

In The Matter Of:

City of Doraville

State of Georgia

Work Session

January 14, 2013

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

* * *

WORK SESSION

* * *

Transcript of the meeting held in the
City Council Room at Doraville City Hall,
3725 Park Avenue, Doraville, Georgia, Mayor
Donna Pittman presiding, before Theresa
Bretch, Certified Court Reporter, commencing
at 6:30 p.m. on January 14, 2013.

* * *

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1 PROCEEDINGS

2 MAYOR PITTMAN: Meeting come to order.

3 Call the roll, please.

4 CLERK BRYANT: Councilmember Alexander?

5 COUNCILMEMBER ALEXANDER: Here.

6 CLERK BRYANT: Councilmember Bates?

7 COUNCILMEMBER BATES: Here.

8 CLERK BRYANT: Councilmember Dean?

9 Oh.

10 CLERK BRYANT: Councilmember Fleming?

11 COUNCILMEMBER FLEMING: Here.

12 CLERK BRYANT: Councilmember Pachuta?

13 COUNCILMEMBER PACHUTA: Here.

14 CLERK BRYANT: Councilmember Patrick?

15 COUNCILMEMBER PATRICK: Here.

16 MAYOR PITTMAN: Thank you.

17 CLERK BRYANT: I'm sleeping.

18 MAYOR PITTMAN: We can take a recess. I

19 would say no later than -- how much longer do you want

20 to wait?

21 COUNCILMEMBER ALEXANDER: Seven o'clock.

22 MAYOR PITTMAN: Seven o'clock. We'll take a

23 recess till 7 o'clock and then we'll resume the

24 meeting.

25 ---

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1 APPEARANCES:

2 Doraville City Council:

3 Mayor Donna Pittman

4 Councilmember Maria Alexander

5 Councilmember Brian Bates

6 Councilmember Trudy Jones Dean

7 Councilmember Pam Fleming

8 Councilmember Karen Pachuta

9 Councilmember Robert Patrick

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11 Sandra Bryant, Deputy City Clerk

12 Cecil McLendon, City Attorney

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1 (Recess)

2 ---

3 MAYOR PITTMAN: Meeting come to order.

4 Okay. This is a special-called meeting/
5 work session, and we are going to start out with the
6 city manager discussion.

7 And Mr. Andrews --

8 COUNCILMEMBER PACHUTA: And we can go in --

9 I'm sorry.

10 MAYOR PITTMAN: That's okay.

11 I was going to say, and Mr. Andrews, if you
12 have anything you want --

13 ---

14 (Councilmember Dean arrives)

15 ---

16 MAYOR PITTMAN: We're just getting started.

17 We were waiting.

18 Well, I will say that we had an excellent,
19 excellent meeting on Saturday. And I guess if you
20 want to say anything, and then we'll maybe have to go
21 into Executive Session.

22 How should we -- should we just open it and
23 then go into Executive Session? How should we do it,
24 Cecil?

25 COUNCILMEMBER PACHUTA: I think we should

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1 just go into Executive Session.
2 ATTORNEY McLENDON: Yeah. To the extent
3 that you want to discuss the specifics and you want
4 any further, you know, discussion about your final
5 selection and the conversations, that would be
6 appropriate for Executive Session, so you can go in
7 and have those discussions.
8 Any votes, anything like that would have to
9 take place here. The general discussions about the
10 position would take place here as well.
11 COUNCILMEMBER PACHUTA: I'd like to make a
12 motion to go into Executive Session for the purposes
13 of discussing the city manager hiring.
14 MAYOR PITTMAN: Second?
15 COUNCILMEMBER BATES: Second.
16 MAYOR PITTMAN: Discussion?
17 ---
18 (No response)
19 ---
20 MAYOR PITTMAN: Call the roll, please.
21 CLERK BRYANT: Councilmember Alexander?
22 COUNCILMEMBER ALEXANDER: Yes.
23 CLERK BRYANT: Councilmember Bates?
24 COUNCILMEMBER BATES: Yes.
25 CLERK BRYANT: Councilmember Dean?

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

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1 CLERK BRYANT: Councilmember Fleming?
2 COUNCILMEMBER FLEMING: Yes.
3 CLERK BRYANT: Councilmember Pachuta?
4 COUNCILMEMBER PACHUTA: Yes.
5 CLERK BRYANT: Councilmember Patrick?
6 COUNCILMEMBER PATRICK: Yes.
7 MAYOR PITTMAN: Okay.
8 COUNCILMEMBER BATES: I'd like to make a
9 motion to authorize the City to enter into nego-
10 tations with Shawn Gillen as our first city manager.
11 COUNCILMEMBER PACHUTA: Second.
12 MAYOR PITTMAN: Call the roll, please.
13 CLERK BRYANT: Councilmember Alexander?
14 COUNCILMEMBER ALEXANDER: Yes.
15 CLERK BRYANT: Councilmember Bates?
16 COUNCILMEMBER BATES: Yes.
17 CLERK BRYANT: Councilmember Dean?
18 COUNCILMEMBER DEAN: Yes.
19 CLERK BRYANT: Councilmember Fleming?
20 COUNCILMEMBER FLEMING: Yes.
21 CLERK BRYANT: Councilmember Pachuta?
22 COUNCILMEMBER PACHUTA: Yes.
23 CLERK BRYANT: Councilmember Patrick?
24 COUNCILMEMBER PATRICK: Yes.
25 MAYOR PITTMAN: Thank you. And now we have

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1 a request for a five-minute break.
2 ---
3 (Brief recess)
4 ---
5 MAYOR PITTMAN: Meeting come back to order.
6 Next on the agenda is the Charter Changes.
7 That's going to be Mr. McLendon.
8 ATTORNEY McLENDON: All right. And Mayor
9 and Council, this is coming back again. We've looked
10 at this a couple of times. And again, these are just
11 suggested changes in this document, and I've actually
12 reviewed it and I have a couple I might even suggest
13 that we go through it just for clarity.
14 If we can go through just section by
15 section, in the first section, which is 2-02, we
16 removed some language from 1972. That was when they
17 had initially begun the process, so I think that's a
18 little bit out of date.
19 And further down in that paragraph, what
20 we've done is it talked about how you called meetings
21 and how you went forward with meetings.
22 And instead, we've deleted that discussion
23 about the process and just said that the meetings will
24 have 24 hours advance notice pursuant to the Georgia
25 Open Meetings Act, and by referencing that, we keep

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1 the law referenced and we don't have to try to make
2 sure our specifics match their specifics.
3 Further down, we talk about a quorum, and in
4 the version you have, it says, "including the Mayor
5 shall constitute a quorum."
6 That's -- as I re-read that to myself, we
7 can leave that, and that's okay.
8 I think it would be a little clearer if we
9 said this, if we can follow. I just said, "A majority
10 of the Council shall constitute a quorum," period, and
11 then add a sentence that says, "For the purposes of a
12 quorum, the Mayor shall be counted."
13 So I think that's clearer. So it just says
14 a majority of your number is a quorum, and if the
15 Mayor is here, she counts to the quorum. So I would
16 like to make that change in your final version if
17 that's okay with everybody, because I think it's
18 little clearer.
19 COUNCILMEMBER ALEXANDER: Because -- and the
20 reason I noted that is because Mayor Pittman had to
21 sit in, was Mayor Pro Tem and conducted meetings for
22 almost two months. So that's why I was questioning
23 that language.
24 ATTORNEY McLENDON: Right. So I think
25 that's better language, so that'll be in your next

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1 version.
2 In Section 2.03, we have -- Again, these are
3 going to be provisions that would take place at the
4 time that we change over to a city manager.
5 So the first paragraph that had been there
6 has been struck, and we have added duties of the Mayor
7 in Subsection (a). It says, "Be it further enacted,
8 the Mayor shall," and it lists out those duties 1
9 through 8.
10 As I'm looking at the Charter where we made
11 a change in Section (6), that change was in
12 contemplation that the Mayor named the attorney and
13 the judges. But when I look to the Charter, it looks
14 like it's really just a Council decision on that,
15 everybody here. So I think that revision in paragraph
16 can actually come out, because it's really the Council
17 itself as a body. So that can be -- we'll take that
18 out of paragraph (6).
19 COUNCILMEMBER BATES: That highlighted
20 section?
21 ATTORNEY McLENDON: Yes.
22 COUNCILMEMBER BATES: Okay.
23 COUNCILMEMBER PACHUTA: Number 7, since the
24 next section, 2.07, is about compensation, to have the
25 compensated accordingly or we reference 2.07 or --?

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1 Because the next section is Compensation and Expenses.
2 ATTORNEY McLENDON: I don't know that they
3 conflict, because in a general term you're just saying
4 compensated, and then it has further definition in
5 that further subsection.
6 So I don't feel like I would need to change
7 that for clarity, because it's general enough that
8 it's just modified by the section specifically
9 discussing it.
10 The next section, (b)(1), what I would
11 suggest here -- and, you know, I'm making some
12 changes, but frankly, I really drilled down on this in
13 the last day or two, and I want to go ahead and
14 suggest these.
15 What I would do is make that much simpler. I
16 would just say, "For the four-year term of office
17 beginning January 1, 2012, the office of Mayor shall
18 be a full-time position until," put a date, and then
19 from that date, it shall be part-time.
20 It's clearer. We just establish the date.
21 And what goes in that blank, you-all tell me, but I
22 think if we word it like that, it's unequivocal.
23 COUNCILMEMBER PACHUTA: Should we put a date
24 or should we specify something more like X days after
25 the city's first city manager is hired?

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1 ATTORNEY McLENDON: We can.
2 COUNCILMEMBER PACHUTA: 60 days, 90 days,
3 whatever we decide.
4 MAYOR PITTMAN: What did you say?
5 COUNCILMEMBER FLEMING: House Bill 544
6 indicates when, and that's what you've got here. And
7 to come off of that, we are changing what House Bill
8 544 was.
9 ATTORNEY McLENDON: Understood. Tell me
10 what we would like to do with this.
11 COUNCILMEMBER DEAN: Well, legally, I just
12 want to make sure that we are in compliance of the
13 law. And you said before, that we can do this; right?
14 I mean because I would like to see a full-
15 time city manager come in as quickly as -- as he can.
16 And at that time, I think that there -- you know, I
17 mean, whatever, whether we put a date specific or
18 whether we set a time specific -- that is, X number of
19 days after a full-time city manager takes office --
20 then we can go that way, but that's . . .
21 And I know that Ms. Fleming has concerns
22 over this, so could you please, just for the record
23 and for all of us, just clarify again that this is
24 legal and that we are -- we are positioned to -- to go
25 forward with what we have been working on.

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1 ATTORNEY McLENDON: Yeah. And, you know, we
2 have reviewed that legislation, and the big thing you
3 cannot change through Home Rule is the form of govern-
4 ment. The form of government is set out in the
5 changing the city manager/part-time Mayor, all that.
6 That's the form of government.
7 The date, that's something I believe can be
8 changed by Home Rule. That is not the form of govern-
9 ment; that's the duration, which I believe would be
10 subject to --
11 COUNCILMEMBER DEAN: Okay.
12 ATTORNEY McLENDON: -- Home Rule.
13 COUNCILMEMBER FLEMING: But in this
14 particular draft that we've been given -- and this is
15 the second draft, also -- it's been -- all of a
16 sudden, now you've decided to change your mind on how
17 it's going to be written.
18 ATTORNEY McLENDON: I can go with the
19 original language if that's --
20 COUNCILMEMBER FLEMING: Well, I'm just
21 curious --
22 ATTORNEY McLENDON: -- preferable.
23 COUNCILMEMBER FLEMING: -- as to why you've
24 now decided to change your mind.
25 ATTORNEY McLENDON: Simpler. It's just more

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1 straightforward. Because what this says is -- you
2 know, it turns around and says, here are the dates,
3 and then at the end, it says, however, you know, it
4 can take place on this other date.
5 I just -- if you're going to put a date,
6 have a date certain, you could use the concept of
7 the phase-in as well.
8 COUNCILMEMBER FLEMING: And I was just
9 throwing that out there.
10 ATTORNEY McLENDON: And again, I can live
11 with the language that's in there.
12 COUNCILMEMBER DEAN: Well, it still says,
13 "Notwithstanding the above, said transition to a part-
14 time Mayor shall take place prior to December 31," and
15 so that's -- I mean "prior to," that's, I think, the
16 operative word.
17 COUNCILMEMBER BATES: To me, to make it nice
18 and clean from a budgetary standpoint, from a
19 transitional standpoint, I'm fine with July 1 -- July
20 1, 2013.
21 MAYOR PITTMAN: Lisa, that's what you have
22 it budgeted through is July 1; right?
23 MS. LISA FERGUSON: Uh-huh.
24 ATTORNEY McLENDON: So I'm good with the
25 language we had.

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1 I think it's clearer just to state the date,
2 which is why I made that change, but at the same time,
3 I know that's sort of springing it on you.
4 And if we inserted July 1 into the language
5 you had, I think that would also resolve it. So
6 either way you want me to go, I'm good.
7 COUNCILMEMBER FLEMING: Well, dependent upon
8 -- and I know this is our Charter and this is for the
9 first go-round, the first city manager will still be
10 in a 90-day probationary period.
11 And personally, I am just speaking for
12 myself, that I still feel that our full -- that our
13 Mayor's position should be a full-time position until
14 that probationary period is completed. That's my
15 personal opinion.
16 ATTORNEY McLENDON: And I'm wide open to
17 whatever we decide to do, I'm good.
18 COUNCILMEMBER PACHUTA: I'm fine just
19 putting July 1st in since that's what we budgeted for.
20 ATTORNEY McLENDON: We'll put it in as July
21 1st, but again, it's something to debate at the next
22 meeting if anybody changes their mind, but the draft
23 that will come back will show the July 1st date.
24 Section 2.04, we took out another reference
25 to 1972.

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1 And it does call for the mayor pro-tem to be
2 elected; at the first regular meeting of each year,
3 you will come and elect a mayor pro-tem.
4 MAYOR PITTMAN: It's going to be on the next
5 agenda.
6 COUNCILMEMBER DEAN: Is it?
7 ATTORNEY McLENDON: Yeah. We've left the
8 provisions the same.
9 COUNCILMEMBER DEAN: Okay.
10 MAYOR PITTMAN: It will be on the next
11 agenda.
12 COUNCILMEMBER PATRICK: Is there a simpler
13 language besides, "Upon the council's failure to elect
14 a Mayor pro-tem at the first regular meeting of each
15 year, the incumbent councilman not up for election,"
16 under some bizarre Byzantine system.
17 Could it just be a plurality of the vote?
18 Is that --
19 ATTORNEY McLENDON: There could be much
20 simpler language, but that was what was in there. I
21 didn't change it.
22 You know, you could -- you could choose some
23 other formula. It is a formula you can figure out.
24 So it's been -- sort of had the history with it, that
25 that's why I didn't tinker with it.

1 COUNCILMEMBER PATRICK: Does anyone have an
 2 opinion or are you guys fine with it?
 3 COUNCILMEMBER DEAN: Well, this is --
 4 COUNCILMEMBER PATRICK: It just seems --
 5 COUNCILMEMBER FLEMING: Yeah, because you
 6 have to run over and try to find the last election
 7 results and etc., etc.
 8 You know, whatever you guys want to do.
 9 COUNCILMEMBER DEAN: Well, in this case,
 10 we've already -- we've already missed the first
 11 Council meeting; right? So this isn't what --
 12 ATTORNEY McLENDON: What would happen just
 13 if we were really Robert's Rules, if we needed a pro-
 14 tem, what you would do is at that meeting elect
 15 someone to serve for the meeting.
 16 MAYOR PITTMAN: This has happened before,
 17 so.
 18 ATTORNEY McLENDON: Yeah. So that's how it
 19 all plays out under Roberts Rules.
 20 COUNCILMEMBER BATES: Until this changes,
 21 we're still under the May 1972 date.
 22 MAYOR PITTMAN: Yeah.
 23 ATTORNEY McLENDON: That's true.
 24 MAYOR PITTMAN: We'll work through that too.
 25 ATTORNEY McLENDON: So again, it's whatever

1 we wanted to do with it. We could simplify it,
 2 leaving it.
 3 If it's at the first meeting of every year,
 4 it's not a problem, frankly. If you miss the first
 5 meeting, Robert's Rules sort of has a methodology of,
 6 well, technically, we'd have to go and calculate this
 7 at the next meeting.
 8 COUNCILMEMBER DEAN: Or maybe even the first
 9 month of the year, I mean, because there's a lot
 10 changing in January, and so that will give us a little
 11 leeway and we'll still be in compliance with our
 12 Charter.
 13 ATTORNEY McLENDON: What do you want to say?
 14 COUNCILMEMBER BATES: I'm with Trudy on
 15 that.
 16 ATTORNEY McLENDON: Okay.
 17 COUNCILMEMBER BATES: I'm not sure we need
 18 to lock ourselves into the first meeting --
 19 COUNCILMEMBER DEAN: Right.
 20 COUNCILMEMBER BATES: -- of that month, but
 21 in the month of January --
 22 MAYOR PITTMAN: Yeah, because we . . .
 23 COUNCILMEMBER BATES: -- that the mayor
 24 pro-tem, unless they're no longer in office, would
 25 carry through until . . .

1 ATTORNEY McLENDON: And we will put the
 2 concept in that before the end of January of each
 3 year, a pro-tem, and then just say, "Until that
 4 election, the other shall continue" until that takes
 5 place.
 6 Does that work?
 7 COUNCILMEMBER DEAN: Yes.
 8 MAYOR PITTMAN: That's good.
 9 ATTORNEY McLENDON: Okay.
 10 COUNCILMEMBER BATES: And I guess, Robert,
 11 the only -- my only concern with doing the plurality
 12 would be if -- if everybody only got two votes.
 13 COUNCILMEMBER PATRICK: And that was what I
 14 concerned of is if everyone votes for themselves, two
 15 people get together, that would be . . .
 16 ATTORNEY McLENDON: Yeah, and --
 17 COUNCILMEMBER BATES: We've seen this in the
 18 past where Council couldn't come to an agreement --
 19 COUNCILMEMBER PATRICK: Yeah.
 20 COUNCILMEMBER BATES: -- and, you know,
 21 everybody got two votes or three votes.
 22 COUNCILMEMBER PATRICK: Then, I guess that's
 23 why that language is in there.
 24 COUNCILMEMBER BATES: And it defaulted then
 25 back to this.

1 I think it's cumbersome, but it's there as a
 2 protection to keep --
 3 COUNCILMEMBER PATRICK: There's a reason for
 4 it.
 5 COUNCILMEMBER BATES: Yeah.
 6 ATTORNEY McLENDON: Okay. So are we saying
 7 we want to leave that in?
 8 COUNCILMEMBER PATRICK: Okay.
 9 ATTORNEY McLENDON: Okay. But we're going
 10 to say it has to be by the end of January that they're
 11 elected, and if not, it goes to this formula again.
 12 COUNCILMEMBER BATES: Yes.
 13 MAYOR PITTMAN: Yes.
 14 COUNCILMEMBER PACHUTA: Yes.
 15 ATTORNEY McLENDON: Got it. Okay. And the
 16 next section, we have Compensation and Expenses, and
 17 what we've done with that -- and this is perfectly
 18 allowable -- is just stated that compensation shall be
 19 fixed by ordinance after a public hearing.
 20 So you put an additional requirement on it
 21 of having a public hearing, but it's just fixed by
 22 ordinance. It would still be subject to the rules of
 23 the State about raising it would not take place until
 24 the next --
 25 COUNCILMEMBER PACHUTA: Right, and we don't

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1 have to put that in here because the State law says
2 you can't raise it until --
3 But I didn't know if maybe we should throw
4 that in there just so that when people are reading it
5 and they think, "Oh, ordinance. So they're just going
6 to start raising their salaries," that we emphasize in
7 here subject to restrictions in State law that
8 prohibit raises, whatever, do not take effect until
9 the next election, but.
10 ATTORNEY McLENDON: The only thing, I think
11 it's a --
12 COUNCILMEMBER PACHUTA: Although I know
13 State law could change.
14 ATTORNEY McLENDON: Yeah. That's the only
15 thing we get in is if we start making those
16 COUNCILMEMBER PACHUTA: So I just think
17 maybe just having "subject to restrictions of Georgia
18 state law, or I don't -- just to emphasize, because I
19 have heard that, a couple of comments from people.
20 ATTORNEY McLENDON: How about if we do --
21 That's -- if everybody agrees with that, I think
22 that's good language, actually.
23 We can say, "Be it further enacted that
24 subject to" -- you know, "subject to Georgia law,"
25 comma, and then add that in.

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1 Does that sound right?
2 COUNCILMEMBER PACHUTA: Uh-huh.
3 ATTORNEY McLENDON: Okay. We added the
4 expenses capped by ordinance, so you would also be
5 able to address that at the time you pass the salary
6 ordinance, put in any -- You would either be able to
7 put in a cap or put in allowable expenses, that type
8 of language.
9 COUNCILMEMBER DEAN: And in this part with
10 the expenses, I mean, because I'm not -- Do we have
11 something now that stipulates a list of -- or
12 stipulates expenses or approval of expenses for
13 anyone? I mean --
14 ATTORNEY McLENDON: If we do, it will be our
15 purchasing policy most likely, and I do not know off
16 the top of my head.
17 COUNCILMEMBER PATRICK: Wouldn't it have to
18 be budgeted first?
19 COUNCILMEMBER ALEXANDER: That's what it
20 says right there. "Each Council member" is current
21 language. That's what's in there now.
22 ATTORNEY McLENDON: Right. Yeah. So that's
23 pretty open. "Actual and necessary," that would be --
24 COUNCILMEMBER DEAN: Right.
25 ATTORNEY McLENDON: That would come all of a

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1 sudden for an interpretation.
2 COUNCILMEMBER DEAN: Right. Right, right,
3 right.
4 ATTORNEY McLENDON: So if there's further
5 rules laid out, and this just contemplates that you
6 could potentially put further --
7 MAYOR PITTMAN: I hate interpretation.
8 ATTORNEY McLENDON: -- modifying language in
9 the ordinance.
10 MAYOR PITTMAN: I'd rather it just be ground
11 in stone.
12 ATTORNEY McLENDON: The next section is the
13 City Manager section.
14 COUNCILMEMBER FLEMING: I want to comment
15 about one thing.
16 ATTORNEY McLENDON: Sure.
17 COUNCILMEMBER FLEMING: The only -- halfway
18 down of (a) where you got "The City Manager shall be
19 generally in charge of the day-to-day operations,"
20 there were several candidates that --
21 MAYOR PITTMAN: Uh-huh.
22 COUNCILMEMBER FLEMING: -- did not care for
23 the word "generally."
24 ATTORNEY McLENDON: Didn't like it? Okay.
25 Good. That's a group of people I would definitely

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1 respect their opinion.
2 COUNCILMEMBER PACHUTA: Where are you
3 looking?
4 ATTORNEY McLENDON: Let's take a look at it.
5 COUNCILMEMBER FLEMING: Halfway down of (a)
6 where it says "generally in charge of the day-to-day
7 operations."
8 ATTORNEY McLENDON: That's in the original
9 charter. That's what the legislature gave us.
10 Okay. I think that can definitely go.
11 Otherwise, this code section gives
12 additional definition to what was originally adopted
13 by the legislature. It lays out specific points that
14 are fairly consistent through most city manager-
15 managed cities.
16 COUNCILMEMBER PATRICK: A question I have --
17 ATTORNEY McLENDON: We added the language
18 about a bond.
19 Go ahead. I'm sorry.
20 COUNCILMEMBER PATRICK: I was going to say
21 is there a benefit in having the city attorney --
22 pardon me, not the city attorney -- municipal
23 judges --
24 COUNCILMEMBER ALEXANDER: I had that
25 same question.

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1 COUNCILMEMBER PATRICK: -- under the city
2 manager, as in we're entrusting him to manage the
3 operation except --
4 COUNCILMEMBER BATES: It's "except."
5 ATTORNEY McLENDON: The judges are not --
6 And actually, there would be some conflicts with law,
7 because judges have some independent authority.
8 COUNCILMEMBER PATRICK: Okay.
9 ATTORNEY McLENDON: What the Charter says --
10 and that goes back to what we discussed earlier --
11 who's in charge of the judges is y'all by virtue of
12 the appointments.
13 And the problem you would run into if you
14 put them under the city manager is the judicial
15 autonomy that they really need to maintain.
16 COUNCILMEMBER PATRICK: Okay. One more
17 question.
18 ATTORNEY McLENDON: But the court budgeting,
19 those things would be within the purview of the
20 manager.
21 COUNCILMEMBER PATRICK: Okay.
22 COUNCILMEMBER PACHUTA: This is a little off
23 topic, but 3.02 in the Charter discusses the city
24 attorney can also serve as municipal judge.
25 ATTORNEY McLENDON: I don't --

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1 COUNCILMEMBER PACHUTA: Can we take that
2 out?
3 ATTORNEY McLENDON: I'm good. I've had all
4 the judging I ever need.
5 COUNCILMEMBER PACHUTA: But you were talking
6 about conflict of interest or, you know, lack of
7 separation. I don't know if we can do that by Home
8 Rule, but I don't . . . And it's not really in the
9 city manager section, but.
10 ATTORNEY McLENDON: We can do that by Home
11 Rule. I see no reason you couldn't do that by Home
12 Rule.
13 I think that that would be good language to
14 take out. If everybody is amenable to getting that
15 sort of anachronistic provision out of there, I have
16 no problem with that.
17 And it's Section 3.02?
18 COUNCILMEMBER PACHUTA: Uh-huh. And then in
19 3.03, I think our fines conflict with State law.
20 ATTORNEY McLENDON: Yeah.
21 COUNCILMEMBER ALEXANDER: Can you check that
22 3.03 does not conflict with State law? because we
23 changed the maximums to a thousand.
24 COUNCILMEMBER FLEMING: Well, actually we
25 changed the appointment of the Mayor pro-tem to

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1 January.
2 COUNCILMEMBER PACHUTA: Yeah, I thought we
3 did too.
4 COUNCILMEMBER FLEMING: We did --
5 COUNCILMEMBER PACHUTA: But I --
6 COUNCILMEMBER FLEMING: -- a few years ago.
7 COUNCILMEMBER PACHUTA: -- thought it was on
8 the Internet, and it's not on Municode. I thought it
9 was on Municode and it's not on Municode.
10 COUNCILMEMBER FLEMING: Well, we probably
11 did it by Home Rule, by resolution, and our reso-
12 lutions don't go to Municode.
13 ATTORNEY McLENDON: Okay.
14 MAYOR PITTMAN: Well, I guess that's one of
15 those thousands of things we talk about and talk about
16 and talk about.
17 ATTORNEY McLENDON: We will take out the
18 ability for the city attorney to be a judge, which
19 makes good sense. Yeah, we will get that concept out
20 of there.
21 The second --
22 Let me check that against State law. I mean
23 that's just authority granted.
24 COUNCILMEMBER PACHUTA: I think it's in
25 conflict.

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1 ATTORNEY McLENDON: That sounds too high,
2 but I will double-check that. Okay.
3 COUNCILMEMBER PACHUTA: I thought we'd fixed
4 it like years ago.
5 COUNCILMEMBER ALEXANDER: We may have. I
6 believe we went through a gap in stuff getting
7 submitted to Municode.
8 ATTORNEY McLENDON: Okay. So we've added in
9 the Subsection (b) about the bond, and I think that
10 was part of the last discussions.
11 COUNCILMEMBER PACHUTA: Could we give -- as
12 we're going through the negotiations with city
13 manager, give them a copy of this section and get
14 their feedback?
15 COUNCILMEMBER DEAN: Yeah, that would be
16 great.
17 ATTORNEY McLENDON: I think that would be a
18 wise thing to do.
19 COUNCILMEMBER DEAN: And the other thing is
20 because I just want to make sure that the tasks, the
21 examples of tasks that we received, are these -- are
22 all of these listed in here? I mean I haven't
23 compared them.
24 ATTORNEY McLENDON: This is very compre-
25 hensive language that's in this. It came out of --

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1 it's sort of a best-practices by looking at a lot of
2 charters.
3 I have not put them side by side.
4 COUNCILMEMBER DEAN: Right.
5 ATTORNEY McLENDON: My reaction is yeah,
6 it'll all be -- this is broad enough that it's going
7 to cover about everything, but we can also -- I can do
8 that side by side to make sure.
9 COUNCILMEMBER DEAN: Okay.
10 COUNCILMEMBER FLEMING: Well, this wouldn't
11 necessarily need to look like a job description, you
12 know, for the city manager, should it? The Charter is
13 a more broad description.
14 ATTORNEY McLENDON: Yeah. It's a little
15 different in the context that in the Charter, what
16 this is doing is it's an enabling provision. What it
17 does is it's like this is giving that power to them,
18 as opposed to the job description which is more of a
19 "Here's what I expect," our expectations. This is me
20 saying, "You have the authority to."
21 And we'll double-check that. We're going to
22 review.
23 COUNCILMEMBER FLEMING: Are we on page 9
24 yet?
25 ATTORNEY McLENDON: I'm looking at page 10.

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1 so.
2 COUNCILMEMBER FLEMING: No. We need to go
3 to 9 --
4 ATTORNEY McLENDON: Okay.
5 COUNCILMEMBER FLEMING: -- number (13).
6 You've got "re required."
7 ATTORNEY McLENDON: "Required," right.
8 All right. On page 10, we added the bond
9 but nothing else is changed.
10 Page 11, similarly.
11 COUNCILMEMBER PATRICK: I had a question on
12 page 11 --
13 ATTORNEY McLENDON: Okay.
14 COUNCILMEMBER PATRICK: -- paragraph (3) --
15 (counting), one, two, three -- the fourth line down.
16 I guess it says an affirmative vote of the majority of
17 all members.
18 Is that any different than a quorum?
19 ATTORNEY McLENDON: Uh-huh.
20 COUNCILMEMBER PATRICK: And I guess would we
21 not want to have a . . . Never mind.
22 ATTORNEY McLENDON: You could have --
23 COUNCILMEMBER BATES: Well, the --
24 ATTORNEY McLENDON: Somebody could veto by
25 refusing to come.

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1 COUNCILMEMBER BATES: Right. So the
2 majority would be four votes, whereas a quorum would
3 be three votes of the four people present.
4 ATTORNEY McLENDON: Uh-huh.
5 COUNCILMEMBER BATES: So this makes it more
6 strict than a quorum.
7 ATTORNEY McLENDON: It is more strict than a
8 quorum, and that's -- I mean this is --
9 COUNCILMEMBER PATRICK: Yeah.
10 ATTORNEY McLENDON: But if you're here,
11 you --
12 COUNCILMEMBER BATES: I just want to make
13 sure that that's the intent is to make this more
14 strict than a quorum.
15 ATTORNEY McLENDON: I think it is.
16 You know, I can see an issue if somebody
17 didn't want to -- may have been the vote that would
18 not succeed and just said, "You know what? I just
19 won't come."
20 So it would be appropriate to make that a
21 quorum. There would be no reason that -- there's no
22 reason under the law that it has to be every member.
23 And I think you point out a good issue,
24 which is you don't want one person to be able to
25 pocket veto everything by just --

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1 COUNCILMEMBER DEAN: Not showing up.
2 ATTORNEY McLENDON: -- calling in sick;
3 correct.
4 COUNCILMEMBER BATES: Well, that would
5 require three people to do that --
6 ATTORNEY McLENDON: Right.
7 COUNCILMEMBER BATES: -- which is not
8 unheard of.
9 I agree with your point.
10 [To Councilmember Pachuta] Are you okay with
11 making it a quorum?
12 COUNCILMEMBER PACHUTA: Or can we just say
13 affirmative vote of at least four votes?
14 ATTORNEY McLENDON: Of a majority of all its
15 members.
16 COUNCILMEMBER ALEXANDER: That would be four
17 votes.
18 COUNCILMEMBER BATES: That would be four.
19 COUNCILMEMBER PATRICK: That basically gets
20 it. Okay.
21 COUNCILMEMBER PACHUTA: So if you have less
22 than a full Council, you might still need --
23 ATTORNEY McLENDON: A majority of all.
24 COUNCILMEMBER PACHUTA: If you only had
25 four, it --

1 ATTORNEY McLENDON: Yeah. Okay.
 2 COUNCILMEMBER PACHUTA: -- it would have to
 3 be unanimous.
 4 ATTORNEY McLENDON: And I'm -- I'm sorry,
 5 because I was -- I was thinking that you had to have
 6 everybody on the dais.
 7 But what this -- You're -- you're correct.
 8 What this is saying is it just takes -- you can't have
 9 the -- get a quorum in here and have the three votes.
 10 This is saying, under any circumstances, you're
 11 bringing four votes --
 12 COUNCILMEMBER BATES: You got to have four
 13 votes.
 14 ATTORNEY McLENDON: -- or else it's not
 15 happening.
 16 So that -- that takes away some of my fears
 17 that one person could end up derailing the whole
 18 thing, so. And it is a higher standard, which, in
 19 this case, this is such a significant event, that that
 20 might -- yeah, I think it would likely be the intent.
 21 COUNCILMEMBER PACHUTA: Because if you only
 22 had four, you would still have to have --
 23 COUNCILMEMBER BATES: Three votes.
 24 Well, it could end in a tie.
 25 COUNCILMEMBER PACHUTA: Well, you could --

1 yeah, it could be two/two. But I mean to do this,
 2 you'd have to have all four.
 3 COUNCILMEMBER PACHUTA: What if there was
 4 only four?
 5 COUNCILMEMBER BATES: You'd only have to
 6 have three votes.
 7 COUNCILMEMBER PACHUTA: No. I'm saying if
 8 you make it affirmative vote of at least --
 9 COUNCILMEMBER BATES: Oh, right.
 10 COUNCILMEMBER PACHUTA: -- four votes.
 11 COUNCILMEMBER BATES: Right.
 12 ATTORNEY McLENDON: Yeah. You're basically
 13 saying you have to get four votes for this one as
 14 opposed to if only a quorum showed up, you could have
 15 three.
 16 And it's not required by law, but it seems
 17 like it's a higher standard, which, if you're sitting
 18 in this case after a hearing with a city manager, we
 19 need it to be a thoughtful -- as many people involved
 20 in that decision-making process as possible, and I
 21 suspect that's why it's like that.
 22 COUNCILMEMBER FLEMING: So why would we
 23 not --? I'm just playing devil's advocate here. Why
 24 would we not go to a hearing officer for this rather
 25 than we've made the decision to terminate and now

1 they're going to appeal to us?
 2 COUNCILMEMBER PATRICK: Because if that
 3 hearing officer says in his or her opinion that
 4 they've done nothing wrong, now you've got us, who
 5 have already expressed disinterest in that person, and
 6 now we have to continue working with one another,
 7 which that would be a very unpleasant --
 8 COUNCILMEMBER FLEMING: Yes, but that's --
 9 COUNCILMEMBER PATRICK: -- relationship.
 10 COUNCILMEMBER FLEMING: -- the same way it
 11 is with the employees.
 12 COUNCILMEMBER PATRICK: I think it's -- I
 13 don't think a city manager --
 14 COUNCILMEMBER FLEMING: Does it not go to a
 15 public hearing --
 16 ATTORNEY McLENDON: It goes to the hearing
 17 officer --
 18 COUNCILMEMBER FLEMING: -- I mean a hearing
 19 officer for employees?
 20 ATTORNEY McLENDON: -- to determine.
 21 COUNCILMEMBER PATRICK: Yes, it does.
 22 But a city manager is not just any old
 23 employee. In my view, a city manager is almost a non-
 24 voting member of this board, this Council. So I, in
 25 my opinion, think that this is where we should have

1 our hand on it.
 2 ATTORNEY McLENDON: What a hearing does is
 3 it lets you -- it lets you come in and make sure that
 4 the decision is thoughtfully laid out.
 5 It's a little bit defensive, frankly. You
 6 can come in and you can say, okay, have the hearing,
 7 and let's just knock the foundations down on this so
 8 we know frankly we are on all fours and we put our
 9 best case forward on it. So it's an opportunity for
 10 that.
 11 It's also an opportunity for a review. And
 12 if the -- you know, if minds were changed by the
 13 opportunity.
 14 But I do agree, with an employee down --
 15 sort of down in the organization, the hearing officer
 16 is an ability to come in and say, we've sort of had a
 17 lawyer put a real legal review on what's the issues?
 18 why are you doing this?
 19 But it is true; this one --- this is a power
 20 that holding it to the Council seems a good thing to
 21 do.
 22 Those are thoughts, and actually I'm a
 23 little bit beyond your attorney in saying that, so I
 24 defer to you guys.
 25 COUNCILMEMBER PACHUTA: I prefer to say a

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1 vote of four, but.
2 COUNCILMEMBER FLEMING: I'm sorry. What?
3 COUNCILMEMBER PACHUTA: I prefer to say
4 four, like it takes four votes.
5 So if some Council member decided they
6 weren't going to come and they weren't going to
7 participate, it would --
8 ATTORNEY McLENDON: So we'll leave it like
9 it is.
10 COUNCILMEMBER PACHUTA: No --
11 COUNCILMEMBER FLEMING: Yeah.
12 COUNCILMEMBER BATES: Well, a majority --
13 COUNCILMEMBER PACHUTA: -- because the way
14 I'm reading it --
15 COUNCILMEMBER BATES: Majority is not a
16 quorum.
17 So majority right now is four votes --
18 COUNCILMEMBER PACHUTA: Right.
19 COUNCILMEMBER BATES: -- and that's what
20 this is saying.
21 COUNCILMEMBER PACHUTA: But what Robert was
22 saying, that made it sound like all the members have
23 to be here.
24 ATTORNEY McLENDON: I initially --
25 COUNCILMEMBER PACHUTA: That was Cecil's --

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1 ATTORNEY McLENDON: I initially read it that
2 way.
3 COUNCILMEMBER PACHUTA: Okay.
4 ATTORNEY McLENDON: And when I looked at it,
5 I don't think it requires everyone to be here but I
6 think it requires four votes.
7 COUNCILMEMBER DEAN: I mean I think that if
8 it meant to say that, it would say a majority of all
9 its members present, and it doesn't say that.
10 COUNCILMEMBER BATES: But that's just a
11 quorum.
12 ATTORNEY McLENDON: Well, you could have a
13 quorum, and if the quorum was unanimous, it's done.
14 COUNCILMEMBER FLEMING: If there were only
15 four people here, you would have to have those four
16 people voting --
17 ATTORNEY McLENDON: Unanimously.
18 COUNCILMEMBER FLEMING: -- affirmatively.
19 You could not have any opposition here.
20 COUNCILMEMBER ALEXANDER: But one of those
21 four could be the Mayor, and they wouldn't vote unless
22 it was a tie.
23 COUNCILMEMBER BATES: And then it wouldn't
24 be four.
25 ATTORNEY McLENDON: Then you wouldn't have a

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1 -- yeah.
2 COUNCILMEMBER BATES: I'm okay with changing
3 it to a minimum of four; requires four votes. I think
4 that --
5 COUNCILMEMBER PACHUTA: To me, that needs
6 clarity. I mean when you first read it and you
7 thought --
8 ATTORNEY McLENDON: Yeah.
9 COUNCILMEMBER PACHUTA: -- that tells us
10 it's not as clear --
11 ATTORNEY McLENDON: Got it.
12 COUNCILMEMBER PACHUTA: -- as it should be.
13 ATTORNEY McLENDON: Let me -- let me make
14 sure I'm following exactly what we want to put into
15 that. Can somebody restate it for me?
16 COUNCILMEMBER ALEXANDER: Four votes are
17 required for this action.
18 COUNCILMEMBER BATES: By an affirmative vote
19 of four members.
20 COUNCILMEMBER FLEMING: Council members.
21 COUNCILMEMBER PACHUTA: Right.
22 ATTORNEY McLENDON: How about if we said by
23 an affirmative vote of no less than four Council
24 members. Okay.
25 So Section 2.08, we have basically said that

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1 the City Clerk has moved to a -- the city manager sort
2 of appoints, nominates, and it's confirmed by the
3 Council.
4 Again there is a bond as well, and we took
5 out serving as the treasurer.
6 COUNCILMEMBER PATRICK: One minor thing I
7 noticed was that "preparing and certifying the copies
8 of official records in his office." Could we make it
9 "his or her" just since we --
10 ATTORNEY McLENDON: Did I not catch another
11 one of those? Yes, we will.
12 COUNCILMEMBER BATES: There's a couple of
13 them.
14 ATTORNEY McLENDON: We'll vet it for that
15 entire section and make sure it says, "his or her." I
16 caught it. There is one place we caught it. Okay.
17 Now, Section 2.11 suggests that authority to
18 change the organization always rests with you, but
19 this gives the city manager the ability to be making
20 that recommendation to you.
21 Section 2.12, there were no changes from the
22 last draft, and it provides the authority of the
23 Council.
24 COUNCILMEMBER ALEXANDER: On that (b)
25 section, I believe there is a comma missing between

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1 "convenience" and "prosperity."
2 ATTORNEY McLENDON: Okay. There is. All
3 right.
4 And then what happens is as of the effective
5 date, the existing sections regarding the current
6 setup are deleted and replaced by the finance
7 director, which, again, it puts it to the city manager
8 appointing subject to confirmation on the finance
9 director and it provides a bond on that.
10 So that's it. That's what we had.
11 COUNCILMEMBER PATRICK: On page 15,
12 paragraph (b), I know we talked about this last time,
13 and I guess I didn't necessarily remember the answer.
14 But paragraph (b) seems to be restating
15 2.11. And if that's the case, why? Why put it in two
16 different sections? if I'm reading it correctly.
17 ATTORNEY McLENDON: Let me take a look at
18 it.
19 I think what we've done is basically it
20 does; it is a cross-referencing of the two. And it
21 basically says the -- the -- I don't have a problem
22 with it, because I think what it's saying is the
23 manager has the ability to do all this, but
24 ultimately, changing the organizational structure is
25 subject to the approval of Council.

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1 And we just have it in the one section that
2 says the Council has the authority to approve it, but
3 then we also have it over here saying --
4 COUNCILMEMBER PATRICK: Okay.
5 ATTORNEY McLENDON: -- organizational
6 changes.
7 I think it's okay, but let me --
8 COUNCILMEMBER BATES: This is under the
9 Finance Director section.
10 COUNCILMEMBER PATRICK: That's correct.
11 COUNCILMEMBER ALEXANDER: And the
12 additional.
13 ATTORNEY McLENDON: And I think we actually
14 had this conversation the last meeting for some
15 reason.
16 COUNCILMEMBER ALEXANDER: We had two
17 sections.
18 COUNCILMEMBER PATRICK: We did.
19 ATTORNEY McLENDON: And we did this because
20 I remember suggesting that.
21 COUNCILMEMBER PACHUTA: Can we not just have
22 like a new 2.12 (a) or --
23 ATTORNEY McLENDON: Give me a second, if you
24 could give me one second.
25 COUNCILMEMBER BATES: Because, at a minimum,

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1 you should flip (b) and (c).
2 MAYOR PITTMAN: Cecil, while you're looking
3 at that, can I ask a question to them?
4 ATTORNEY McLENDON: Yeah.
5 MAYOR PITTMAN: It's a quarter till 9:00,
6 and we still have one item. Is your intentions to
7 extend and how long, or no?
8 COUNCILMEMBER DEAN: I would like to -- and
9 I don't know if I have to make a motion, but I would
10 like to set aside the architectural standards until
11 after we get a city manager in place so that he can go
12 over this with us and kind of . . .
13 I mean if we're going to have a city manager
14 in place who has a vision of how the city should be,
15 then I think that his input would prove invaluable to
16 this whole discussion.
17 COUNCILMEMBER PATRICK: Respectfully, I
18 disagree. It's been through the public board, it's
19 been in the community.
20 I think it's appropriate that we move with
21 it. I would prefer to get it done tonight no later
22 than 10 o'clock.
23 COUNCILMEMBER DEAN: But see, now our
24 situation has changed and we have someone who is --
25 who is knowledgeable on these -- on these matters.

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1 And that while it's been on the table for a
2 long time, I think that if we go, "Yes, let's do it
3 now," rather than waiting a short -- a very short,
4 relatively short period of time to have someone come
5 in and advise us on his ideas and his vision for the
6 city, then I think that that might prove beneficial to
7 not just us but also to the city, because we will have
8 someone in place who -- who is knowledgeable.
9 COUNCILMEMBER PATRICK: Counter-argument
10 would be that the city manager doesn't bring his
11 vision here. He's here to implement our vision.
12 So again, I think we've been through the
13 process; let's get it done. Otherwise, we're going to
14 be a year, two years.
15 COUNCILMEMBER ALEXANDER: I make a motion to
16 extend the meeting to complete the Charter Changes
17 agenda item.
18 MAYOR PITTMAN: Second?
19 COUNCILMEMBER PACHUTA: Second.
20 MAYOR PITTMAN: Discussion?
21 So in other words, you're not willing to
22 move any past that tonight.
23 COUNCILMEMBER ALEXANDER: No, ma'am.
24 MAYOR PITTMAN: Okay. Discussion?
25 - - -

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1 (No response)
 2 - - -
 3 MAYOR PITTMAN: Call the roll, please.
 4 CLERK BRYANT: Councilmember Alexander?
 5 COUNCILMEMBER ALEXANDER: Yes.
 6 CLERK BRYANT: Councilmember Bates?
 7 COUNCILMEMBER BATES: Yes.
 8 CLERK BRYANT: Councilmember Dean?
 9 COUNCILMEMBER DEAN: Yes.
 10 CLERK BRYANT: Councilmember Fleming?
 11 COUNCILMEMBER FLEMING: No.
 12 CLERK BRYANT: Councilmember Pachuta?
 13 COUNCILMEMBER PACHUTA: Yes.
 14 CLERK BRYANT: Councilmember Patrick?
 15 COUNCILMEMBER PATRICK: No.
 16 MAYOR PITTMAN: Thank you. Motion carries.
 17 Mr. Cooley, thank you. I apologize for you
 18 having to sit through this --
 19 MR. COOLEY: That's quite all right (exiting
 20 Council room.)
 21 MAYOR PITTMAN: -- and anyone else that
 22 might be here specifically for that.
 23 ATTORNEY McLENDON: I think what we have is
 24 a hold-over from the old. This is the old Charter,
 25 and this is the original Charter language.

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1 And I believe what you had right there in
 2 that section is the finance director was specifically
 3 contemplated in the Charter that the City -- that
 4 could have been consolidated in -- or in the language
 5 that came across, that that position could be
 6 consolidated under the manager if they chose to do
 7 that. It's contemplating that you could not
 8 necessarily have that called out separately, and I
 9 think it's contemplating that the manager could wear
 10 two hats.
 11 COUNCILMEMBER PACHUTA: Well, could we -- So
 12 currently we have 2.13 and 2.13(a).
 13 ATTORNEY McLENDON: I've got an idea,
 14 because I think what you really do with that is just
 15 take that out of the Finance Director section and put
 16 it into the powers of the city manager. And if you've
 17 done that, then you've said it is a power of the city
 18 manager to make these recommendations subject to the
 19 approval. It is your ability to have the approval.
 20 It's cross-referenced in talking about y'all control
 21 the organization. The manager can -- it's a power of
 22 his or hers to make a recommendation. And I think
 23 that cleans it.
 24 COUNCILMEMBER PACHUTA: So small letter (b)
 25 will move under the 2.11, then.

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1 ATTORNEY McLENDON: It would be moved up to
 2 the city manager powers --
 3 COUNCILMEMBER PACHUTA: Okay.
 4 ATTORNEY McLENDON: -- and tagged onto the
 5 city manager powers.
 6 COUNCILMEMBER PACHUTA: Okay.
 7 COUNCILMEMBER BATES: So are you suggesting
 8 2.07A?
 9 ATTORNEY McLENDON: Uh-huh, yep. It becomes
 10 a new number under 2.07A.
 11 COUNCILMEMBER BATES: So we're moving 2 --
 12 COUNCILMEMBER PACHUTA: 2.13 lowercase (b)
 13 will go to 2.07 lowercase something.
 14 ATTORNEY McLENDON: I think you would want
 15 to insert it as the new number (13) because the
 16 existing (13) is sort of a catch-all. So we would
 17 want it to become (13), and the existing (13) becomes
 18 (14).
 19 COUNCILMEMBER ALEXANDER: Clear as mud.
 20 ATTORNEY McLENDON: Is it? Let me . . .
 21 COUNCILMEMBER FLEMING: You're e-mailing all
 22 these changes; correct?
 23 ATTORNEY McLENDON: I can get these -- I can
 24 get these to you tomorrow, yep.
 25 But it'll just move it into a power of the

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1 city manager, which is a more appropriate location for
 2 it, I think.
 3 And you're correct; it doesn't work under
 4 the Finance Director section. Let's leave that about
 5 the finance director.
 6 And because it's in the general powers, if
 7 they want to do it with the finance director or
 8 anybody else, as long as you-all agree, they have the
 9 authority to make that recommendation.
 10 So that's what we got.
 11 COUNCILMEMBER ALEXANDER: Okay. Section
 12 2.14 is the section regarding city attorney, and it
 13 wasn't included in the changes.
 14 ATTORNEY McLENDON: Uh-huh.
 15 COUNCILMEMBER ALEXANDER: The city attorney
 16 may be the prosecuting officer in municipal court,
 17 I'm not in favor of that. I see that as a conflict.
 18 So wow, in the old Charter, you could have
 19 been the judge and the prosecutor.
 20 COUNCILMEMBER PACHUTA: Have Lenny as one,
 21 Cecil as the other?
 22 ATTORNEY McLENDON: I'll just wear the same
 23 hat.
 24 COUNCILMEMBER ALEXANDER: And the last line
 25 of that section it says, "and shall give official

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1 opinions involving applicable ordinances and laws
2 affecting the city when requested by the Council or by
3 the Mayor." But I believe that you're requested by
4 all department heads.
5 COUNCILMEMBER PACHUTA: And we'll need to
6 probably put city manager.
7 COUNCILMEMBER ALEXANDER: City manager.
8 ATTORNEY McLENDON: The issue we would have
9 on that is ultimately my allegiance is to the City
10 Council; it's to the city itself via the City Council.
11 Yeah, I give opinions to anybody and
12 everybody who will ask in appropriate circumstances.
13 But the issue you could run into, the point
14 in time that that could get odd is if there was a
15 disjuncture, if there was a problem where the Council
16 was not happy. And at that point, ultimately it's the
17 Council's ability to ask me for their counsel because
18 I represent the city.
19 You know, certainly I think we would take
20 any request from anybody under the sun. And again, I
21 do it all the time. But I'm not sure we would want as
22 part of the Charter to say the manager has that
23 authority as a Charter issue, because the issue I
24 would see is ultimately, y'all appoint me and there's
25 a reason the manager doesn't appoint me. I represent

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1 the city via the City Council. That is my only
2 allegiance.
3 So I would say whereas in practice we will,
4 absolutely, and I'm going to be standing there trying
5 to make sure it all works. I don't know I'd modify
6 the Charter with that.
7 COUNCILMEMBER ALEXANDER: Are you going to
8 remove the language about prosecuting officer?
9 ATTORNEY McLENDON: That's at your
10 discretion, but I would note that my firm is also the
11 prosecutor, so I don't know what I'd do.
12 COUNCILMEMBER ALEXANDER: But he's not the
13 city attorney.
14 ATTORNEY McLENDON: That is correct. That
15 is correct.
16 COUNCILMEMBER PACHUTA: Because that's the
17 same thing like with the judge. I don't know. To me,
18 it should be separate, but.
19 ATTORNEY McLENDON: Yeah. And that's in
20 y'all's discretion. I'm perfectly good with that.
21 As a matter of fact, I probably shouldn't
22 even give you advice on that because it could impact
23 me.
24 So y'all tell me what to do with that. It
25 might not need to go.

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1 COUNCILMEMBER FLEMING: Well, we're talking
2 about the person. We're not talking about a firm,
3 because we had a situation where we had a singular
4 attorney who was running down there and prosecuting
5 also or whatever we were doing. You know, that . . .
6 ATTORNEY McLENDON: And we can definitely
7 make it to where the prosecutor and attorney could not
8 be the same person. And I think there would be a good
9 basis to do that, so I can make that modification.
10 COUNCILMEMBER ALEXANDER: I would just --
11 I'd like the language removed. I don't know about the
12 rest of the Council.
13 COUNCILMEMBER BATES: Well, my preference is
14 a more clean separation.
15 COUNCILMEMBER ALEXANDER: Yeah.
16 ATTORNEY McLENDON: Let me work on that.
17 But your intent is to -- so the intent of
18 that language is to say our current scenario would be
19 okay.
20 COUNCILMEMBER ALEXANDER: Yes.
21 ATTORNEY McLENDON: Okay. Let me work on
22 that.
23 COUNCILMEMBER BATES: So the same person
24 can't act as the city attorney --
25 COUNCILMEMBER ALEXANDER: Yes.

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1 COUNCILMEMBER BATES: -- and the solicitor.
2 ATTORNEY McLENDON: And I think that's -- I
3 understand, so can I get you language on that? that?
4 COUNCILMEMBER ALEXANDER: Yes.
5 ATTORNEY McLENDON: Okay.
6 COUNCILMEMBER ALEXANDER: And then 2.15.1
7 believe our oath of office is not in compliance with
8 State law.
9 ATTORNEY McLENDON: And that is correct.
10 COUNCILMEMBER ALEXANDER: Okay.
11 ATTORNEY McLENDON: That was a good -- that
12 was a good point. And as long as we're doing a catch-
13 up, I think what we would do there is just come in and
14 say, "shall administer an oath as required by Georgia
15 law," and in the second section you would say the oath
16 shall be written and printed and maintained by the
17 Clerk.
18 COUNCILMEMBER BATES: But to not actually
19 print the oath in the Charter.
20 ATTORNEY McLENDON: I don't think it's
21 necessary. The oath is set out in Georgia law.
22 COUNCILMEMBER BATES: Any time --
23 ATTORNEY McLENDON: And then if they changed
24 it, we wouldn't have to renew it.
25 COUNCILMEMBER BATES: Yeah. Any time we can

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1 pull stuff out of the Charter that may change based
2 upon a reference, I'm good with that.
3 ATTORNEY McLENDON: Uh-huh. So those two
4 sections, I can give those a good clean-up, I think.
5 COUNCILMEMBER FLEMING: I have a question.
6 ATTORNEY McLENDON: Uh-huh.
7 COUNCILMEMBER FLEMING: Once the Charter
8 changes have been adopted by Council, will they be
9 forwarded to the State?
10 ATTORNEY McLENDON: I don't think it's --
11 It's not required.
12 COUNCILMEMBER FLEMING: Okay. Well, that's
13 the question.
14 ATTORNEY McLENDON: Yeah. There's no
15 requirement to do that as long as we're operating with
16 Home Rule.
17 Okay. That's what I had.
18 MAYOR PITTMAN: Okay. Anyone else?
19 ATTORNEY McLENDON: So we'll get a revision.
20 I will get you a revision on that tomorrow. And I
21 appreciate you bearing with me, and I think that
22 language will be better.
23 MAYOR PITTMAN: Pam?
24 COUNCILMEMBER FLEMING: She wanted to go
25 through Charter changes; correct?

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1 COUNCILMEMBER ALEXANDER: Uh-huh.
2 COUNCILMEMBER FLEMING: Okay. I have
3 Commercial Design Standards is in Old Business, and
4 I'd like to put that on the 21st agenda as Old
5 Business.
6 I make that as a motion if I can, because
7 it's still showing Old Business.
8 MAYOR PITTMAN: And she's wanting to add the
9 additional item of Commercial Design Standards to the
10 21st. Do we need a motion for that? I mean I --
11 ATTORNEY McLENDON: Yeah. I don't know. We
12 don't have to have to have a motion for it. If
13 everybody's in general consensus, I think we can go
14 ahead and do that.
15 COUNCILMEMBER DEAN: Well, no. I mean I
16 would like to -- I would like to wait until we get a
17 city manager in. No, I don't know if I -- I mean I
18 could just voice my opinion when it comes up again --
19 ATTORNEY McLENDON: It --
20 COUNCILMEMBER DEAN: -- but I think we --
21 ATTORNEY McLENDON: It would be -- I'm
22 sorry.
23 I would say because there is an item on it,
24 it would be appropriate to -- you have a vehicle to
25 vote on it if you chose to.

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1 COUNCILMEMBER FLEMING: Say again?
2 MAYOR PITTMAN: If you want to vote on it,
3 he said. If you want to.
4 ATTORNEY McLENDON: If you chose to vote on
5 when to put it back on, you have a vehicle because it
6 was on this agenda to do that.
7 COUNCILMEMBER BATES: I mean --
8 COUNCILMEMBER FLEMING: Then, I'd like to
9 make a motion to --
10 I'm sorry, Brian. Go ahead.
11 COUNCILMEMBER BATES: This is an agenda.
12 It's on there. Typically, the person who sponsored
13 the item can request to carry it over, and we don't
14 make motions on carrying over items.
15 So I mean, Robert, you put -- I think it was
16 your --
17 COUNCILMEMBER PATRICK: I think it was
18 carried over to the --
19 COUNCILMEMBER PACHUTA: When do we carry it
20 over to?
21 COUNCILMEMBER BATES: The next meeting.
22 COUNCILMEMBER PATRICK: And we could have
23 this discussion like a workshop, this discussion in a
24 regular Council meeting?
25 COUNCILMEMBER BATES: That's what we've done

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1 in the past unless there's a separate date to set a
2 workshop.
3 COUNCILMEMBER PATRICK: All right. If I
4 understand, then we're bringing it up again next
5 Monday; that's fine.
6 CLERK BRYANT: It will be Tuesday the 22nd.
7 COUNCILMEMBER PATRICK: Tuesday.
8 COUNCILMEMBER DEAN: Are we going to meet on
9 Tuesday?
10 MAYOR PITTMAN: Because Monday is a holiday.
11 COUNCILMEMBER PACHUTA: Yeah.
12 COUNCILMEMBER DEAN: I'm not going to be
13 able to attend.
14 MAYOR PITTMAN: On Tuesday?
15 COUNCILMEMBER DEAN: Yeah.
16 COUNCILMEMBER BATES: I actually may not be
17 able to either. I need to check my schedule. I'll
18 let you-all know first thing in the morning.
19 CLERK BRYANT: Okay. So put it on the 22nd?
20 MAYOR PITTMAN: Any time it's a holiday,
21 staff is not here, it's always the next day.
22 COUNCILMEMBER DEAN: So it's the next, the
23 following day?
24 MAYOR PITTMAN: Yes.
25 COUNCILMEMBER PACHUTA: Motion to adjourn.

1 MAYOR PITTMAN: Second?
2 COUNCILMEMBER BATES: Second.
3 MAYOR PITTMAN: Discussion?
4 ---
5 (No response)
6 ---
7 MAYOR PITTMAN: Call the roll, please.
8 CLERK BRYANT: Councilmember Alexander?
9 COUNCILMEMBER ALEXANDER: Yes.
10 CLERK BRYANT: Councilmember Bates?
11 COUNCILMEMBER BATES: Yes.
12 CLERK BRYANT: Councilmember Dean?
13 COUNCILMEMBER DEAN: Yes.
14 CLERK BRYANT: Councilmember Fleming?
15 COUNCILMEMBER FLEMING: Yes.
16 CLERK BRYANT: Councilmember Pachuta?
17 COUNCILMEMBER PACHUTA: Yes.
18 CLERK BRYANT: Councilmember Patrick?
19 COUNCILMEMBER PATRICK: Yes.
20 MAYOR PITTMAN: Meeting adjourned.
21 ---
22 (Meeting adjourned at 8:55 p.m.)
23 ---
24
25

1 C E R T I F I C A T E
2 STATE OF GEORGIA]
3 COUNTY OF DEKALB]
4 I hereby certify that the foregoing transcript
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 22nd day of January 2013.
16
17
18 Theresa Bretch, CCR
19 Permit No. B-755
20
21 [SEAL]
22
23
24
25

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