 RDS 11:25 reached 39:17 read 21:25;51:20;55:2; 113:12;123:10;162:17,18 reading 163:1 re-advertise 171:16,25 real 73:6;104:13;140:16; 177:17 reality 140:22 really 16:3;24:17,19; 34:20;45:22;54:22,23; 65:18;67:24;68:25;78:13, 23;93:21;98:1,4;99:22; 100:21;101:2;103:10; 107:13;108:19;109:24; 114:13;130:2,24;131:16; 139:21;160:7,16,20; 166:15 realtor 110:21 reason 38:10;43:4; 100:24;117:9;148:11;</p>	<p>157:11;179:17 reasonable 47:16; 70:11;112:25 reasons 23:15;113:4 rebuttal 123:2;127:8; 134:15 rebuttals 133:25 recall 64:25 receipt 32:15;35:2; 180:24 receivables 14:8 receive 36:7;37:2,9; 52:17,20;62:2 received 8:4;47:25; 48:5,10,12,19;50:18,25; 52:18;127:19;180:16 receives 31:25 receiving 13:19;49:19 recent 107:5 recently 112:23;128:7; 153:15 Recess 64:8 recognize 126:21 recommend 7:21;69:6; 172:15 recommendation 39:14;50:12;89:25; 152:12;155:17 recommendations 121:21;137:23;149:10 recommending 155:2 record 10:1;16:1; 103:11;114:9 recording 122:22 recover 7:10 recovered 178:25 recovering 13:3 recovery 25:3 recreation 113:22 red 13:23,25 redeveloping 68:23 redevelopment 121:10 red-light-camera-fine 10:22 refer 68:15;119:10; 133:19 referenced 149:9 references 13:16 referring 142:14 refers 39:3 refile 46:10,16,20;58:12, 17;59:13 refiled 46:4;58:20,24 refiling 32:17;40:7 reflected 108:11 regard 22:21;23:2,3; 31:18,19;32:13 regarding 47:25;85:1; 105:6;107:21;165:15 regards 34:1;91:9; 129:9 regional 3:7 regulate 69:16;112:22</p>	<p>regulating 70:7 regulations 70:11 reinvesting 131:23 related 100:18 relative 103:9 relevant 31:21;33:6; 34:9;158:15;162:13 remedy 33:10 remember 51:11;64:25 remind 7:16 reminding 110:8 remitting 8:15 remove 117:15 removed 142:6;168:14 removing 143:24;144:4 render 36:19 rendered 38:1;46:14,22 renovated 160:16 rental 133:6 renter 11:7;21:7 renters 22:17;130:4 renter's 21:8 repair 87:5,6 repairs 86:21;92:3 repeat 171:22 replaced 94:23;142:11 replacing 138:10 report 118:8,11;122:12; 177:8,9 reported 176:25 reporters 4:5 representation 34:11 request 61:18;64:5; 96:19;97:5;101:9;118:4; 126:14;149:17 requested 121:3,6; 129:5;143:16;150:24 requesting 53:21; 128:18;148:7;156:12 require 82:12;139:18 required 61:15;118:15; 134:18;142:16;151:9,12, 23;153:14;154:22;166:16 requirement 61:20; 120:6;122:9;126:9;155:4, 6 requirements 137:24, 25;159:16 requires 125:25;126:1 research 23:3;67:24; 80:8;161:21 reset 171:24 reside 82:16 resident 110:17 residential 79:16;85:6, 13,17;86:4;136:17,22; 166:6;178:17 residents 23:17;82:24; 113:16;136:19 residual 124:1 resolution 86:19,22; 91:24;99:1,21,23 resolved 30:19</p>	<p>resources 11:1;45:17, 18;84:15;85:3;106:4; 117:13;148:25 respect 82:1;107:19,19; 125:18;164:11 respectfully 117:14 respond 178:20 respondents 84:22 response 55:10;67:2; 132:1;162:8;170:5; 174:11 responses 121:23 responsibility 34:15; 154:11 responsible 22:18,25; 147:10 rest 52:18;106:16; 128:24;161:12;180:15 restrict 78:9 restriction 135:7,8,9 restrictions 134:14; 149:12;159:10,16 resubmit 31:2;54:13; 56:10,16;58:8;59:16; 63:13 resubmitted 41:14,16; 42:3;53:21,24;54:2;55:20 Resubmitted 58:25; 59:1 result 82:14;85:25; 124:12 resulted 122:15 retail 76:20;77:1,8 retired 129:13 retirement 121:17; 132:7;133:3;137:9;138:6, 20 retrievable 20:3 retrieve 11:6 retroactive 66:5 revenue 7:10,23 revenues 112:1,5 reverse 139:3 review 28:9;37:4;119:9; 122:20 revised 92:1 revisions 82:18 revisit 172:18 re-vote 114:16 rewrites 145:23 Reynolds 97:9;101:12, 16 rezoning 153:20 rezonings 154:2,12 Rhonda 22:3;52:10 rich 148:3 Richard 161:5 rid 95:24;97:7 ride 9:6 ridiculous 166:19 right 12:16;15:2,23; 16:18;18:11;25:12;28:13; 33:17;38:12;46:7,10,10;</p>
---	--	---	---	---

<p>68:19;70:9;73:10;74:17; 80:15;85:11;88:23;92:21; 93:7,8;97:25;98:2,2; 116:10;128:3;130:5; 133:7;136:3;153:9; 159:17;164:5;177:15; 178:3;181:4,9 Right 18:5;19:1;27:18, 23;48:7;50:6;51:24; 53:11,15;60:1;88:17; 91:1;92:25;101:6;165:23; 172:12 right- 90:24 right-of-way 91:2;93:2; 146:11,13 rights 78:13 rising 110:25 road 56:3,5;116:12; 143:11;148:10;178:23 Road 94:5,22;98:8; 99:10;101:11,15 roads 95:9 robberies 178:12;179:2 robbery 178:11 Roche 5:16;6:14;26:19; 62:19;67:14;80:10; 102:24;170:17;174:23; 176:3,14;182:15 ROCHE 5:17;6:3,15; 17:22;25:4,7,21;26:8,20; 29:1;33:12;45:15;46:2, 23;47:8,17;51:9,25;54:9; 55:19;56:21,23;58:25; 60:1,9,21;62:20;63:12; 65:15,22;66:24;67:15; 73:4,14,21;74:16;75:5, 13,16;77:4;79:5,12,19, 23;80:1,11;83:3;85:5; 86:6,10,13;88:19;89:2; 98:19;99:4,8;102:25; 126:2;133:14;141:24; 143:15,20;144:10,25; 145:7;152:17;154:6; 155:19;163:4,8;165:25; 166:25;168:16,21,25; 170:18;173:5,11;174:8, 24;175:17,20;176:15; 181:11,20;182:16 role 34:19 roll 5:6;6:4;26:9;60:23; 62:8;67:4;102:14;165:2; 170:7;174:13;176:4; 182:5 rolling 83:5;86:8 roof 80:25,25;138:15, 16;140:13;141:2,4,4,17 roofing 141:13,16; 167:19 room 129:19 rooms 75:22 root 135:12 roots 117:2 rose 179:24</p>	<p>round 144:6 route 112:25 royally 59:21,23 rubbish 143:3 rule 59:12;72:12 rules 45:11;57:9;61:13; 77:19,20 ruling 39:3,4;42:15; 57:23 run 11:14;76:14;100:1; 139:6 Run 35:18;38:3 runoff 143:2;147:7 rush 41:19</p>	<p>141:12;153:9;162:20; 166:9;167:1;173:1 se 122:1;125:10 seam 141:17;167:19; 168:3 second 21:13;25:6,8; 26:7,8;56:23;60:19,21; 62:7;66:23;99:4,7; 104:22;111:23;137:16; 163:6;165:1;169:3;171:2; 174:7,8;175:23 Second 5:4,5;6:2,3; 66:24;149:8;169:4; 175:20;176:2;182:4 seconded 176:3;177:2 secondly 61:22 Secondly 160:5 section 31:21,22;32:2, 12,21;33:6;38:21;44:7; 47:10;137:23 Section 110:23;136:5; 142:8;151:23;152:3; 157:8,19;162:14 sections 163:12 sector 10:20 security 71:9 Security 11:13;12:17, 19;18:20;19:11,16,22; 24:21 seed 137:18 seeing 180:18 seek 32:25;43:9;158:4 seem 158:19 seemed 105:17;132:21 seems 57:25;89:3; 159:1,4 selected 78:6;164:8 self 139:22 sell 76:9;85:10;110:19; 158:24;159:5 selling 4:3;7:22 sells 70:5 senate 113:14 senator 108:3 send 8:9;17:16;18:1; 19:21;27:11,12;36:1; 148:4 sending 17:19,25;19:7, 7;20:18 senior 131:3 sense 78:23;98:20; 116:17 sensitive 94:10,12 sent 48:19;53:5,13; 89:10;181:19 separate 181:23 separately 4:22,25 Sequoia 131:2 series 179:18 service 8:1,11,17;9:21; 10:1,14;11:3,8,10;12:5; 19:24;20:15,20;22:3,7; 27:9,14;166:20</p>	<p>services 7:3,7,9,13; 103:16;105:21;107:22; 110:16;111:25;113:22 session 62:4;107:12, 16;154:15;156:15 Session 61:25;175:5,7, 14,19,25;176:20,23; 177:2 set 21:24;30:24;31:10; 44:21;59:9;86:25;135:20; 156:25;172:16 setback 123:10,11; 124:13 setbacks 118:16,17; 120:8 seven 124:21 several 17:4;68:1,2; 105:22,23;115:9,12; 133:16 shades 72:6 shall 32:3,4;40:3;134:4; 142:11;157:11;165:17; 167:8,19 shape 142:24 share 104:6 shares 124:19 shingle 141:9 shingles 138:14,23; 139:9,19,25;140:15; 141:1,12,16;167:18,18; 168:2,2 Shirley 177:25 shooting 93:7 shopping 68:5 short 175:4 shortfall 110:15;111:18 shortly 84:6 short-term 112:8; 114:1,14 shot 24:22;72:11,24,25; 73:6;111:6;113:7 show 84:17,18,18,19,20 showcase 160:22 showed 14:23 show-stoppers 145:1 shut 107:20,25 side 14:22;77:9,11;91:5; 92:4,21;93:5,7,8,10,11, 13,19;96:20;97:3,11; 98:18;116:10;118:16,17; 120:2;122:13,17;123:9, 11;124:9;125:16,17; 128:19;130:22;142:21; 143:25;144:1;159:22 side- 124:10 side-lot 124:4 sides 86:20 sidewalk 88:6;91:10; 92:20;94:22,23;98:3; 122:2;136:9,22,25;137:6; 166:17,20;167:4 sidewalks 87:16;88:16; 90:9;94:8,20,24;96:20;</p>	<p>97:3,10;99:3,12,14,21, 24;100:16;101:1,2,3,8, 15,21;102:9;136:17; 137:11,19;166:2,6,9; 167:8 Sidewalks 136:5,7 side-yard 129:5 siding 138:2,3,10 sight 128:4 sign 28:11;36:3;68:16; 69:7,19;84:18,19,21; 119:3;150:19 signage 68:24;69:1,9, 12,21;76:1,8,15,16 signed 11:22;35:24; 50:3;52:11;100:2 significant 103:14 signs 9:11;79:2;84:18 silly 137:5 similar 44:14;83:2; 121:7 simplify 116:17 simply 35:24;41:12; 69:1;149:18 single- 85:20 single-family 85:21; 124:15 single-story 121:12; 125:1 sink 138:25 site 82:2,19;90:11; 119:24;122:6;125:5 sites 82:20 sits 123:23 sitting 16:14 situation 4:9;21:24; 33:23;37:14;38:14,22,24; 43:1,17;45:24;46:17; 49:22;68:22;106:1;107:4 situations 73:5;179:14 six 24:2;32:18;46:21; 55:6;58:17,21;59:13; 142:13;155:25;169:21; 177:22;178:8 six-month 59:12 size 82:25;85:16; 151:16;157:17;158:2 sizeable 125:20 skateboarding 30:9 skip-tracing 17:4 slab 147:16 slate 144:6 Sledd 30:17 slightly 128:17 slimmer 20:1 small 163:21 Social 11:13;12:17,19; 18:20;19:11,16,22;24:21 sod 135:12,21,23,24; 165:16 sodded 134:4,9;165:21 solar 138:22,23;139:8,9, 25;140:1,4;141:12,16,21;</p>
S				
	<p>safe 71:20;78:20;99:5 safety 7:16;68:12; 72:10;74:13;75:7;111:11 sale 7:21,24;27:4,5; 70:9,11 same 11:24;32:18; 38:22;41:14;46:20; 120:22;124:19;140:25; 157:1,10,17;158:2,5; 159:15;182:22 Sandy 30:17 sanitation 11:3;14:2, 16,17,20,24;20:15;21:2, 25;22:18;23:2,5,8,12,23; 25:12,12;26:6;64:14,17 Sanitation 14:4,18; 64:12 Santa 28:24;29:3,22 sat 107:18 save 7:11;8:20;9:8; 141:24 savings 106:5 saw 85:7;130:8;144:19; 163:24,24 saying 4:9;27:13;38:8; 40:23;41:3,13;42:21; 53:20;55:5;56:17;64:24; 66:14;79:7;101:3;113:5; 134:8;171:19,21 scale 44:18 scary 106:15;110:3; 111:18;114:1 scenario 77:1,3 schedule 83:4,6 schematic 122:14 school 87:9;93:9,11,13, 19;96:24 School 94:25;101:16 schools 97:9;101:2,4; 130:9,25 scientific 140:16 scope 153:16;154:1 score 95:10 scores 87:9 Scott 79:10;100:19; 128:25;137:7;139:16;</p>	<p>141:12;153:9;162:20; 166:9;167:1;173:1 se 122:1;125:10 seam 141:17;167:19; 168:3 second 21:13;25:6,8; 26:7,8;56:23;60:19,21; 62:7;66:23;99:4,7; 104:22;111:23;137:16; 163:6;165:1;169:3;171:2; 174:7,8;175:23 Second 5:4,5;6:2,3; 66:24;149:8;169:4; 175:20;176:2;182:4 seconded 176:3;177:2 secondly 61:22 Secondly 160:5 section 31:21,22;32:2, 12,21;33:6;38:21;44:7; 47:10;137:23 Section 110:23;136:5; 142:8;151:23;152:3; 157:8,19;162:14 sections 163:12 sector 10:20 security 71:9 Security 11:13;12:17, 19;18:20;19:11,16,22; 24:21 seed 137:18 seeing 180:18 seek 32:25;43:9;158:4 seem 158:19 seemed 105:17;132:21 seems 57:25;89:3; 159:1,4 selected 78:6;164:8 self 139:22 sell 76:9;85:10;110:19; 158:24;159:5 selling 4:3;7:22 sells 70:5 senate 113:14 senator 108:3 send 8:9;17:16;18:1; 19:21;27:11,12;36:1; 148:4 sending 17:19,25;19:7, 7;20:18 senior 131:3 sense 78:23;98:20; 116:17 sensitive 94:10,12 sent 48:19;53:5,13; 89:10;181:19 separate 181:23 separately 4:22,25 Sequoia 131:2 series 179:18 service 8:1,11,17;9:21; 10:1,14;11:3,8,10;12:5; 19:24;20:15,20;22:3,7; 27:9,14;166:20</p>	<p>services 7:3,7,9,13; 103:16;105:21;107:22; 110:16;111:25;113:22 session 62:4;107:12, 16;154:15;156:15 Session 61:25;175:5,7, 14,19,25;176:20,23; 177:2 set 21:24;30:24;31:10; 44:21;59:9;86:25;135:20; 156:25;172:16 setback 123:10,11; 124:13 setbacks 118:16,17; 120:8 seven 124:21 several 17:4;68:1,2; 105:22,23;115:9,12; 133:16 shades 72:6 shall 32:3,4;40:3;134:4; 142:11;157:11;165:17; 167:8,19 shape 142:24 share 104:6 shares 124:19 shingle 141:9 shingles 138:14,23; 139:9,19,25;140:15; 141:1,12,16;167:18,18; 168:2,2 Shirley 177:25 shooting 93:7 shopping 68:5 short 175:4 shortfall 110:15;111:18 shortly 84:6 short-term 112:8; 114:1,14 shot 24:22;72:11,24,25; 73:6;111:6;113:7 show 84:17,18,18,19,20 showcase 160:22 showed 14:23 show-stoppers 145:1 shut 107:20,25 side 14:22;77:9,11;91:5; 92:4,21;93:5,7,8,10,11, 13,19;96:20;97:3,11; 98:18;116:10;118:16,17; 120:2;122:13,17;123:9, 11;124:9;125:16,17; 128:19;130:22;142:21; 143:25;144:1;159:22 side- 124:10 side-lot 124:4 sides 86:20 sidewalk 88:6;91:10; 92:20;94:22,23;98:3; 122:2;136:9,22,25;137:6; 166:17,20;167:4 sidewalks 87:16;88:16; 90:9;94:8,20,24;96:20;</p>	<p>97:3,10;99:3,12,14,21, 24;100:16;101:1,2,3,8, 15,21;102:9;136:17; 137:11,19;166:2,6,9; 167:8 Sidewalks 136:5,7 side-yard 129:5 siding 138:2,3,10 sight 128:4 sign 28:11;36:3;68:16; 69:7,19;84:18,19,21; 119:3;150:19 signage 68:24;69:1,9, 12,21;76:1,8,15,16 signed 11:22;35:24; 50:3;52:11;100:2 significant 103:14 signs 9:11;79:2;84:18 silly 137:5 similar 44:14;83:2; 121:7 simplify 116:17 simply 35:24;41:12; 69:1;149:18 single- 85:20 single-family 85:21; 124:15 single-story 121:12; 125:1 sink 138:25 site 82:2,19;90:11; 119:24;122:6;125:5 sites 82:20 sits 123:23 sitting 16:14 situation 4:9;21:24; 33:23;37:14;38:14,22,24; 43:1,17;45:24;46:17; 49:22;68:22;106:1;107:4 situations 73:5;179:14 six 24:2;32:18;46:21; 55:6;58:17,21;59:13; 142:13;155:25;169:21; 177:22;178:8 six-month 59:12 size 82:25;85:16; 151:16;157:17;158:2 sizeable 125:20 skateboarding 30:9 skip-tracing 17:4 slab 147:16 slate 144:6 Sledd 30:17 slightly 128:17 slimmer 20:1 small 163:21 Social 11:13;12:17,19; 18:20;19:11,16,22;24:21 sod 135:12,21,23,24; 165:16 sodded 134:4,9;165:21 solar 138:22,23;139:8,9, 25;140:1,4;141:12,16,21;</p>

<p>167:18;168:2 sold 4:2;22:15;24:6;149:11 sole 130:2 solely 22:18 solid 74:21;75:9 solid- 147:15 solution 22:17 solve 73:10;113:6 some- 109:17 somebody 52:15;108:5;179:21 Somebody 65:7 somebody's 18:10 Somebody's 88:14 somehow 57:14,21 someone 19:19;57:23 sometime 78:24;83:4 sometimes 68:24 somewhere 24:9 son 131:1 soon 8:3;166:17;175:13 sooner 161:11 sore 75:18 sorely 144:15 sorry 75:15;80:3;87:25;92:12;97:20 Sorry 14:3 sort 11:17;81:25;84:24;112:18;146:3,11;163:22 sorts 75:10 sound 15:2 sounds 79:5;109:20 source 53:3 south 79:2;127:23;130:22;142:21;144:1 South 13:14 southern 168:7 space 131:19 Spangler 5:19;6:17;26:22;62:22;64:3,11;67:17;103:2;170:20;175:1;176:17;182:18 SPANGLER 5:20;6:18;20:19,24;22:16;23:7;24:19;25:14;26:4,23;48:21;49:6,9;58:7,13,16;62:23;63:14;64:4,12,22;65:1,6,12,17,25;66:4,11,16,19;67:18;74:14;88:12;94:7,12,21;95:2;98:3,9;100:3,8;103:3;170:21,23;171:20;172:22;173:17,21;175:2;176:18;182:4,19 Spangler's 96:19;172:18 speak 67:25;79:14;117:19;123:3 Speak 161:1 SPEAKER 62:24;63:4,5;151:7;152:13 special 87:22;95:7;</p>	<p>124:14 special-called 83:12;25;84:5 specific 31:17,18;45:7;48:3;76:20;87:16,16;94:20;99:20;102:9;144:7 specifically 101:1;136:16;145:22 specified 119:1 spelling 40:9;127:3 Spelling 159:19;161:7 spend 135:14 split 63:2;64:1;119:7;129:3;158:20;159:4 splitting 47:18 spoke 161:25 square 119:6;125:24 stacking 82:9 staff 86:2;89:13;135:19;165:12;168:20,22 stairs 130:19;132:11 stand 33:8;63:18;104:7;109:13 stand-alone 68:4 standard 72:9;151:16;163:2 standards 79:6,20;119:9;157:21 standing 103:25;141:17;167:18;168:3 standpoint 31:4;80:20,21 stands 157:22 staring 75:2 start 17:15,18;20:4;24:3,4,9;34:5;65:13;103:10;127:11 started 11:20;13:17,19;24:12;84:7;166:13 starting 13:11;24:11,11;82:22 state 13:14;17:12;36:13;42:24;51:17;52:4;55:22;86:20;101:1;148:4;160:8 stated 140:7;168:20,21 statement 21:13;32:8;33:18;43:24;155:4 states 13:12;16:1;31:24 stating 48:5,9 statute 23:4 stay 130:23;132:22;133:1;175:15 staying 4:12 stays 41:14;139:4 steadfast 141:9 steal 55:3 stems 43:8 Steps 158:17 Steve 127:2;161:20 Stewart 68:6 still 4:1;21:4;24:25;42:13;48:9;49:25;52:13;</p>	<p>55:20;57:14,21;60:21;63:12;75:23;77:21;83:21;100:4;125:24;129:4;130:7;135:4;142:1;147:12,15;156:15;182:1 stipulations 149:9;165:7 stone 135:20;138:2;143:9 stones 144:7 stop 20:20;21:2;178:4,6 stopped 85:9 stopping 20:14;90:18 storage 69:2;144:20 storefront 77:5 stormwater 147:6 strange 129:1;158:19 street 9:7,11,11;71:2;78:25;92:21;127:16,25;128:4;143:5;159:22 Street 118:19,20;119:16;120:2,24;124:2;125:17;136:10,23;137:1;160:10;166:21 Streets 136:4 streetscaping 84:24 stretch 115:7 strict 179:20 strike 172:8 strip 68:5;119:20 structure 118:19;151:21;166:3 structures 118:24;122:8;157:10 struggling 74:25;144:14;147:6 stuck 77:6;79:9 study 103:23;106:20;107:1;113:13 stuff 106:10 subdivide 128:12;132:6;148:8,9 subdivided 118:13;148:21;163:25 subdividing 131:25 subdivision 118:25;119:2;122:21;130:13;166:17 subject 120:23;122:16;162:16 subjective 121:5 subjects 178:8 submit 87:1;127:5 submits 99:18 submitted 42:6,17,20;127:8;154:7 submitting 129:23 subsection 31:22,23;32:21;33:4;44:7;58:20;71:24 subsections 157:21;158:8 subsequent 149:16</p>	<p>substance 72:13 substantial 138:11 substrate 147:3 success 117:5 sucking 106:14 suddenly 163:17 sufficient 36:14;139:22 Sugar 78:15 suggest 17:13;20:4;24:11;89:15;121:5;159:24;172:7 suggested 31:5;137:13 Suggested 31:7,9 suggesting 139:17 suggestion 40:20;41:13;56:7;138:13 suggestions 100:19,20 suggests 120:21 suicide 95:25;97:7;148:20 sum 54:4,5 summertime 138:25 sun 140:21 sunset 149:3 superior 32:24;33:1,11 supplement 133:10 supplied 50:15;118:11 support 116:22;117:2;126:14,22;128:1,6,11;141:15;161:16,17;162:3;164:2 supposed 35:21 suppression 124:18 surcharge 64:15 sure 4:13;8:14;12:15;13:5;19:15;35:12;74:7;77:11;80:15;93:17;102:8;103:11,14;129:24;133:4;159:10;165:4 Sure 15:11;81:23;95:23 surface 147:16 surplus 7:20,22,25 surprised 51:19 survey 120:9 surveying 120:12 Susan 111:16;156:23 suspect 37:19;40:21 sustainable 134:12;135:21;138:20 Suwanee 13:18 Sweeney 48:1;51:14;52:16;53:6;61:11 switching 11:25 system 9:3;17:8;25:3;44:20;138:24;139:5,8,12 systems 147:6</p>	<p>61:23;103:6;106:8;107:14,20;126:8 talked 9:18;79:11;103:21;104:17;105:2;106:17,20;112:17;134:21;135:11 talking 84:8;85:16,18,19;90:8;96:1,2;106:3;112:12 tall 84:19,20 taller 143:7 tangential 120:23;122:16 tank 111:1;112:24 tanks 110:22 tap 131:20;148:25 taught 161:23 tax 8:12,15;9:9;22:1;23:12,19;27:6;112:1,11;118:7;132:22 taxation 105:12,25 taxes 8:12;14:24;23:14;25:25;26:6;103:18;107:24;110:11,16 technically 46:18,24;47:2,4;155:12 technological 138:22 tells 116:24 temperature 139:4 ten 14:11;118:21;124:11 tend 43:13 Ten-minute 64:6 tent 49:1 term 46:4;114:1 terminal 169:19 terminate 175:6 terms 45:10;59:8;112:10;125:9 terrific 162:2 territory 59:8 thanks 114:24 theirs 13:19 theme 68:23 therefore 10:15;37:18;39:18;162:25 Therefore 43:8 thereof 168:4 thinking 83:15;111:18 third 70:3 third- 9:22 third-party 10:3 Thirty 36:22 Thompson 48:1;51:13;52:16;53:6;61:11 thoroughfare 128:23 though 19:5;42:17;92:1;105:10;139:25;167:1;171:21 Though 164:16 thought 43:8;51:6;53:5;123:20;134:9;163:25;166:18 thousand 14:12,14,20;</p>
		<p>T</p>		
		<p>table 133:13;162:6 tables 144:22 Taco 73:19 talk 7:1,2,9;16;18;18;</p>		

<p>105:23 three 38:18;40:15;49:4; 66:9,15;84:18;109:9; 111:5;112:13;113:9; 114:19;116:23;135:9; 141:19;163:17;168:1 three- 129:19;141:8; 167:17;168:1 three-dimensional 138:14;139:18;140:14 three-pronged 69:5 threshold 102:6 throat 75:18 throughout 68:3 thrown 49:14 Thursday 3:8;104:17; 105:5;112:3 tie 63:20;64:2 tied 149:10;179:18 till 172:24 Tilly 86:23;87:5,6,9; 90:3,24;93:4;97:14;99:10 timely 43:10;48:22; 49:12 times 18:1,8;115:22 timetable 136:21 timing 111:20 tinting 74:8 Title 70:7 today 67:24;85:8,9; 93:17;144:24 Today 160:10 together 41:23;78:2 told 4:6;40:13 tolerances 121:2 toll 34:24 Tom 114:8 tomorrow 137:14; 148:19;158:24;166:20; 180:25 tonight 6:24;9:16; 54:18;56:10;58:4;74:11; 86:7;103:8;117:21;118:4; 127:9;136:13;149:24; 172:7 Tonight 56:21,22 took 49:4;181:6 topography 125:4; 131:20;143:1;148:16 tops 80:25,25 totally 131:16 Tots 30:6 touch-screen 8:19,23 tough 114:22;115:9 town 81:25;82:22;83:4, 7,9,21,25;130:22 Toys 30:5 track 16:1;19:3 tract 118:7 Tract 119:13,14,22; 120:1,10;121:17;122:23, 24;123:12;125:20; 127:22,24;128:5,10;</p>	<p>129:7;142:6,22;166:10; 167:11 tracts 119:12 traditional 76:4;85:22 Traditionally 76:5 traffic 88:13;112:21; 179:22 training 34:2,6,18,20, 23;41:2,10;42:7,18,19; 51:10,14;153:24;154:15 transferrable 159:11 transferred 49:15 transition 117:20 transmits 36:4 trash 8:20;9:5;143:3,5 trash-truck 9:4 treatments 72:3 tree 28:21;134:6;165:20 tried 45:2;49:12;117:11; 178:18 tri-levels 124:3 truck 8:24;178:8 trucks 112:22,23,24; 115:21,23;178:9 true 4:11;38:9;161:9 trust 160:19 try 6:25;12:2;15:12; 16:16;17:5,9;19:23,25; 24:15,17,18;29:13;81:3, 4;89:5;90:5;91:18,21; 117:12;132:21;143:4; 178:4 trying 12:23;19:8;42:2; 49:18;53:9;54:3;68:18; 73:8,10;74:16;76:9; 88:18;108:13;115:9; 116:16;130:18;147:8; 159:4 Tucker 115:17 Tuesday 104:16;105:3 turn 12:13;13:1,1;15:16; 16:19,19,22,23,24;24:22; 25:19,22;39:14;95:15,18; 97:6;116:4,6;158:24 turned 74:1 turning 16:9;79:22; 100:17 Turning 95:16 twenty 14:11,14,19 two 10:8;16:11;36:11; 38:15;53:16;55:25;58:11, 15;79:2;100:9;103:8,22; 108:22;118:23;119:1,12; 122:23;130:5;143:7; 152:16,22;153:4;158:21; 160:13;163:17;177:12; 178:24;181:7,23 two- 129:14 two-car 122:10;125:1; 126:1;129:10,21 twofold 36:9;75:25 two-pronged 36:16 type 36:3;72:17;77:3,18;</p>	<p>83:2;146:4,12,19;159:23 types 16:5;68:2;144:7 typically 81:18;124:3</p> <p style="text-align: center;">U</p> <p>UGA's 134:23 ultimate 36:14 um 92:17 umbrella 93:5 unanimously 177:4 uncharted 59:8 unconstitutional 68:20 under 57:9;70:3;98:21, 24;152:3;159:15,17; 167:16 Under 70:7;119:9; 121:21;166:1 under- 103:24 underlying 52:2 underneath 38:17; 58:4,18;61:13;76:4; 129:17 Underneath 76:3 underneath-the-house 131:14 understood 52:14; 112:2 unfortunate 43:15 unfortunately 16:7; 23:6;47:21;49:20 Unfortunately 37:16; 68:24 unfounded 36:13 UNIDENTIFIED 62:24; 63:4,5;151:7;152:13 unilaterally 118:23 unincorporated 112:20;113:1,20;116:6; 178:10 unique 21:24;75:10 unit 139:9 Unit 82:7;86:3 units 85:18,19 unjustified 36:12 unless 83:17;123:10; 144:5 Unless 24:16;92:6 unlike 69:18 unlimited 9:12 unnecessary 143:23 unpopular 155:3 unreasonable 47:20; 137:2;142:1 unroyally 59:24 unsuccessful 135:15 up 4:3,14;7:5;9:1,5; 11:22;18:16;21:24;23:23; 24:15;30:6,13,24;31:11, 12;35:5,9,12;41:8,21; 52:8;54:4,21;55:18; 59:22,24,25;62:24;68:13;</p>	<p>69:2;77:6;78:24;79:9; 80:16,22;81:8;86:16,25; 87:1,2;89:6;90:5,12,17, 24;91:18;93:14,20;98:6, 8,13;108:7,18;109:2,14; 111:8,9;114:2;115:4; 130:8,11,18;132:13; 139:2,10,11;140:19; 143:7,11;150:19;156:18; 159:4;161:4;172:23; 173:1,2,7,10,12,14,19; 178:20 upcoming 11:24 updated 178:7 upon 32:1;35:2;84:15; 85:3;122:19;147:3;149:4 Upper 94:24;95:1 up-to-date 16:9 urbanism 76:3 urgent 73:9 urging 132:15 use 9:14;10:14,15,16; 17:8;25:2;46:4;55:5; 69:11;82:6;86:3;113:22, 23;139:8,20;141:22; 142:23;155:11;157:9 used 9:10,13;31:23; 32:3;135:22;138:12,15; 143:8;144:8,20;156:7; 180:18 uses 82:10 using 82:22;115:23 usually 69:5;71:14; 72:11 Usually 72:9 utilities 11:4 Utilities 10:25 utilized 131:18 U-turn 116:3</p> <p style="text-align: center;">V</p> <p>validity 107:1 Valley 92:24 valleys 140:19 value 111:11;165:12 variance 120:3,19; 121:2;122:15;128:19; 129:6;145:20,22;148:7; 149:6;150:23;151:18; 155:14;157:12;158:5,6, 11 variances 118:4,13,14, 22;119:4,25;120:15,16, 21;122:20;126:15; 147:19;149:4,11,18; 152:5;155:7;156:5; 159:11;163:5;168:18 Variances 162:14 various 78:5;85:23; 124:18;134:14 vehicle 144:19,21; 178:6,22</p>	<p>vehicles 179:1 versus 81:7;84:12 vertical 82:9 via 36:4;52:17;53:2 view 69:25;128:10,22 viewed 123:25 viewing 124:9 Vinson 103:23;106:19; 113:12 vinyl 138:10 violated 52:5 violating 52:4 violation 42:4 virtue 58:3;69:6,15; 70:13 visible 71:1 vision 72:14;80:12; 81:5;82:1,3,3,15,19,24; 84:24 visionary 84:15 visioning 84:25;85:4; 86:1 volunteer 164:10 vote 63:4,5,11,20,20,23; 64:1;113:24;114:5,5,17 voted 45:17;51:13; 104:8;105:10</p> <p style="text-align: center;">W</p> <p>wait 55:6;169:11,23; 175:11 waiting 42:13;97:1 walk 98:16 walking 68:13;140:20; 143:6;161:2;163:11 walks 72:24;90:12 wallop 111:21;112:8 walloped 108:20 walls 77:6 Wal-Mart 81:20 wants 25:22;41:15;55:7, 13;94:14;109:7;117:7; 132:17;145:17;147:15; 148:14;158:22;161:21; 167:1 warranty 140:15 waste 162:25 Waste 110:23 watching 75:3 water 13:23,24;23:6; 134:19,24;135:1,3,13 water/sewer 11:2; 22:21 watering 135:7 waves 55:16 way 9:8;15:24;21:25; 31:16;36:16;38:11,17; 41:1;43:20;45:6,22; 56:11;59:19,24;68:7; 69:4;70:1;78:18;80:15; 85:6;86:25;90:13;91:15; 98:1,2,2,8;105:5;110:20,</p>
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<p>22,23,23;114:7;135:2; 142:24;145:10;161:3 ways 7:9;17:9;38:18; 58:5;75:20;114:19;155:9, 10 weapons 178:25; 179:20 Weber 108:3 Wednesday 3:6,8; 30:11 Weed 30:21;35:11; 41:25;42:16;65:25;68:19; 83:8;149:2;153:25; 154:14;172:25;176:25 WEED 21:12;22:19; 23:9;31:15;33:14;34:8; 35:17,20;36:22,24;37:1, 7,21;38:5,8;39:5,8,12,20, 23;42:10,24;46:11,25; 47:15,19;57:1;58:9,15, 18;59:4,17,21;60:4,14, 19;61:12,18;62:1;63:6, 10,17,22,25;66:2;68:21; 70:18,20;71:3,14;72:4; 73:12;75:20;76:12,22; 77:12;79:10,13,21,24; 83:14;84:2;92:8,13; 99:18,25;151:1,10,13,20; 152:9;153:21;157:6,19; 158:4,14;162:11,24; 168:23;171:6,10,23; 172:3,13;173:7,23;174:1, 4;175:3,21;177:9 week 8:3;66:13;135:9 weekend 160:13 weeks 49:4;103:8,22; 108:22;135:10;155:25 weigh 100:21 weight 101:4,17 Weiner 126:23;127:14; 161:5 WEINER 161:1,5 W-E-I-N-E-R 161:7 weren't 20:15;43:14 west 127:21;128:8,9 what- 107:23 what-have-you 103:17;104:2;107:25 what's 51:2;66:9;68:14; 133:4;135:25;147:20; 164:20;172:13 What's 73:9;147:18 whatsoever 10:12; 155:15 wheelchair 132:9,11 whenever 24:12 whereas 51:23 Whereas 141:2 whereby 107:9 wherever 108:8 white 8:25 whole 52:1;78:22; 81:11;94:23;95:6;107:18;</p>	<p>175:9 wholesale 77:5 whole-street 136:21 whomever 119:23 who's 116:14 Whose 56:12 wide 44:2;71:11;119:20; 125:13,17;129:5;167:7,8 Wide 125:15 wider 132:8,8 width 128:22;129:8,18 wife 107:4;130:6; 148:21;161:23 wife's 130:20 willing 109:15;161:14; 168:10 Wilton 118:1,6;119:17, 19;121:1;125:16;127:4; 136:10,22,25;159:18; 160:9;161:6,7;166:21; 167:9 win 160:1 wind 172:6 window 35:14;39:18; 67:22;72:3,10;76:7,8; 78:8;94:3 windows 68:6;69:2,12; 71:1,11,20;72:20;74:4; 75:3;76:2,6;78:21;79:1 Winters 88:2,9,11;94:5; 116:3,5 wintertime 139:3 wish 82:17 withdraw 96:13 within 17:17;32:9,14; 37:9;44:1,9,12,16,21; 47:6;120:16;131:17; 142:12;150:24;166:22 without 12:12,17,18; 19:22;33:10;41:18;46:14; 50:12;111:25;161:2 Without 118:10 women 73:6 wonder 109:15 wonderful 29:15; 161:15 wondering 91:5 word 86:3 Wording 41:14 words 51:20;56:14; 83:24;124:13;149:19; 160:19 work 9:2;13:17;15:23; 18:12;79:15;89:23;98:20; 100:7;108:10;111:3; 114:6;117:19;131:10; 157:2;167:12;179:5 worked 84:16;111:4,5, 20;125:20;142:1 workers' 7:18 working 16:2;30:16; 90:3;106:9;117:19; 149:22;160:12,15</p>	<p>works 89:12;157:25 Works 8:18 workshop 83:22 world 129:12;140:16 worth 113:7 writ 32:25 write 21:18 written 38:12;105:5 wrong 49:24;109:13 wrote 47:9</p> <p style="text-align: center;">X</p> <p>X-amount 78:8 XYZ 33:21</p> <p style="text-align: center;">Y</p> <p>y'all 13:9;24:15 yard 8:25;98:7,10; 111:10;118:16,17,18; 128:19;157:2;160:14; 161:11 year 8:9,10;9:18;16:10; 23:18;28:23;29:16,20; 30:1;80:23;105:15;106:1, 1,24;110:10,10,10; 111:24;113:15;130:7; 160:7;169:9 years 10:8;16:8,8,8,11; 17:20;85:8,10;111:4,5; 112:16;125:20;130:4,17; 132:16;133:10;140:22, 25;141:3;142:13;147:12; 152:16;153:4;158:22; 159:3;160:6;163:10; 169:11,19,23 Year's 84:7 years' 140:5,9;166:22 years/25 140:17 Yep 86:12 you-all 64:13;104:8; 127:19 youngest 130:6;131:1; 147:24</p> <p style="text-align: center;">Z</p> <p>zoning 4:17;69:18; 77:22;78:2;79:16;80:20, 21;150:25;155:8,13; 171:10</p>		
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