

In The Matter Of:

City of Doraville

State of Georgia

City Council Meeting

November 19, 2012

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CITY COUNCIL MEETING

CITY OF DORAVILLE

STATE OF GEORGIA

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 approximately 6:30 p.m. on November 19,
2012.

* * *

1 PROCEEDINGS
2 MAYOR PITTMAN: Meeting come to order.
3 If you don't mind, we have two Council
4 members that are going to be late due to work
5 commitments. Council, if it's possible, we could take
6 number three and move it under Public Comments, we
7 will do Public Comments and then we'll see where we're
8 at with the other two Council people; we'll take a
9 break.
10 Do we need a motion or --
11 ATTORNEY McLENDON: That would be a motion
12 to amend the agenda.
13 MAYOR PITTMAN: Could I get a motion to
14 amend the agenda to move three underneath number
15 seven, please.
16 COUNCILMEMBER BATES: So moved.
17 MAYOR PITTMAN: Second?
18 COUNCILMEMBER FLEMING: Second.
19 MAYOR PITTMAN: Discussion?
20 ---
21 (No response)
22 ---
23 MAYOR PITTMAN: Call the roll, please.
24 CLERK BRYANT: Councilmember Bates?
25 COUNCILMEMBER BATES: You need to call the

1 APPEARANCES:
2 Doraville City Council:
3 Mayor Donna Pittman
4 Councilmember Maria Alexander
5 Councilmember Brian Bates
6 Councilmember Trudy Jones Dean
7 Councilmember Pam Fleming
8 Councilmember Karen Pachuta
9 Councilmember Robert Patrick
10
11 Sandra Bryant, Acting City Clerk
12
13 Cecil G. McClendon, Jr., City Attorney
14 Leonid Felgin, Asst. City Attorney
15 Riley McLendon, LLC
16 315 Washington Avenue
17 Marietta, GA 30060
18 (770) 590-5900
19
20
21
22
23
24
25

1 meeting to order.
2 MAYOR PITTMAN: I did.
3 COUNCILMEMBER BATES: Oh. Yes.
4 CLERK BRYANT: Councilmember Fleming?
5 COUNCILMEMBER FLEMING: Yes.
6 CLERK BRYANT: Councilmember Dean?
7 COUNCILMEMBER DEAN: Yes.
8 CLERK BRYANT: Councilmember Patrick?
9 COUNCILMEMBER PATRICK: Yes.
10 MAYOR PITTMAN: Now if we could please rise
11 for the Pledge.
12 ---
13 (Pledge of Allegiance)
14 ---
15 MAYOR PITTMAN: Thank you. Call the roll,
16 please.
17 CLERK BRYANT: Councilmember Bates?
18 COUNCILMEMBER BATES: Here.
19 CLERK BRYANT: Councilmember Dean?
20 COUNCILMEMBER DEAN: Here.
21 CLERK BRYANT: Councilmember Fleming?
22 COUNCILMEMBER FLEMING: Here.
23 CLERK BRYANT: Councilmember Patrick?
24 COUNCILMEMBER PATRICK: Here.
25 MAYOR PITTMAN: Okay. If I could get

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1 approval of minutes for October 1st, 2012, please?
2 COUNCILMEMBER BATES: So moved.
3 MAYOR PITTMAN: Second?
4 COUNCILMEMBER FLEMING: Second.
5 MAYOR PITTMAN: Discussion?
6 ---
7 (No response)
8 ---
9 MAYOR PITTMAN: Call the roll, please.
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 Patrick?
17 COUNCILMEMBER PATRICK: Yes.
18 MAYOR PITTMAN: Thank you. Next on the
19 agenda is Public Comments. If you wish to make public
20 comments, please line up at the podium, limit your
21 comments to three minutes on agenda items only.
22 Please state your name for the court clerk.
23 Anyone wishing to make public comments,
24 please line up.
25 MR. JOE O'CONNOR: Joe O'Connor, Northwoods.

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1 I just have comments on a couple of these agenda
2 items. The first is the reducing the licensing for
3 the strip operations from \$5,000 to \$350.00.
4 I'd like Mr. McLendon to tell me how many of
5 his other clients -- and I know who they are: the
6 other cities -- have strip clubs. I would guess zero.
7 Yeah, we're the dumping ground here, and now
8 we're going to make it easier by making it \$350.00. I
9 think it costs you that much to get a beer permit at a
10 gas station to sell it.
11 And my next comment is concerning all this
12 proposed rezoning and everything of the OW and O/I and
13 everything. Up around the neighborhood there at --
14 I'm trying to think -- Flowers/Tilly Mill area, now
15 we're just going to -- we don't need zoning any more.
16 We'll just put everything in together like, I don't
17 know, a Christmas fruitcake. You know, forget it;
18 we'll just throw it in. It makes it a lot easier.
19 And my third comment is there was a proposal
20 for some -- oh, the standards that are going to be up
21 tonight here, the text amendments. I looked at them.
22 And the one thing that really had me, I'm just
23 wondering about, we have these proposals but
24 everything's been reduced. So the standards have been
25 made even less for new construction, revisions up and

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1 down the corridor.
2 And one thing in there was you don't really
3 have to abide by it all. Just see the planning
4 director, and he might like your idea better than the
5 standards. So we'll just go -- he can let you know
6 what you do. So we have nobody enforcing the
7 standards, even.
8 We wouldn't even know about it because Mr.
9 Cooley can decide what's good for us, what isn't good
10 for us, what standards should apply. To me, standards
11 mean this is the criteria; you don't go in and change
12 them without notice to the public, and that's what's
13 going to be happening in this. Thank you.
14 MR. TOM HART: I think we all know who we're
15 talking about, and it brings -- it brings the point
16 about the planner for the City making decisions in the
17 back office pretty much covers the problem here of
18 dumping raw sewage in the creek --
19 MAYOR PITTMAN: Sir, the --
20 MR. HART: -- and how it --
21 MAYOR PITTMAN: -- raw sewage is --
22 MR. HART: -- got there.
23 MAYOR PITTMAN: Mr. Hart.
24 MR. HART: And how it got there.
25 MAYOR PITTMAN: Mr. Hart. Raw sewage is not

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1 on the agenda.
2 MR. HART: That's why I brought this.
3 LED signs, how'd that get back on here
4 again? The answer's no. I think no one wants to be
5 parked next to one of these flashing things.
6 The text amendment involving the rezoning on
7 Flowers Gate Road or Flowers Road. Doraville has done
8 some things right in the past, and one of them that
9 has a nice little office warehouse that was built on
10 the original GM purchased property. The buildings are
11 made out of brick, which, instead of EFIS panel or
12 some other slop. Okay? They're actually constructed
13 right; they're nice, neat and clean. It actually
14 functions as the only office and warehouse area that
15 we have in the city. And what does the City want to
16 do? Oh, we'll do a little spot zoning in the middle
17 of something and screw something up that's done right.
18 Okay?
19 From one end to the other, if it's working,
20 you guys got to mess with it. If it's not working,
21 you guys got to make it worse and spend a lot of money
22 in the meantime.
23 The adult entertainment licensing fee.
24 Baldino's dropped their alcohol license because it was
25 going to cost them close to five grand to serve beer

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1 along with a sandwich. Now, it's not the City's
2 fault. It's Baldino's fault. Baldino's should have
3 opened a topless sandwich shop. It would only cost
4 \$350.00 then.
5 I mean it just never ends. We're just --
6 It's fun because we like to think what is going
7 through their little tiny brains when they come up
8 with this stuff. Okay?
9 We have this -- Okay. I can't talk about
10 it. Okay.
11 And they're going to change the language.
12 And we also have a conflict between the two different
13 languages of two separate parts of the Code that allow
14 any simpleton attorney to come in here and strip --
15 you know, put a strip club virtually in anybody's
16 neighborhood. Okay? We don't know if that was on
17 purpose; there's been a lot of rattling from the
18 press. They're asking questions: why do they want to
19 reduce this from five to 350.
20 And Cecil, I was really moved by your law
21 firm and your senior partner when he stood in Johns
22 Creek in front of a love shack --
23 MAYOR PITTMAN: Mr. Hart, your time's up.
24 Thank you.
25 MR. HART: -- and said, "Over my dead body."

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1 MAYOR PITTMAN: Mr. Hart, your time's up.
2 MR. HART: Thank you.
3 MR. STUART ANDERSON: Oh, yeah. Stuart
4 Anderson.
5 To respond to Joe and to Tom, I guess, it's
6 called form based zoning. It's what we're going to.
7 It's what a lot of people are going to; it's what this
8 is all about. It's called form based zoning,
9 gentlemen.
10 I am -- I'll just stand that I'm for the O/I
11 text amendment because it allows flexibility and it
12 follows into form based zoning.
13 I was informed tonight that we had had a
14 work session on the architectural standards. I
15 apologize; I missed it, I guess. But I have several
16 comments, and I'll put them in writing for Joe
17 tomorrow rather than put them here.
18 And actually this was a question: Is there
19 going to be -- is this a public hearing on this
20 tonight or is this just a vote on it tonight? It's
21 not -- it's not listed as a public hearing. That's
22 why I ask. Okay. So I'll just have to submit my
23 comments to Joe in writing tomorrow. Thank you.
24 MR. JOE COOLEY: Excuse me.
25 COUNCILMEMBER FLEMING: It is.

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1 MAYOR PITTMAN: It is a public hearing? I'm
2 sorry, Stuart.
3 COUNCILMEMBER DEAN: But on September 4th,
4 Council passed a motion to follow a schedule written
5 by Robert Patrick, and that had two work sessions.
6 We've only had one. I was counting on the
7 second one because I did not attend the first; it was
8 my anniversary. Had I known we were only going to
9 have one, I would have attended.
10 And because Council voted on that schedule,
11 does that mean anything: that Council voted unani-
12 mously to stick to a schedule, and now we're just
13 changing it without any kind of vote?
14 ATTORNEY McLENDON: If you're asking me, it
15 would really be a decision of the Council, and if the
16 Council chose to make that an issue, then they could
17 -- you know, we could go with whatever schedule we
18 chose, but it would be more of an issue for the
19 Council to decide as opposed to some sort of a legal
20 decision.
21 COUNCILMEMBER DEAN: But we passed a motion.
22 My question is if we pass -- if Council passes a
23 motion unanimously, can it just be changed without any
24 kind of -- I mean what's the point of -- of --
25 ATTORNEY McLENDON: I would say it can't be

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1 changed because it would have to get through this body
2 tonight to do it with a changed schedule. So this
3 body can choose not to do that by voting not to do it
4 tonight.
5 But it's not something that autonomously I
6 would say it's legally deficient. It's an issue for
7 the body tonight to decide whether they would go
8 forward based on that schedule or not.
9 COUNCILMEMBER DEAN: And how do we go about
10 doing that? Wait for the rest of the Council to
11 arrive and then --
12 ATTORNEY McLENDON: I think when that agenda
13 item comes up, it would be --
14 COUNCILMEMBER DEAN: Okay.
15 ATTORNEY McLENDON: -- something to address
16 at that time.
17 COUNCILMEMBER FLEMING: As a comment,
18 though, I think the majority of the body has already
19 decided not to do away -- to do away with the schedule
20 because they said they would not be able to attend any
21 meetings other than Monday night. So I'm under the
22 impression that if we don't do it on Monday nights,
23 then -- and your schedule showed for Wednesdays or
24 Thursdays also. So as far as I'm aware, the majority
25 of Council decided not to do that.

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1 COUNCILMEMBER BATES: Let's be clear. The
2 majority of the Council did not. It was me who made
3 the statement that I could not attend through the
4 balance of November or December meetings outside of
5 Mondays. I am one -- I am not a majority.
6 So the Mayor had perfect prerogative to
7 schedule or not schedule a meeting that was held. If
8 I can't attend, that is my problem, not the City's
9 problem.
10 MAYOR PITTMAN: An e-mail was sent out by
11 Mr. Cooley. I believe the meeting was scheduled after
12 the public hearing, and he had asked for additional
13 comments to be e-mailed from Council, that he didn't
14 see a need for a meeting -- additional meeting.
15 Mr. Patrick, it was his agenda item, he
16 agreed, and that was the only feedback that I received
17 from any Council members.
18 COUNCILMEMBER DEAN: Well, having a public
19 hearing and then having a work session seems to me,
20 once again, putting the cart before the horse. Why
21 have another work session after the public hearing?
22 MAYOR PITTMAN: I did not develop the
23 agenda. It was not my item.
24 COUNCILMEMBER DEAN: Okay. Well, in any
25 event, there were three Council members not in

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1 attendance --
2 MAYOR PITTMAN: Ms. Dean, we're taking --
3 COUNCILMEMBER DEAN: -- at the first.
4 MAYOR PITTMAN: -- public comments. If
5 you'd like to address this when we get to this item,
6 we can do that.
7 COUNCILMEMBER DEAN: Okay.
8 MAYOR PITTMAN: Thank you.
9 Additional public comments? Anyone else
10 wishing to speak?
11 ---
12 (No response)
13 ---
14 MAYOR PITTMAN: Okay. We still do not have
15 two Council members here. Let's take a three-minute
16 break and see if we can find out how long they are
17 going to be here -- till they're going to be here.
18 Three-minute break.
19 ---
20 (Brief recess)
21 ---
22 MAYOR PITTMAN: I need a motion to take
23 number 3 and (b) number 8 and move it down to -- go
24 through all of department reports and then move it
25 down under -- we'll go ahead and hear the LED Sign

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1 Ordinance, and after that, then we will try to pick up
2 again. Hopefully, Council members will be here.
3 Can I get a motion?
4 COUNCILMEMBER BATES: So moved.
5 MAYOR PITTMAN: Second?
6 COUNCILMEMBER FLEMING: Second.
7 MAYOR PITTMAN: Discussion?
8 ---
9 (No response)
10 ---
11 MAYOR PITTMAN: Call the roll, please.
12 CLERK BRYANT: Councilmember Bates?
13 COUNCILMEMBER BATES: Yes.
14 CLERK BRYANT: Councilmember Dean?
15 COUNCILMEMBER DEAN: Yes.
16 CLERK BRYANT: Councilmember Fleming?
17 COUNCILMEMBER FLEMING: Yes.
18 CLERK BRYANT: Councilmember Patrick?
19 COUNCILMEMBER PATRICK: Yes.
20 MAYOR PITTMAN: Okay. Thank you.
21 All righty. Next on the agenda is giving
22 the employees Christmas Eve off. We did discuss this
23 last time. I believe someone brought up the question.
24 Ms. Ferguson and I thought we had had it in there but
25 we wanted to make sure. We did confirm; it was

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1 already put in as a holiday, and I would like to get a
2 motion to give Council -- not Council -- to give
3 employees Christmas Eve off, please.
4 COUNCILMEMBER FLEMING: Make a motion to
5 allow the employees to receive full compensation for
6 Christmas Eve, taking it off.
7 MAYOR PITTMAN: Do I get a second?
8 COUNCILMEMBER PATRICK: Second.
9 MAYOR PITTMAN: Discussion?
10 COUNCILMEMBER DEAN: It's already in the
11 budget; right?
12 MAYOR PITTMAN: Yes, ma'am.
13 COUNCILMEMBER DEAN: And so they were
14 already given this as a holiday anyway?
15 MAYOR PITTMAN: No. No, it doesn't have to.
16 It was put into the budget in the event, but you don't
17 have to get it. Christmas Day, but Christmas was not.
18 It's given the option in the handbook.
19 COUNCILMEMBER DEAN: Okay.
20 MAYOR PITTMAN: Okay. Call the roll,
21 please.
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 Patrick?
4 COUNCILMEMBER PATRICK: Yes.
5 MAYOR PITTMAN: Chief, did you have anything
6 you wanted to say?
7 CHIEF JOHN KING: Just really briefly,
8 ma'am.
9 Community and members of the Council,
10 understand that we've had a -- the last two weeks, two
11 and a half weeks, we had a pretty serious uptake on
12 armed robberies in the city. Most of them either come
13 in from our neighboring city to our south or county --
14 folks in the county.
15 But a couple pedestrian robberies that we
16 just need to be really alert. They're happening in
17 the evenings in the commercial areas, and we just need
18 to be -- we've been lucky, we've been able to arrest
19 every one of the incidents.
20 But as the season starts getting close into
21 the winter, we tend to get an uptake in robberies, and
22 just want to make sure that everybody is alert because
23 obviously we can't cover every portion of the city.
24 MAYOR PITTMAN: Thank you.
25 UNIDENTIFIED SPEAKERS: Were they break-ins

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1 or --?
2 CHIEF KING: No, ma'am. Armed robberies.
3 MAYOR PITTMAN: Next on the agenda is the
4 I-285/Georgia 400 Project. We are going to remove
5 that. The person, Yvonne, she could not be here
6 tonight, so we will move that, please, to the next
7 agenda.
8 Mr. Cooley, did you have something you
9 wanted to say before we moved into public hearing?
10 MR. COOLEY: I don't believe anyone from the
11 Planning Commission --
12 MAYOR PITTMAN: They're not.
13 MR. COOLEY: -- Planning Commission is here.
14 Planning Commission just is requesting that
15 the Council look at we have two openings now on the
16 Planning Commission, one at large and one for District
17 3. Gene Ellis, who has done a great job, since I've
18 been here, has some health problems and so he hasn't
19 been able to attend. So we really need a replacement,
20 and that would be the at large position. We still
21 need a third because we're three council -- or
22 commission members right now, and if one doesn't
23 attend, we don't have a quorum.
24 MAYOR PITTMAN: We have one out of Oakcliff
25 and then one at large?

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1 MR. COOLEY: We have one -- No, we don't.
2 We've got one, two, we need three and at large. I
3 believe that's correct. We need one at large and one
4 from District 3.
5 MAYOR PITTMAN: Thank you.
6 Ms. Ferguson, did you have anything?
7 MS. LISA FERGUSON: No, ma'am.
8 MAYOR PITTMAN: Okay. Thank you.
9 Next on the agenda is public hearings, the
10 LED Sign Ordinance, Mr. Cooley.
11 I believe this was on the agenda last time.
12 There were a couple of suggestions that were sent and
13 discussed and wanted to see if you wanted to touch on
14 that.
15 MR. COOLEY: Yes, ma'am, there were a couple
16 of things.
17 First off, there was a comment and a
18 question about whether the Tostinos (ph) that's up
19 here now, whether that actually had LED lights on it.
20 Went by and took a look at it. It does. It was not
21 permitted for that but somehow they got it in there.
22 So the point being was the question was is
23 that something that y'all want? It was mentioned that
24 a number of Council people thought just having a small
25 portion incorporated would be good from an aesthetic

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1 point of view.
2 So what I did is I came back in -- there
3 were two items on this thing. But as far as the
4 ordinance goes, is I made an amendment for y'all's
5 consideration where under LED signs on page 2 of 4
6 where it changed it to say: LED sign shall mean an
7 electronically controlled sign utilizing light-
8 emitting diodes for some or the entire message,
9 striking that and defining it as an area of the sign
10 greater than 10 percent of the sign area.
11 So LED may not be used in text form. So you
12 could have up to 10 percent of the sign as LED lights,
13 could not be text; can't be flashing, can't be
14 animated like that, but could be incorporated into the
15 design. That's the only way I could see to address
16 that concern, so I give that to you.
17 Also, which is not part of the actual
18 ordinance here, would be there was a question
19 regarding the fee schedule. This is something that
20 would be handled through a resolution to amend the fee
21 schedule, not through the ordinance.
22 Went back and looked at what the costs were.
23 Currently our wall signs applications run \$150,
24 monument signs are two fifty plus twenty-five per
25 tenant, and stanchions are three fifty -- stanchions

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1 being pole signs.
2 We sat down and looked at it. What we're
3 suggesting is that because of the process it has to go
4 through -- we have to get the contractor's
5 information, review for completion, meet with the
6 applicant ahead of time, have to obtain all the
7 records, and we also have to go out and actually
8 verify the distance, the way this is set up, which
9 means staff's actually going to go out and physically
10 measure the distance.
11 We were suggesting a fee of two hundred and
12 fifty -- excuse me -- two seventy-five for the initial
13 first-year permit, and then after that -- it was to be
14 a one-year renewable -- go down to one seventy-five,
15 because all of it will not -- we won't have to do that
16 measurement again.
17 COUNCILMEMBER BATES: But that's for vacant
18 signs; right?
19 MR. COOLEY: That's for vac- -- Oop. I'm
20 sorry. I'm looking at the wrong one. Excuse me.
21 COUNCILMEMBER BATES: Just want to make --
22 MR. COOLEY: Yeah, you're right, you're
23 right, that is for that. I got the two -- I got the
24 memo that I sent out that had both of you all on
25 there. So really for the LED, all we've got is -- the

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1 change in it is the 10 percent, unless you've got
2 questions.
3 MAYOR PITTMAN: We're going to take --
4 MR. COOLEY: And that's just a recommen-
5 dation.
6 MAYOR PITTMAN: Okay. We're going to take
7 comments from the Council, then we'll open the public
8 hearing.
9 Mr. Bates?
10 COUNCILMEMBER BATES: Yeah, I do have a
11 question.
12 Does this allow for a sign to be backlit
13 with LEDs?
14 MR. COOLEY: Yes, our ordinance does.
15 COUNCILMEMBER BATES: Okay, because -- and I
16 suggested the outline thing and looking at the sign.
17 I think the management of tracking percentages is
18 going to be very difficult to enforce right now, and
19 I'm of the belief right now that if we give an inch,
20 they're going to take a mile.
21 I'm in favor of actually striking the LED as
22 an option for text for any signage, assuming that it
23 can be backlit with LED.
24 MR. COOLEY: Can be backlit, so basically we
25 would be leaving it as it was before to say: "form

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1 some or the entire sign message."
2 COUNCILMEMBER BATES: Yes. That's my
3 personal preference right now even though I'm -- I'm
4 okay with it generally. Today, in today's environ-
5 ment, I just don't think that's a good -- good option.
6 MAYOR PITTMAN: Okay. Mr. Patrick?
7 COUNCILMEMBER PATRICK: Brian basically
8 asked my question, and I'm pretty satisfied with it.
9 MAYOR PITTMAN: Ms. Fleming?
10 COUNCILMEMBER FLEMING: I'm against total
11 prohibition on LED signs.
12 MAYOR PITTMAN: Ms. Dean?
13 COUNCILMEMBER DEAN: I have a question,
14 because I noticed on Buford Highway there's a Mexican
15 restaurant right around the corner that seems to have
16 new lights on the sign. Is that LED?
17 MR. COOLEY: I don't know which one you're
18 talking about.
19 COUNCILMEMBER BATES: It's Monterrey's.
20 MR. COOLEY: It's Monterrey's?
21 COUNCILMEMBER DEAN: Yeah, Monterrey's.
22 MR. COOLEY: Monterrey's? I don't know.
23 They're not allowed right now. But as far as --
24 COUNCILMEMBER DEAN: Well, I thought that
25 there was a moratorium, but there seems to be --

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1 they're popping up.
2 MR. COOLEY: There are certain --
3 MS. CINDY BRADFORD: Look out the window.
4 COUNCILMEMBER DEAN: Yeah, and you can
5 actually see it right here. And in fact, I noticed
6 from the front porch, so there's, see, and that's --
7 so for that reason: because there is a moratorium,
8 and they're popping up already, and they're not
9 supposed to be allowed in.
10 And no one's noticed, and that's -- if we
11 don't notice the blue light, then I don't think that
12 we're going to have the tracking of the percentages of
13 what's legal.
14 MR. COOLEY: It would make our life a lot
15 simpler if we did not have the percentages. I have no
16 problem with that whatsoever.
17 COUNCILMEMBER DEAN: Okay.
18 MAYOR PITTMAN: Okay. At this time, we're
19 going to open the public hearing. It is 10 minutes
20 total. That means 10 minutes -- if one person speaks
21 for 10 minutes, your time's up. So 10 minutes
22 altogether, not one person gets 10 minutes.
23 So those wishing to speak for, please come
24 forward. Wishing to speak for.
25 MR. STUART ANDERSON: Stuart Anderson.

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1 LEDs are a light source. This is the 21st
 2 century. We need to regulate their obtrusiveness just
 3 like any other light source, their disruption to the
 4 health and welfare just like any other light source;
 5 how they're used just like anything else: if it's
 6 used wrong, it's a problem; if it's used as an
 7 advertising medium and it's not a problem, then it
 8 shouldn't be -- there should be no general moratorium
 9 against or no ban on anything like that, because
 10 you're being discriminatory and you're not considering
 11 that we're in the 21st century.
 12 It's an efficient light source and it's
 13 going to be used more and more and more. Thank you.
 14 ---
 15 (Councilmember Alexander arrives.)
 16 ---
 17 MAYOR PITTMAN: Anyone else wishing to speak
 18 for?
 19 ---
 20 (No response)
 21 ---
 22 MAYOR PITTMAN: Okay. Those wishing to
 23 speak against, please come forward. Anyone wishing to
 24 speak against.
 25 MS. BRADFORD: Is this about billboards too

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1 or just --
 2 MAYOR PITTMAN: Anything that's LED.
 3 MS. BRADFORD: Cindy Bradford, Northwoods.
 4 You can stand right here and see how well
 5 our moratorium is working against LED signage. Not
 6 only is it on the side; it's all over the top of the
 7 building. It's kind of tacky, but that's just an
 8 opinion.
 9 I was wondering if any of you took the trip
 10 over to Presidential Parkway like I asked you to do to
 11 see the big flashing LED sign on top of the round
 12 building.
 13 I parked in a parking lot and sat there.
 14 You could hear it humming the whole time I was there,
 15 and every time it flashed to a new scene, you could
 16 hear the click. And driving was real fun right there
 17 in this hairpin curve where this happens to be.
 18 So looking at that, I can see exactly how we
 19 would be affected as residents if we had these big
 20 monstrous flashing, clicking and humming all over
 21 Buford Highway.
 22 As far as the LED signs for like around the
 23 sign on the Monterrey restaurant, it doesn't look bad.
 24 I'm not real thrilled with it all over the roof of
 25 their building.

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1 And my main concern is enforcement. We've
 2 got a moratorium, and I counted four of these
 3 situations on the way to this meeting tonight.
 4 So at the very least, I want a total and
 5 complete ban on any LED billboards in the city of
 6 Doraville. Thank you.
 7 MAYOR PITTMAN: Anyone else wishing to speak
 8 against?
 9 COUNCILMEMBER BATES: Just to be clear, this
 10 is speaking against the proposed ordinance that is
 11 going to ban LED lights.
 12 MR. TOM HART: Say again?
 13 COUNCILMEMBER BATES: So you-all are
 14 speaking against --
 15 COUNCILMEMBER PATRICK: You don't want us to
 16 do this.
 17 COUNCILMEMBER BATES: -- the proposed
 18 ordinance that's going to ban LED lights.
 19 MS. BRADFORD: I didn't hear him mention
 20 billboards.
 21 MR. HART: I'm not against the ban.
 22 COUNCILMEMBER BATES: We are on the
 23 opposed --
 24 MAYOR PITTMAN: Opposed.
 25 COUNCILMEMBER BATES: -- section of the

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1 ordinance.
 2 COUNCILMEMBER PATRICK: As in don't vote for
 3 it.
 4 COUNCILMEMBER BATES: Don't vote for it.
 5 MAYOR PITTMAN: We did the "for" a few
 6 minutes ago.
 7 MS. BRADFORD: She said LED signs. She
 8 didn't say speak against the ordinance. She said
 9 speak against LED signs.
 10 COUNCILMEMBER BATES: This is a public
 11 hearing on the proposed ordinance.
 12 MS. BRADFORD: I am for banning LED signs.
 13 MR. HART: We're for banning.
 14 MAYOR PITTMAN: Okay. Anyone else?
 15 ---
 16 (No response)
 17 ---
 18 MAYOR PITTMAN: All right. We're going to
 19 close the public hearing portion.
 20 Ms. Alexander, welcome.
 21 COUNCILMEMBER ALEXANDER: Thank you.
 22 MAYOR PITTMAN: We are discussing the LED
 23 sign ordinance right now. Did you have any comments
 24 that you wanted to make?
 25 COUNCILMEMBER ALEXANDER: No, ma'am. I was

1 good at the last meeting.
 2 MAYOR PITTMAN: Okay. Thank you.
 3 MR. COOLEY: If I may, just for clarifica-
 4 tion, the ordinance -- and this is what came out of
 5 the workshop with the Council -- was to ban LED signs
 6 period -- billboards, anything.
 7 MS. BRADFORD: That's what I'm for.
 8 MR. COOLEY: That's what the ordinance is
 9 for.
 10 MS. BRADFORD: I'm for banning.
 11 MR. COOLEY: That's what it's for, so I just
 12 want to make that clear so everybody knew.
 13 If you got any questions, I'll be glad to
 14 answer.
 15 MAYOR PITTMAN: Does anyone else up here
 16 have any comments?
 17 ---
 18 (No response)
 19 ---
 20 MAYOR PITTMAN: So I guess at this point we
 21 need a motion to approve this ordinance.
 22 COUNCILMEMBER PATRICK: One comment I do
 23 want to make: what we're proposing will allow no more
 24 than four square feet for an open sign on a tenant
 25 space.

1 COUNCILMEMBER BATES: Okay. I want to make
 2 a motion to adopt the ordinance regarding the LED
 3 signage, and for the definition under LED sign, to
 4 revert back to the original draft that reads "to form
 5 some or the entire sign message," and to strike the
 6 redline balance of that sentence.
 7 MAYOR PITTMAN: Do I get a second?
 8 COUNCILMEMBER PATRICK: Second.
 9 MAYOR PITTMAN: Discussion?
 10 ---
 11 (No response)
 12 ---
 13 MAYOR PITTMAN: Call the roll, please.
 14 CLERK BRYANT: Councilmember Alexander?
 15 COUNCILMEMBER ALEXANDER: Yes.
 16 CLERK BRYANT: Councilmember Bates?
 17 COUNCILMEMBER BATES: Yes.
 18 CLERK BRYANT: Councilmember Dean?
 19 COUNCILMEMBER DEAN: Yes.
 20 CLERK BRYANT: Councilmember Fleming?
 21 COUNCILMEMBER FLEMING: No.
 22 CLERK BRYANT: Councilmember Patrick?
 23 COUNCILMEMBER PATRICK: Yes.
 24 MAYOR PITTMAN: And thank you. Motion
 25 carries.

1 MR. COOLEY: On the interior --
 2 COUNCILMEMBER PATRICK: On the interior.
 3 MR. COOLEY: -- of the window. And no --
 4 COUNCILMEMBER PATRICK: Essentially, an open
 5 sign.
 6 MR. COOLEY: And no more than one.
 7 COUNCILMEMBER PATRICK: One.
 8 MR. COOLEY: So you can't have a four-foot,
 9 a four-foot, a four-foot.
 10 COUNCILMEMBER PATRICK: And we're not
 11 regulating specific language. It says we're
 12 regulating the square footage. We can't regulate the
 13 language.
 14 MR. COOLEY: That's correct.
 15 And if I may, if the Council, just when you
 16 motion it, make sure that you note that you want to
 17 maintain the LED sign definitions that say, "to form
 18 some or the entire message," and strike out what was
 19 proposed regarding the 10 percent.
 20 MAYOR PITTMAN: All right. If there's no
 21 additional questions, do I get a motion to approve the
 22 ordinance with -- what did you say?
 23 ATTORNEY McLENDON: Just it needs to have --
 24 if you choose to have the language amended back to the
 25 original, that needs to be stated in the motion.

1 I think our other Council member is here, if
 2 y'all don't mind holding on just a minute.
 3 MR. COOLEY: Regarding the last issue, too,
 4 just understand, the LED signs, what you see around
 5 the top of buildings by definition is not a sign. It
 6 is addressed in the Architectural Design Standards,
 7 but it is not a sign, and we have had no applications
 8 whatsoever for any LED signs. The ones that applied
 9 were questioning and were told we're in a moratorium.
 10 MAYOR PITTMAN: Okay. Thank you.
 11 ---
 12 (Councilmember Pachuta arrives.)
 13 ---
 14 MAYOR PITTMAN: Okay. Welcome, Ms. Pachuta.
 15 COUNCILMEMBER PACHUTA: Sorry I'm late.
 16 MAYOR PITTMAN: It's okay.
 17 COUNCILMEMBER PACHUTA: Okay.
 18 MAYOR PITTMAN: Okay. At this time, I need
 19 a motion to go into Executive Session.
 20 COUNCILMEMBER BATES: Make a motion to go
 21 into Executive Session for future pending litigation.
 22 MAYOR PITTMAN: Thank you. Second?
 23 COUNCILMEMBER DEAN: Second.
 24 MAYOR PITTMAN: Discussion?
 25 COUNCILMEMBER FLEMING: Yes, I have a

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1 question.
 2 MR. COOLEY: Yes.
 3 COUNCILMEMBER FLEMING: Will this include
 4 item number (b) or is that discussed in public -- 8
 5 (b)?
 6 ATTORNEY McLENDON: Item (b) is an agenda
 7 item that would be a public matter.
 8 COUNCILMEMBER FLEMING: Okay. Thank you.
 9 ATTORNEY McLENDON: Uh-huh.
 10 MAYOR PITTMAN: Call the roll, please.
 11 CLERK BRYANT: Councilmember Alexander?
 12 COUNCILMEMBER ALEXANDER: So you're saying
 13 we cannot discuss the terms of (b) in this?
 14 ATTORNEY McLENDON: As I understood that
 15 question, item (b) still remains as an agenda item, a
 16 public agenda item.
 17 It's not that it could not potentially be
 18 discussed, but that agenda item will be a public item.
 19 COUNCILMEMBER ALEXANDER: Okay.
 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: Cecil, are we needing Terri?
 9 ATTORNEY McLENDON: If I can get Scott
 10 and --
 11 ATTORNEY FELGIN: We don't need Terri.
 12 ATTORNEY McLENDON: No, not Terri. Scott
 13 and Joe Cooley.
 14 MAYOR PITTMAN: Do we need Terri, though?
 15 Right here, the court reporter.
 16 ATTORNEY McLENDON: Oh. No, not really.
 17 MAYOR PITTMAN: Okay, then. We're going to
 18 adjourn to my office.
 19 ---
 20 (Executive Session: 7:10 p.m. - 8:20 p.m.)
 21 ---
 22 MAYOR PITTMAN: I need a motion to come out
 23 of Executive Session.
 24 COUNCILMEMBER PACHUTA: I make a motion to
 25 come out of Executive Session.

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1 COUNCILMEMBER BATES: Second.
 2 MAYOR PITTMAN: Call the roll, please.
 3 CLERK BRYANT: Councilmember Alexander?
 4 COUNCILMEMBER ALEXANDER: Yes.
 5 CLERK BRYANT: Councilmember Bates?
 6 COUNCILMEMBER BATES: Yes.
 7 CLERK BRYANT: Councilmember Dean?
 8 COUNCILMEMBER DEAN: Yes.
 9 CLERK BRYANT: Councilmember Fleming?
 10 COUNCILMEMBER FLEMING: Yes.
 11 CLERK BRYANT: Councilmember Pachuta?
 12 COUNCILMEMBER PACHUTA: Yes.
 13 CLERK BRYANT: Councilmember Patrick?
 14 COUNCILMEMBER PATRICK: Yes.
 15 MAYOR PITTMAN: Okay. Now I need a motion
 16 to please take under Old Business 10(b), and move it
 17 to 8 under Reports, Department Heads, 8(b).
 18 COUNCILMEMBER PACHUTA: So moved.
 19 MAYOR PITTMAN: Second?
 20 COUNCILMEMBER DEAN: Second.
 21 COUNCILMEMBER PATRICK: Second.
 22 MAYOR PITTMAN: Discussion?
 23 ---
 24 (No response)
 25 ---

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1 MAYOR PITTMAN: Call the roll, please.
 2 CLERK BRYANT: Councilmember Alexander?
 3 COUNCILMEMBER ALEXANDER: Yes.
 4 CLERK BRYANT: Councilmember Bates?
 5 COUNCILMEMBER BATES: Yes.
 6 CLERK BRYANT: Councilmember Dean?
 7 COUNCILMEMBER DEAN: Yes.
 8 CLERK BRYANT: Councilmember Fleming?
 9 COUNCILMEMBER FLEMING: Yes.
 10 CLERK BRYANT: Councilmember Pachuta?
 11 COUNCILMEMBER PACHUTA: Yes.
 12 CLERK BRYANT: Councilmember Patrick?
 13 COUNCILMEMBER PATRICK: Yes.
 14 MAYOR PITTMAN: Okay, Mr. McLendon.
 15 ATTORNEY McLENDON: All right, Mayor. I'm
 16 going to ask Mr. Bergthold, who has been helping me
 17 with these items, to go ahead and make the presen-
 18 tation this evening.
 19 ATTORNEY SCOTT BERGTHOLD: Good evening,
 20 Mayor, members of Council. On item 8(b) we're dealing
 21 with an amendment to sexually oriented business
 22 licensing ordinance that would delete Section 6-419 of
 23 the ordinance. The purpose of this recommendation --
 24 Just to give the public some background, my
 25 name is Scott Bergthold. I'm outside counsel to the

1 City of Doraville on the adult entertainment issue.
2 Our firm is based in Chattanooga, Tennessee, and we
3 represent cities around the country in regulating and
4 litigating cases against adult businesses.

5 So for example, we represented the City of
6 Johns Creek in their successful effort to remove an
7 adult book store that opened illegally.

8 MAYOR PITTMAN: Excuse me just a minute.
9 Can y'all hear him? because it --
10 Could you see if that microphone --

11 ATTORNEY BERGTHOLD: You guys hear me okay?

12 UNIDENTIFIED SPEAKER: I can hear him fine.

13 MAYOR PITTMAN: Because it's --

14 ATTORNEY BERGTHOLD: I can always talk
15 louder.

16 MAYOR PITTMAN: Yeah. Would you mind?

17 ATTORNEY BERGTHOLD: Sure. Let me move it
18 up.

19 MAYOR PITTMAN: Thank you.

20 ATTORNEY BERGTHOLD: So we represented, for
21 example, the City of Johns Creek in their successful
22 effort to remove an adult business that was operating
23 illegally in the City of Johns Creek, and we have done
24 that in other cities.

25 We were involved in drafting the ordinance

1 would require adult businesses to be located only in
2 M-2 Manufacturing zones. They would not be allowed in
3 any commercial zones in the city; only M-2 Manu-
4 facturing.

5 Essentially, that is the Tank Farm. And
6 that is one portion that is going to be annexed on
7 December 31st, 2012, not the portion where Oasis is.
8 That's -- that's a C zone, and they've been there for
9 years, but the new land on Bankers Industrial Circle
10 will be zoned M-2. Okay?

11 When you look at those two areas, if you
12 take the buffer that currently exists in the Code, of
13 a thousand feet, the Tank Farm has a lot of issues for
14 making -- commercial viable issues that are related to
15 longstanding EPA-type issues.

16 When you look at the Bankers Industrial
17 Circle area, if you keep the existing acre a thousand-
18 foot buffer, you have what they call a zone-out. What
19 that means is that there's no place that is viable in
20 the city where an adult business can come and locate.

21 And many citizens might look at that
22 situation and say, "Great, great. No viable economic
23 location."

24 The problem is that's not the end of the
25 story. What happens is what happened in Grand Rapids,

1 that was adopted by the City Council here in Doraville
2 in September that bans the sale, use, possession or
3 consumption of alcohol on the premises of sexually
4 oriented business. That would apply to prohibit
5 liquor licensing as well as a BYOB type establishment.

6 It's a very strong ordinance that is
7 different than what exists and is enforced right now
8 in Dekalb County, so -- so I think I need to clear up.
9 Just sort of before I get into the issues that are

10 particular to tonight's meeting, I want to clear up
11 some sentiment that has been expressed, I think, with
12 a partial picture that the City is somehow dropping
13 its guard and making it extremely easy for new
14 sexually oriented businesses to come into the city.

15 That is not the City's goal, and that is not
16 the effect of the ordinance changes that are up for
17 consideration tonight.

18 The first one that I'm going to address is
19 the buffer issue, and I'm going to explain to you how
20 this works, having litigated against adult businesses
21 in 25 states around the country, always on behalf of
22 the municipality, always on behalf of communities that
23 wanted to have strong, up-to-date ordinances that will
24 stand up in court, and that's why we're here tonight.

25 Basically, the new adult business structure

1 Michigan, where an adult business, an adult book store
2 opened direct next door to someone's single-family
3 residential home. It was in a commercial zone but it
4 was directly next door to someone's house, with kids
5 who lived there, and they were none too happy about
6 having an adult book store there.

7 So what happened was they went to the city
8 and the city tried to shut it down, and they were sued
9 in federal court. And when it went to court, lo and
10 behold, when you looked at all the buffers that
11 existed in the city of Grand Rapids, Michigan, there
12 were only six or seven parcels of land in the entire
13 city where an adult business could open.

14 And the federal court said: That's
15 unconstitutional; that's effectively a zone-out. It
16 doesn't meet the First Amendment requirements of
17 having reasonable locations in the city for operating
18 an adult use. I strike down your ordinance.

19 The effect of that zone-out was that adult
20 book store was grandfathered forever right next to
21 someone's home. That's why we're here tonight.
22 That's what we're trying to prevent in the city of
23 Doraville.

24 Is somebody going to go into Bankers
25 Industrial Circle to operate a regular retail store?

1 Who knows? It's not the most attractive area, I think
2 we could probably agree, in the city, as opposed to
3 Buford Highway or the main drag right out here. But
4 if someone tries to open up right out here and the
5 City maintains a thousand-foot buffer and they are
6 effective at getting that struck down as a zone-out in
7 the city of Doraville, then what you may have on your
8 hands is a situation where wherever they chose to go,
9 they're going to be grandfathered there, and that's
10 what we don't want to have happen.

11 So I don't want there to be any misgivings
12 or misunderstanding about why we're here tonight.
13 We're here to have the strongest ordinance on the
14 books for the City of Doraville that is consti-
15 tutionally defensible, and a zone-out is not
16 constitutionally defensible.

17 And so what our firm has done -- and we have
18 pored over the maps, we've looked at all the other
19 areas because Doraville is very built out and it's not
20 like -- other than residential and prime commercial,
21 there's not a lot of M-2 zoning in the city.

22 But if a -- if you count the M-2 stuff that
23 will come in as a part of the annexation -- and there
24 will be a zoning amendment to make that Bankers
25 Industrial Circle location, those are technically and

1 We think the smartest way is to have a place
2 where they can go where you don't have a zone-out
3 resulting in the invalidation of a zoning ordinance,
4 rather than they can set up shop, strike down your
5 zoning ordinance and get grandfathered into the worst
6 of places, maybe even next to someone's house.

7 So that's why we're here tonight. That
8 agenda item is the deletion of 6-419, which is the
9 buffer zone. If we get further analysis down the road
10 and we learn something about the viability of the Tank
11 Farm, you know, there are some issues there that we
12 might come back and -- and -- and make modifications.
13 It's not a one-stop thing.

14 But we have a strong ordinance on the books;
15 we want it to be upheld. We know that there is a
16 threat at the door, and we want to win that issue
17 first and make sure that we've covered our bases to
18 win that issue. And we won't be in the strongest
19 position if we have a zone-out, which is maintaining
20 the current -- which is a potential result of
21 maintaining the current buffers.

22 And so with that, ladies and gentlemen, I
23 will go ahead and make a part of the record the
24 original CD-ROM that was provided in September of
25 2017 [sic] during the public hearing on the original

1 legally available, and the courts have said that you
2 can require them to be in manufacturing zones.

3 And cases where businesses have complained
4 -- like in Daytona Beach, one of our other clients,
5 where they complained -- nobody wants to be way out
6 there with no traffic by the beach and no regular
7 pedestrian traffic or typical commercial car or
8 vehicular traffic; nobody wants to be out there in the
9 industrial zone; that's not economically attractive to
10 us -- the courts have said: That's not the City's
11 concern. The City's concern is that there be
12 somewhere where you're legally allowed to go as a
13 matter of right in a particular zoning district.

14 So that's what this buffer's about. And the
15 City in September, on the 17th of September, had an
16 extensive presentation that talked about the negative
17 secondary effects of adult businesses. Back in the
18 summer, these Council members were given thousands of
19 pages to look at and review and digest and then I made
20 a presentation summarizing that.

21 So everybody in this room is keenly aware of
22 the need to prevent the negative secondary effects of
23 adult businesses as much as possible and, in that
24 regard, to minimize those effects on surrounding land
25 uses as much as viable.

1 licensing ordinance. I've also given Madam Clerk a
2 supplemental CD with additional data on it that will
3 also be a part of the discussion for this meeting not
4 only in the buffer issue but the fee issue that we'll
5 get to shortly. Thank you.

6 MAYOR PITTMAN: Council? Ms. Alexander, do
7 you have any comments?

8 COUNCILMEMBER ALEXANDER: No, ma'am.

9 MAYOR PITTMAN: Mr. Bates?

10 COUNCILMEMBER BATES: No.

11 MAYOR PITTMAN: Ms. Pachuta?

12 COUNCILMEMBER PACHUTA: Huh-uh.

13 COUNCILMEMBER PATRICK: No.

14 MAYOR PITTMAN: Ms. Fleming?

15 COUNCILMEMBER FLEMING: No.

16 MAYOR PITTMAN: Ms. Dean?

17 COUNCILMEMBER DEAN: Well, just to be clear,
18 that you would like -- reducing the size of the buffer
19 eliminates some -- some possible locations for a place
20 to come in, and so the fewer we have, then the greater
21 risk it is to the City to have -- to have our -- our
22 plan fall flat. Correct?

23 ATTORNEY BERGTHOLD: That's right.

24 The sliding scale is like this: The more
25 sites you have, the more likely you're going to win on

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1 whether you have enough sites. There is no magic
2 number. I wish the Supreme Court of the United States
3 would give it to us; they haven't.
4 The less sites you have, the greater risk
5 that you have. If you employ any buffer, even a
6 hundred feet from residential, the M-2 area that will
7 come in as part of the annexation on Bankers
8 Industrial Circle is -- is immediately adjacent to R-3
9 and R-4 residential areas. They are apartment
10 complexes and they are separated from the back of
11 these warehousing structures off of Bankers Industrial
12 Circle by a line of trees. But even if you do a
13 hundred-foot buffer, all the buildings along that line
14 of trees that are in the M -- the soon to be M-2 zone
15 are all eliminated.
16 So you get into a situation where you're
17 down into single digits of sites like the City of
18 Grand Rapids was, then you're in a very precarious
19 situation if you have any buffer. That is our
20 concern.
21 Does that answer your question, Madam Dean?
22 COUNCILMEMBER DEAN: Uh-huh. (Nods head)
23 MAYOR PITTMAN: Cecil? So --
24 ATTORNEY McLENDON: Mayor, it sounds like we
25 are looking at the item that's moved up on the buffer

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1 issue, and what we would need --
2 This is an ordinance, so it requires two
3 reads unless we decide to dispense with the first
4 reading and have it all heard this evening. But it is
5 that ordinance which is first on the table, and we'll
6 look at the fee structure following that.
7 Correct, Scott?
8 ATTORNEY BERGTHOLD: Yes.
9 ATTORNEY McLENDON: So --
10 MAYOR PITTMAN: Okay. So do I get a motion
11 to waive the first read?
12 COUNCILMEMBER ALEXANDER: So moved.
13 MAYOR PITTMAN: Second?
14 COUNCILMEMBER BATES: 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 Pachuta?
2 COUNCILMEMBER PACHUTA: Yes.
3 CLERK BRYANT: I'm sorry. Councilmember
4 Fleming?
5 COUNCILMEMBER FLEMING: Yes.
6 CLERK BRYANT: Councilmember Patrick?
7 COUNCILMEMBER PATRICK: Yes.
8 MAYOR PITTMAN: Okay. Thank you.
9 Do I get a motion to delete section 6-419?
10 COUNCILMEMBER BATES: So moved.
11 MAYOR PITTMAN: Second?
12 COUNCILMEMBER PACHUTA: Second.
13 MAYOR PITTMAN: Discussion?
14 ---
15 (No response)
16 ---
17 MAYOR PITTMAN: Call the roll, please.
18 CLERK BRYANT: Councilmember Alexander?
19 COUNCILMEMBER ALEXANDER: Yes.
20 CLERK BRYANT: Councilmember Bates?
21 COUNCILMEMBER BATES: Yes.
22 CLERK BRYANT: Councilmember Dean?
23 COUNCILMEMBER DEAN: Yes.
24 CLERK BRYANT: Councilmember Fleming?
25 COUNCILMEMBER FLEMING: No.

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1 CLERK BRYANT: Councilmember Pachuta?
2 COUNCILMEMBER PACHUTA: Yes.
3 CLERK BRYANT: Councilmember Patrick?
4 COUNCILMEMBER PATRICK: Yes.
5 MAYOR PITTMAN: Okay. Thank you. Motion
6 carries.
7 Okay. Next is the Resolution to Revise the
8 SOB License Fee.
9 ATTORNEY BERGTHOLD: Okay. This is actually
10 simpler than the zoning issue, and each takes a ton of
11 work and analysis but the essence is the same.
12 If litigation ensues over the strict
13 ordinance that the City adopted on September 17th,
14 which is a strong ordinance and modeled after others
15 that have been upheld on appeal many times, then we
16 want to make sure that we win that to the best that we
17 can control the outcome, which obviously we cannot
18 control the outcome. That's inherent in the vagaries
19 of judicial review, as I like to say, because you
20 don't know what a particular court will do even with
21 similar facts or similar law.
22 But what this ordinance does is this takes a
23 fee that is on the books right now, a \$5,000 licensing
24 fee for adult businesses, but has never been enforced
25 because there are no adult businesses presently in the

1 city of Doraville. That presents two issues.
2 The first issue is the City has no
3 historical data from its own experience about how much
4 it costs to administer and license and enforce this
5 ordinance. So as a result, when you get to court on a
6 challenge that's likely to come, the burden of proof
7 is on the City to come up with hard evidence on how
8 much it costs to administer the ordinance.

9 I've been in cases in South Bend, Indiana;
10 Louisville, Kentucky; Milford, Connecticut; many cases
11 around the country where they have challenged the fee.
12 And in the case for Louisville, which we won, the City
13 of Louisville was able to justify a \$1,000 fee.

14 Now, why were they able to do that? Because
15 they had 30 years of history. I could go to the
16 police chief, I could corral numbers from their own
17 vice detectives who spent \$72,000 in man hours in
18 seven different adult clubs getting 31 prostitution
19 arrests. I mean they had it documented; they had a
20 business license division of the whole city where we
21 amortized the cost of computers and staff time, all
22 those different things.

23 The problem is they had empirical data.
24 They had previously had a \$5,000 fee before we got
25 involved with that city, before we got involved with

1 representing the City of Louisville, and that \$5,000,
2 in a big city with 22 adult businesses in its
3 jurisdictional boundaries, got struck down. They
4 couldn't justify the \$5,000 fee.

5 And as a result of that litigation not just
6 on the fee but some other licensing issues, the
7 ordinance was struck down and they wrote a check for
8 \$154,000 in attorneys' fees to the adult business
9 lawyers.

10 Now, I don't lose sleep over a lot of things
11 at night, but one of them is if my client were to have
12 to write a check to plaintiff's counsel because of an
13 unconstitutional ordinance. We don't want to be in
14 that position. And because you have to pay the fee as
15 a condition of just the very first step of filing the
16 application for a license, we want to make sure that
17 that fee is reasonable.

18 Without local data and historical experience
19 in Doraville, what we're trying to do is adopt a fee
20 that is in line with what other cities have had
21 upheld. And I have been in the city of South Bend,
22 Indiana, where Notre Dame is, and litigating a case
23 against multiple adult businesses where they were
24 unable to successfully -- the city controller was on
25 the witness stand and was unable to successfully

1 defend a \$500.00 fee.

2 Now, they just hadn't gathered the data.
3 They had justified about \$280.00 worth. But the
4 bottom line is the same: You want to have a fee that
5 is reasonable and revenue neutral.

6 We don't have local data, which is what
7 courts typically look at. They do allow you to rely
8 on data from other jurisdictions in certain circum-
9 stances, but even then you're going to have to justify
10 your fee.

11 So in Sandy Springs, they used to have a
12 \$350.00 fee for entertainers. Not any more. It's
13 \$55.00. They used to have a larger fee for
14 businesses.

15 In other words, what we're saying is we want
16 to -- before we have all that historical and empirical
17 data locally in the city of Doraville, we want to
18 bring a fee that's not going to prevent the City from
19 prevailing in a lawsuit over the ordinance that
20 prohibits alcohol consumption, requires a six-foot
21 buffer and has some strong regulations that prevent
22 the negative secondary effects of crime, prostitution,
23 drugs and so forth.

24 And so that's the rationale. I'm the guy to
25 blame. I'm the one that's recommending to the City

1 that they do this.

2 But it's not because -- as I explained to
3 the Channel 2 reporter today, it's not because the
4 City is going out of its way to make things
5 excessively easy for an adult business. The City
6 wants to make sure that the i's are dotted, that the
7 t's are crossed for the constitutionality of its
8 ordinance, and we think this is a critical part.

9 Now, let me offer this olive branch, so to
10 speak, and that is if we get six months into this and
11 we are able to document the costs of the licensing and
12 we have begun enforcement -- in other words, it's not
13 tied up in court in six months, it very well and very
14 likely will be.

15 But once the City begins enforcement, at
16 whatever point that is, and we have the data, if it's
17 \$1,000 to license a business and adequately
18 administer, enforce, and regulate, we'll come back,
19 we'll amend this resolution just like we're doing
20 tonight and we'll make it \$1,000, and I won't have any
21 problems with that because instead of having hard data
22 in hand from Milford and Louisville and from other
23 cities around the country, I'll have data in hand from
24 Doraville, and we'll recoup our costs and we'll make
25 that something that we revisit on a periodic basis.

1 It's not that we can't charge a higher fee.
 2 It's just that right now the best advice I can give
 3 the City of Doraville for the protection of its
 4 citizens by having the ordinance upheld is to have a
 5 fee that's much lower than the current one because, A,
 6 the \$5,000 will not fly, and B, I feel comfortable
 7 with the \$350.00 based on data from other cities
 8 before we've gathered historical data here.
 9 And with that, I'll take any questions from
 10 the Council.
 11 MAYOR PITTMAN: Ms. Alexander?
 12 COUNCILMEMBER ALEXANDER: There was some
 13 language that needed to be added to this?
 14 ATTORNEY BERGTHOLD: Yes. Thank you very
 15 much.
 16 I would like to have a Council member make a
 17 motion to amend the resolution that's before you
 18 tonight. The third "whereas" paragraph, the
 19 penultimate line, the next to last line says, "the
 20 City for the cost of its expenses in maintaining,"
 21 and I would like to add, comma, "enforcing." Add a
 22 comma and the word "enforcing," and the rest reads the
 23 same: "and administering the regulatory scheme, semi-
 24 colon, and."
 25 So I think a motion will be necessary to

1 COUNCILMEMBER PATRICK: Yes.
 2 MAYOR PITTMAN: Thank you.
 3 Anything else, Ms. Alexander?
 4 COUNCILMEMBER ALEXANDER: No.
 5 MAYOR PITTMAN: Mr. Bates?
 6 COUNCILMEMBER BATES: Just want to be very
 7 clear that we've got an adult entertainment ordinance
 8 now that prohibits any alcohol.
 9 ATTORNEY BERGTHOLD: That is correct.
 10 COUNCILMEMBER BATES: There is going to be,
 11 hypothetically, a challenge down the road --
 12 ATTORNEY BERGTHOLD: Yes.
 13 COUNCILMEMBER BATES: -- and we could be at
 14 risk of that entire ordinance being thrown out.
 15 ATTORNEY BERGTHOLD: Yes, if a court
 16 concludes that a measure to get a license application
 17 filed -- We would obviously have many arguments that
 18 we would make against that, but yes, there is a risk
 19 that they could say, "This fee is cost prohibitive or
 20 it's too high, and that's the first step in applying
 21 for a license. We feel that this is a prior restraint
 22 on speech and it's unconstitutional."
 23 COUNCILMEMBER BATES: Thank you.
 24 MAYOR PITTMAN: Ms. Pachuta?
 25 COUNCILMEMBER PACHUTA: And this is more for

1 amend the resolution for that.
 2 MAYOR PITTMAN: Can I have a motion, please?
 3 COUNCILMEMBER ALEXANDER: So moved.
 4 MAYOR PITTMAN: Second?
 5 COUNCILMEMBER DEAN: Second.
 6 COUNCILMEMBER PACHUTA: And this is just for
 7 the amendment, not to pass the resolution; correct?
 8 ATTORNEY BERGTHOLD: That's right.
 9 COUNCILMEMBER PACHUTA: Okay.
 10 MAYOR PITTMAN: Discussion?
 11 - - -
 12 (No response)
 13 - - -
 14 MAYOR PITTMAN: Call the roll, please.
 15 CLERK BRYANT: Councilmember Alexander?
 16 COUNCILMEMBER ALEXANDER: Yes.
 17 CLERK BRYANT: Councilmember Bates?
 18 COUNCILMEMBER BATES: Yes.
 19 CLERK BRYANT: Councilmember Dean?
 20 COUNCILMEMBER DEAN: Yes.
 21 CLERK BRYANT: Councilmember Fleming?
 22 COUNCILMEMBER FLEMING: Yes.
 23 CLERK BRYANT: Councilmember Pachuta?
 24 COUNCILMEMBER PACHUTA: Yes.
 25 CLERK BRYANT: Councilmember Patrick?

1 the audience.
 2 Could you kind of explain in that licensing
 3 fee the difference between like recouping our cost but
 4 not necessarily the cost for the other negative
 5 secondary effects --
 6 ATTORNEY BERGTHOLD: Yes, yeah.
 7 COUNCILMEMBER PACHUTA: -- that might occur?
 8 ATTORNEY BERGTHOLD: That's a good question.
 9 This goes to the costs of enforcing and
 10 administering the licensing scheme.
 11 Now, I made a presentation two months ago,
 12 almost two months ago tonight here in this room about
 13 all the negative secondary effects that justify the
 14 alcohol proscription, the regulations on nude conduct,
 15 the fact that you do background checks on dancers to
 16 make sure they weren't arrested last month for
 17 prostitution, things like that. Pretty commonsense
 18 things that justify the regulation of adult businesses
 19 to prevent prostitution and the like.
 20 But when we talk about the fee, we're
 21 primarily talking about recouping the costs to the
 22 City of doing this civil licensing fee, not the costs
 23 of taking someone that's busted for prostitution to
 24 jail and all the police time for that and so on and so
 25 forth. Those are criminal matters that are somewhat

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1 distinct from the civil licensing regulatory scheme.
2 What we're really talking about in this fee
3 is recouping the cost of doing inspections that are
4 required once a year. And then there can be
5 unannounced inspections on other occasions. But
6 there's no set schedule; obviously, you don't announce
7 when you're going to go do an unannounced inspection
8 to see if they're complying.
9 And so we're talking about other than
10 inspections, really, processing of application permits
11 internally in the City. That's the bulk of what we're
12 talking about.
13 MAYOR PITTMAN: Mr. Patrick? Ms. Fleming?
14 COUNCILMEMBER FLEMING: No.
15 MAYOR PITTMAN: Ms. Dean?
16 COUNCILMEMBER DEAN: And also could you just
17 reiterate, please, what could happen if our ordinance
18 is thrown out?
19 ATTORNEY BERGTHOLD: Yes. The problem that
20 you have with an ordinance if it gets struck down on
21 first amendment grounds, there are a couple things
22 that happen: Number one is, you know, the City and
23 its insurance carrier worry about attorney's fees and
24 things like that.
25 But the more important thing from your

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1 perspective, I would think, is that someone tries to
2 sneak in under the radar, and we have literal -- I
3 have been in cities across the country -- Grand Rapids
4 was one -- where the ordinance was struck down in
5 federal court, and while it was on appeal, another
6 adult business opens up in an illegal area, files a
7 lawsuit and says, "We want to jump on that bandwagon,
8 because while the ordinance is down, we started
9 operating last Friday and there was nothing
10 constitutional on the books that prevented us from
11 doing that."
12 And that's why we are being very careful to
13 avoid that type of a situation whether it's because of
14 a zone-out or whether it's because of a fee that's too
15 high. We have looked at this, and especially with the
16 risk of litigation that may ensue in the coming days,
17 we want to make sure that we don't have these
18 ancillary matters that could pose a big downside risk
19 to the City.
20 We want to -- we feel confident in our
21 ordinance, but we want to make sure that this fee
22 schedule that is a separate document from what was
23 passed in September and that had just been on the
24 books for years and never been an issue because nobody
25 ever challenged it because there were no adult

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1 businesses in Doraville. That's all changing, and we
2 want to make sure that we're making changes of the
3 ordinance that will be enforced, to see that it's
4 upheld.
5 COUNCILMEMBER DEAN: And to clarify, if they
6 come in under the radar, then they can go anywhere,
7 right? Any zoned area.
8 ATTORNEY BERGTHOLD: Yeah. The problem is
9 if they come in during the period of time when the
10 ordinance is struck down, they will at least have a
11 colorable argument that, "Nothing prevented us from
12 being here at this point in time and, therefore,
13 you're stuck with us here."
14 COUNCILMEMBER DEAN: All right. And again,
15 so once we accumulate the data, what it costs, to
16 determine the costs to the City of these -- these
17 fees, and also the individual employees,' because
18 that's another factor. Right now, it's \$50.00, right,
19 per employee --
20 ATTORNEY BERGTHOLD: Right, right.
21 COUNCILMEMBER DEAN: -- which is another
22 consideration to take. Then we can come back and
23 increase what our fee is.
24 ATTORNEY BERGTHOLD: Absolutely. There's
25 nothing prohibiting us from doing that. We just want

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1 to get the data first. We want to walk before we run.
2 COUNCILMEMBER DEAN: Okay. All right.
3 MAYOR PITTMAN: Okay. Thank you.
4 Okay, if there's nothing else, do I get a
5 motion?
6 ATTORNEY BERGTHOLD: And I will, before --
7 I'm sorry -- before we take the motion, the same data,
8 the secondary-effects legislative record is
9 incorporated by reference as well for this presen-
10 tation, both CD-ROMs from September as well as the one
11 there tonight, and I will also give to Madam Clerk
12 additional data on the negative secondary effects of
13 adult businesses including materials from other cities
14 about justification of licensing fees.
15 MAYOR PITTMAN: Thank you.
16 ATTORNEY BERGTHOLD: Sorry.
17 MAYOR PITTMAN: That's okay. Thank you.
18 At this time, do I get a motion?
19 COUNCILMEMBER PACHUTA: Make a motion to
20 pass the resolution lowering the sexually oriented
21 business adult entertainment license fee to \$350.00 --
22 MAYOR PITTMAN: Do I get a second?
23 COUNCILMEMBER PACHUTA: -- per year.
24 MAYOR PITTMAN: Do I get a second?
25 COUNCILMEMBER ALEXANDER: Second.

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1 MAYOR PITTMAN: Discussion?
 2 ---
 3 (No response)
 4 ---
 5 CLERK BRYANT: Councilmember Alexander?
 6 COUNCILMEMBER ALEXANDER: Yes.
 7 CLERK BRYANT: Councilmember Bates?
 8 COUNCILMEMBER BATES: Yes.
 9 CLERK BRYANT: Councilmember Dean?
 10 COUNCILMEMBER DEAN: Yes.
 11 CLERK BRYANT: Councilmember Fleming?
 12 COUNCILMEMBER FLEMING: No.
 13 CLERK BRYANT: Councilmember Pachuta?
 14 COUNCILMEMBER PACHUTA: Yes.
 15 CLERK BRYANT: Councilmember Patrick?
 16 COUNCILMEMBER PATRICK: Yes.
 17 MAYOR PITTMAN: Thank you. Motion carries.
 18 Thank you very much.
 19 ATTORNEY BERGTHOLD: Thank you.
 20 MAYOR PITTMAN: Council, it is fast
 21 approaching 9 o'clock, we have quite a bit to go, and
 22 I just want to let you know that we do have several
 23 public hearings that were advertised. I just would
 24 like to know what you want to do at this point.
 25 COUNCILMEMBER BATES: My preference would be

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1 to deal with 9(b) and (c).
 2 MAYOR PITTMAN: And is -- (b), (c). Is (d)
 3 also Mr. Cooley? (d) is a public hearing as well?
 4 COUNCILMEMBER BATES: Well, (d) and (e), but
 5 we've got outside counsel here for (b) and (c).
 6 COUNCILMEMBER PACHUTA: Yeah. Can we do --
 7 MAYOR PITTMAN: But how would we deal with
 8 it?
 9 COUNCILMEMBER PACHUTA: -- (b) and (c)
 10 first?
 11 MAYOR PITTMAN: If we move it, how do we
 12 deal with it? Do we have to readvertise for the --
 13 MR. COOLEY: It would be --
 14 MAYOR PITTMAN: -- public hearing?
 15 MR. COOLEY: -- readvertised, that's
 16 correct.
 17 MAYOR PITTMAN: Okay.
 18 COUNCILMEMBER BATES: But could they just be
 19 postponed to a date certain?
 20 COUNCILMEMBER PACHUTA: (a) and (d).
 21 ATTORNEY FELGIN: If you open the public --
 22 MR. COOLEY: You have to open --
 23 COUNCILMEMBER FLEMING: -- hearing today --
 24 MR. COOLEY: -- the public hearing.
 25 COUNCILMEMBER BATES: For both -- for all

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1 public hearings.
 2 MR. COOLEY: You have to open -- go to each
 3 one, open the public hearing and defer it to a date
 4 certain.
 5 COUNCILMEMBER PACHUTA: Okay.
 6 COUNCILMEMBER BATES: Okay. Because (d) and
 7 (e) are local matters --
 8 COUNCILMEMBER PACHUTA: Uh-huh.
 9 COUNCILMEMBER BATES: -- that are City-
 10 initiated, I would be okay with opening and deferring,
 11 postponing those to a date certain. I would like to
 12 get through (b) and (c). That's my personal
 13 preference.
 14 MAYOR PITTMAN: Is that your motion?
 15 COUNCILMEMBER BATES: My motion is to
 16 complete (b) and (c), to open and defer to a date
 17 certain (d) and (e).
 18 COUNCILMEMBER FLEMING: Second.
 19 COUNCILMEMBER PACHUTA: Okay, and (a)?
 20 COUNCILMEMBER BATES: (a), we've addressed.
 21 COUNCILMEMBER PACHUTA: Oh.
 22 MAYOR PITTMAN: Any discussion?
 23 ---
 24 (No response)
 25 ---

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1 MAYOR PITTMAN: Call the roll, please.
 2 CLERK BRYANT: Councilmember Alexander?
 3 COUNCILMEMBER ALEXANDER: Yes.
 4 CLERK BRYANT: Councilmember Bates?
 5 COUNCILMEMBER BATES: Yes.
 6 CLERK BRYANT: Councilmember Dean?
 7 COUNCILMEMBER DEAN: Yes.
 8 CLERK BRYANT: Councilmember Fleming?
 9 COUNCILMEMBER FLEMING: Yes.
 10 CLERK BRYANT: Councilmember Pachuta?
 11 COUNCILMEMBER PACHUTA: Yes.
 12 CLERK BRYANT: Councilmember Patrick?
 13 COUNCILMEMBER PATRICK: No.
 14 MAYOR PITTMAN: Okay. Mr. Cooley? At this
 15 time, we're going to do the Text Amendment, OW Zoning
 16 District, and I believe we have a representative for
 17 that? Okay.
 18 MR. COOLEY: Yes, we do. These are two
 19 separate but yet attached or related items. The first
 20 is a text amendment to the Office Warehouse Use
 21 district, which would allow office space. The second
 22 one is a rezoning application in lieu or as an
 23 alternative approach to the first of changing the text
 24 in OW.
 25 Basically what this evolves around is the

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1 Office Warehouse zoning district, 3988 through 4064
2 Flowers Road. It's one tax parcel -- 18-322-06-001.
3 The first actually is regarding the text amendment.
4 The problem that has happened --
5 This is an OW warehouse district. If you're
6 familiar with it, there's actually some photos in your
7 packet about it, aerial and also a road shot. It's
8 designed as the red brick building, one story, office
9 in front/warehouse in the back.
10 -- over the last year -- over a year, I
11 suppose, we've had a lot of applications coming in for
12 occupational tax certificates for businesses in that
13 location. Because it's in OW, it requires both office
14 and warehouse space and it requires that 51 percent of
15 their leased space be actually warehouse and a minimum
16 of 25 percent be office.
17 What we were continually seeing were
18 applications coming in for smaller businesses that did
19 not need that much warehouse; they might need some
20 storage space, but they didn't need those. We were in
21 a situation with -- worked with the owner to look at
22 different ways how he could split up some of the
23 warehousing areas to incorporate within their leases.
24 I know, I recall in one where they actually had to
25 lease an additional suite and declare it to be ware-

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1 house space for them to be able to open.
2 And what they were seeing is there was a
3 real market change from a large warehouse to office
4 with some storage and a smaller warehouse. It is
5 compatible. It's just that right now we've got that
6 requirement in OW to have 51 percent.
7 We have two areas of OW within the city.
8 The subject parcel, which is here along I-285, and
9 then we have another one up here off Peachtree
10 Industrial that actually comes out through the
11 entrances into this place. This is developed also
12 into warehouse office space.
13 One of the concerns was if this were to go
14 through, what the effect on other zoning districts
15 would be. It would also allow office space as a
16 permitted use within that zoning district, OW. It
17 basically is just adding a permitted use of office
18 without the 51 percent to the OW.
19 So there's been a number of different
20 approaches with this. We also looked at -- only other
21 option they have is Office Warehouse, to go to OI,
22 which is Office Institutional.
23 The problem with that -- and I'm getting a
24 little ahead, but it needs to be discussed now, I
25 think. The problem that I have with that is what

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1 you're doing is creating a very large amount of legal
2 nonconforming uses. You know, anything that's an
3 office warehouse there would be able to stay but it
4 could not expand; there could be no more office
5 warehouse in that.
6 So the problem gets to be, you know, number
7 one, it's bad policy in my opinion to go ahead and
8 create legal nonconforming uses. You're better off
9 modifying code if it seems appropriate. That's the
10 biggest issue that we have -- that I have with it as
11 the planning director.
12 This did go before the Planning Commission.
13 They discussed it in depth, both of them. It was
14 interesting in that they recommended -- and it was a
15 3-0 recommendation -- to do the text amendment as
16 opposed to the rezoning to OI. In fact, they would
17 not even vote to recommend OI rezoning because they
18 felt adamant enough to -- thought that the text change
19 was the proper way to go.
20 So they did not make a recommendation on the
21 second application, just on the first, and that was
22 for approval.
23 That in a nutshell is the case. The
24 applicant is here, the attorney for the applicant, so
25 I'm sure he has something to say.

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1 ATTORNEY STEVE ROTHMAN: Good evening. My
2 name is Steve Rothman, and I'm here on behalf of the
3 applicant, and thank y'all for taking the time.
4 I was pleased to see that your ordinance
5 actually allows an applicant to seek not just to
6 rezone property but to try to apply for a text
7 amendment. I've never done that before. So when I
8 came to this, I talked to the planning director and
9 said, "Instead of just arguing why this is great, it
10 seems like we've got to look at the whole city. It's
11 not just my piece of property."
12 And so the planning director and I looked at
13 the other parcels, and he walked me through the
14 analysis. And I feel very strongly I think it makes
15 sense to amend the OW district to allow an office use.
16 Right now, my client has to have 51 percent warehouse
17 for every tenant, and so as the planning director
18 said, he's getting into this game really of leasing
19 someone who doesn't want warehouse space: "Well, I'll
20 just lease you some, and it'll be free," you know, and
21 then everything's okay.
22 And so it's a big benefit to my client
23 because that's where his market is that he's finding,
24 and we've actually turned people away who wanted to
25 locate there, because the tenant -- the prospective

1 tenant just wasn't interested in playing that kind of
2 game.

3 But the question for you becomes, what's the
4 impact on surrounding properties and to the City? And
5 first of all, right now it's OW, and by allowing
6 offices, I'd like to think that that's allowing almost
7 a lesser included use. Offices are already there; the
8 difference is you don't have trucks making deliveries,
9 you don't have truck traffic on the roads, you have
10 less noise, and so really there's less impact on
11 surrounding properties. And so that's something I'd
12 ask you to consider in allowing this one extra use.

13 And really, there's only one use allowed
14 now, so it's to allow two uses total. But you have a
15 situation where it's of less impact on surrounding
16 properties and less impact on the roads with truck
17 traffic, and so for that reason, I think it's
18 beneficial to the City to allow it to happen, that
19 it's actually -- I think if you were next door to an
20 OW district, you'd prefer having just offices there.

21 The one -- clearly, our parcel, because
22 there's some businesses and residences across the
23 street, getting rid of the -- or allowing offices in
24 lieu of OW only is actually beneficial for them,
25 because it's just fewer trucks.

1 But the other parcel that's off of Peachtree
2 Industrial, there you've got a park that backs up to
3 it. So even there, I think it's the same thing: that
4 you've got a situation where an office is going to
5 have less impact if someone wants to lease for an
6 office in lieu of waiting for somebody that needs a
7 warehouse and all the noise and the traffic that comes
8 with that.

9 So it's our preference, and we respectfully
10 request that you consider allowing this lesser
11 included use, that someone can have office warehouse
12 or an office in OW.

13 If we can do this, I'd like to go ahead and
14 address the O&I. The alternative we would ask for is
15 to rezone to O&I so that we can have.

16 MAYOR PITTMAN: Hold on. Hold on.

17 ATTORNEY ROTHMAN: Okay.

18 ATTORNEY McLENDON: I think it might be
19 best, Mr. Rothman, if we take them separately because
20 we'll have the next hearing if it's necessary --

21 ATTORNEY ROTHMAN: Okay.

22 ATTORNEY McLENDON: -- immediately
23 following.

24 ATTORNEY ROTHMAN: Well, let me say that if
25 you approve the first one, there's no point in me

1 coming up for the next one because I'm happy for you
2 to deny that one.

3 Thank you very much, and I'm available for
4 questions.

5 MAYOR PITTMAN: Okay. Ms. Alex- --
6 Go ahead.

7 COUNCILMEMBER BATES: That was going to be
8 my question to you was if we -- if we change the OW to
9 allow for the text amendment, will you withdraw the OI
10 rezoning application?

11 ATTORNEY ROTHMAN: Yes, I will.

12 COUNCILMEMBER BATES: All right. The next
13 question is for Mr. Cooley and legal. I just want to
14 make sure that I'm -- and Mr. Rothman, you may be able
15 to answer this as well.

16 Hypothetically, a business has 10,000 square
17 feet. The way that the OW ordinance is written now,
18 51 percent of that space needs to be warehouse space,
19 so 5,100 square feet of warehouse space and 4,900
20 square feet of office space. If the business side
21 needed -- didn't need that much office space and they
22 wanted to sublet it or the property owner wanted to
23 lease it to a second tenant, that would not be allowed
24 under the current ordinance. Correct? Business A
25 still needs 5,100 square feet of warehouse space but

1 they don't need 4,900 square feet of office space.
2 MR. COOLEY: Correct. The way it is right
3 now, it's 51 percent and you could have larger.
4 COUNCILMEMBER BATES: Right.
5 MR. COOLEY: You could have more warehouse
6 space.
7 COUNCILMEMBER BATES: 51's the minimum.
8 MR. COOLEY: Right, exactly, just as long as
9 you've got 25 percent office space regardless, but
10 that's correct.
11 COUNCILMEMBER BATES: So they didn't -- they
12 don't need 4,900 square feet of office space; they
13 want to split that in half and lease half of that to
14 Business B. That would not be allowed under this
15 current --
16 MR. COOLEY: Both businesses would have to
17 have 51 percent of their space be warehouse.
18 COUNCILMEMBER BATES: That's what I needed
19 to know. Thank you.
20 MAYOR PITTMAN: Okay. Ms. Alexander?
21 COUNCILMEMBER ALEXANDER: I'm good.
22 MAYOR PITTMAN: Ms. Pachuta?
23 COUNCILMEMBER PACHUTA: I'm fine.
24 MAYOR PITTMAN: Mr. Patrick?
25 COUNCILMEMBER PATRICK: I've got a question

1 they don't need 4,900 square feet of office space.
2 MR. COOLEY: Correct. The way it is right
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21 COUNCILMEMBER ALEXANDER: I'm good.
22 MAYOR PITTMAN: Ms. Pachuta?
23 COUNCILMEMBER PACHUTA: I'm fine.
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21 COUNCILMEMBER ALEXANDER: I'm good.
22 MAYOR PITTMAN: Ms. Pachuta?
23 COUNCILMEMBER PACHUTA: I'm fine.
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12 don't need 4,900 square feet of office space; they
13 want to split that in half and lease half of that to
14 Business B. That would not be allowed under this
15 current --
16 MR. COOLEY: Both businesses would have to
17 have 51 percent of their space be warehouse.
18 COUNCILMEMBER BATES: That's what I needed
19 to know. Thank you.
20 MAYOR PITTMAN: Okay. Ms. Alexander?
21 COUNCILMEMBER ALEXANDER: I'm good.
22 MAYOR PITTMAN: Ms. Pachuta?
23 COUNCILMEMBER PACHUTA: I'm fine.
24 MAYOR PITTMAN: Mr. Patrick?
25 COUNCILMEMBER PATRICK: I've got a question

16 MAYOR PITTMAN: Hold on. Hold on.

17 ATTORNEY ROTHMAN: Okay.

18 ATTORNEY McLENDON: I think it might be
19 best, Mr. Rothman, if we take them separately because
20 we'll have the next hearing if it's necessary --

21 ATTORNEY ROTHMAN: Okay.

22 ATTORNEY McLENDON: -- immediately
23 following.

24 ATTORNEY ROTHMAN: Well, let me say that if
25 you approve the first one, there's no point in me

1 for you. If we were to approve the text amendment to
 2 allow just a straight business use, does that mean
 3 that an ambulance service, bail bond, appearance bond
 4 or even an auto brokerage would be able to use that
 5 location?
 6 This is either Joe or you.
 7 ATTORNEY ROTHMAN: Well, you know, I guess
 8 that the honest answer is someone would need to take a
 9 close look at your ordinance, and I have not looked at
 10 your ordinance close enough on those uses.
 11 My understanding is if it was an office,
 12 but I don't think that you can put cars out there for
 13 sale, but I will yield to your attorneys on that. And
 14 for what it's worth, if you wanted to exclude bail
 15 bondsmen, that's not the market we're going for, so
 16 we're fine with --
 17 COUNCILMEMBER PATRICK: My only concern is
 18 by allowing just a simple blanket any business use or
 19 office use, that we may in fact have other issues.
 20 I have seen through my own work experience
 21 that when a auto brokerage moves in, they'll sign an
 22 affidavit saying, "We swear we're not going to have
 23 vehicles stocked here," and lo and behold, within a
 24 month or two, there's vehicles stocked there.
 25 And this is a quality looking property, and

1 I would hate for this to, by some back door manner,
 2 end up being a car lot or have other activities such
 3 as, you know, a dispatch for taxis or ambulance
 4 services.
 5 ATTORNEY ROTHMAN: And my client's not
 6 interested in that.
 7 And you know what? I mean you do raise a
 8 good point. And if the Council wanted to defer this
 9 for a cycle to spend some time with the director to
 10 find those uses that might have some ancillary or
 11 accessory aspect to it that is I think we all
 12 understand, you know, is objectionable, we don't have
 13 a problem with that, doing that.
 14 I had not considered. I had assumed that
 15 office use means just simply -- I was thinking lawyers
 16 and accountants, but you raise a good point.
 17 COUNCILMEMBER PATRICK: Respectfully, when
 18 we assume --
 19 ATTORNEY ROTHMAN: Yeah.
 20 COUNCILMEMBER PATRICK: -- someone else
 21 looks silly, so.
 22 Joe, do you have an opinion or a comment?
 23 MR. COOLEY: Yeah. I think that's a very
 24 good point. And as you know, in the C-1/C-2 where it
 25 allows business and retail or whatever, it

1 specifically eliminates things. I think maybe his
 2 suggestion of looking at, because I don't think this
 3 is really a retail. We're talking about a business
 4 office.
 5 COUNCILMEMBER PATRICK: Correct.
 6 COUNCILMEMBER BATES: In C-2 or C-1, it
 7 specifically outlines --
 8 MR. COOLEY: Yes.
 9 COUNCILMEMBER BATES: -- the permitted types
 10 or not-allowed types.
 11 So Mr. Patrick, I think that's a good
 12 suggestion and --
 13 MR. COOLEY: Yep.
 14 COUNCILMEMBER BATES: -- Mr. Rothman, I do
 15 think if we can defer this for one cycle just to make
 16 sure that all those t's are crossed and i's are
 17 dotted, that'd be great.
 18 COUNCILMEMBER PATRICK: And --
 19 ATTORNEY McLENDON: And I will say that the
 20 way the ordinance is structured, it has numerous
 21 prohibited uses in there including auto sales. But if
 22 everyone was amenable, I don't think there's any issue
 23 with going and deferring it to make sure that these
 24 match up. If you're going to do an amendment to your
 25 ordinance, make sure that these match up with the will

1 of Council as to the allowed uses if we expand the
 2 office use.
 3 COUNCILMEMBER PATRICK: Right.
 4 MR. COOLEY: And just one real quick thing,
 5 too: also remember when you were asking the question,
 6 I believe, about the expansion of warehouse into
 7 offices or something like that, before they came in or
 8 when they came in to do that for Code, they would have
 9 to make sure that they meet the parking regulations,
 10 because obviously it's a different requirement for
 11 parking. So there's going to be a limitation in there
 12 would be my guess, somewhere, the amount that they
 13 could actually convert to offices from warehouse
 14 because of the difference in ratio.
 15 COUNCILMEMBER BATES: Okay. I'm going to
 16 make a motion to defer items 9(b), the text amendment
 17 for OW zoning, and --
 18 MAYOR PITTMAN: Hold one second.
 19 Do we have to do the public hearing first?
 20 COUNCILMEMBER FLEMING: And we haven't made
 21 it all the way down the table yet either.
 22 COUNCILMEMBER BATES: My apologies, and I
 23 withdraw the motion.
 24 MAYOR PITTMAN: Ms. Fleming.
 25 COUNCILMEMBER FLEMING: Thank you very much.

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1 Mr. Rothman, could you tell me if you -- you
2 are the representative of the owner of the entire 3988
3 to 4064 Flowers Avenue --
4 ATTORNEY ROTHMAN: Yes, ma'am.
5 COUNCILMEMBER FLEMING: -- or just one
6 parcel?
7 ATTORNEY ROTHMAN: No. Of everyone that
8 owns that office park.
9 COUNCILMEMBER FLEMING: I'm sorry?
10 ATTORNEY ROTHMAN: I represent the owner --
11 owners of that entire office park.
12 COUNCILMEMBER FLEMING: There are multiple
13 owners.
14 ATTORNEY ROTHMAN: Yes. Oh, there's a lot
15 of them, yes. And my clients are all of them through
16 a management company.
17 COUNCILMEMBER FLEMING: And so are we
18 talking a specific parcel that we want to do this for
19 or are we talking for that entire office park?
20 ATTORNEY ROTHMAN: The entire office park.
21 COUNCILMEMBER FLEMING: Do we have a --
22 MR. COOLEY: Just one parcel.
23 COUNCILMEMBER FLEMING: I'm sorry?
24 MR. COOLEY: It is one parcel. The entire
25 office park's --

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1 COUNCILMEMBER FLEMING: One parcel --
2 MR. COOLEY: -- one parcel.
3 COUNCILMEMBER FLEMING: -- I.D. with
4 multiple addresses?
5 MR. COOLEY: Yes, ma'am. That's why I read
6 in the tax number, tax I.D. number for clarification.
7 It is a number of addresses but it is all on one tax
8 parcel.
9 I don't know how their ownership breaks out,
10 whether he shares or what the situation is. I have no
11 idea. But it is one tax parcel.
12 COUNCILMEMBER FLEMING: And you're repre-
13 senting verbally for each and every owner --
14 ATTORNEY ROTHMAN: Yes.
15 COUNCILMEMBER FLEMING: -- or a --
16 ATTORNEY ROTHMAN: Yes.
17 COUNCILMEMBER FLEMING: -- a specific?
18 Okay. Mr. Cooley, is there a reason why we
19 wouldn't just want to eliminate the warehouse portion
20 of the 51 percent?
21 MR. COOLEY: Well, again, there, what you'd
22 be doing is creating a legal nonconforming of the
23 warehousing portion of it, and it would restrict not
24 just this parcel but the other parcel, the other OW in
25 the city to --

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1 COUNCILMEMBER FLEMING: Well, it just says,
2 "Office warehouse facilities where the warehouse is an
3 integral portion of the office structure but excluding
4 mini-storage or self-storage facilities," and stop
5 right there and not say that it needs to be 51 percent
6 warehouse.
7 MR. COOLEY: That would be an option. And
8 what you've got in here is one ordinance that was
9 drafted by the applicant and another one that was
10 drafted by the city attorney where I -- I don't -- you
11 know, it's two different languages. I mean it's --
12 COUNCILMEMBER FLEMING: No. I was looking
13 at the -- our actual ordinance indicates --
14 MR. COOLEY: Right.
15 COUNCILMEMBER FLEMING: -- the portion had
16 to be 51 percent, so I was just curious --
17 MR. COOLEY: You could do it --
18 COUNCILMEMBER FLEMING: -- as to why we --
19 MR. COOLEY: -- either way, I believe.
20 COUNCILMEMBER FLEMING: -- wouldn't just
21 eliminate the minimum requirement of 51 percent.
22 MR. COOLEY: That's a possibility, too.
23 COUNCILMEMBER BATES: Well, because then
24 you're still requiring them to have -- you're still
25 requiring them to have warehousing space whether it's

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1 one percent or 51 percent. You're still requiring
2 them -- in order to open up a business, they're still
3 required to have a warehouse, and what I'm hearing is
4 is that they're trying to attract businesses that
5 don't need a ware-house.
6 COUNCILMEMBER FLEMING: But, then, we're not
7 requiring them to have a percentage at all.
8 COUNCILMEMBER BATES: If -- if you --
9 COUNCILMEMBER PATRICK: I think by default,
10 it would assume there has to be at least --
11 Sorry to interrupt, Brian.
12 COUNCILMEMBER BATES: No.
13 COUNCILMEMBER PATRICK: I think by default
14 what it would imply is that you have to have a minimum
15 of one percent of the floor area, for instance, that
16 would be allocated towards warehousing, which, by
17 eliminating it completely or --
18 COUNCILMEMBER BATES: Or having that second
19 option.
20 COUNCILMEMBER PATRICK: Thank you. Yes.
21 MAYOR PITTMAN: Anything else, Ms. Fleming?
22 COUNCILMEMBER FLEMING: Go ahead.
23 COUNCILMEMBER DEAN: Okay. Was this
24 property ever part of the GM site?
25 ATTORNEY ROTHMAN: I must admit I'm not

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1 aware. I'm not -- Did you say it's part of the --
2 COUNCILMEMBER DEAN: I asked if it was ever
3 part of the GM site, and I ask because the GM, when
4 they sold the property, number one, the environmental
5 issues that might be there. But there's an excerpt
6 from GM contracts for a number of properties they sold
7 that runs for -- that runs in perpetuity for the
8 duration of the -- The contracts say it would run with
9 the land in perpetuity.
10 So that's something that we should be aware
11 of, because this clause is: (Reading) "The property
12 shall be used for industrial and commercial purposes
13 including without limitation warehouse, retail, motel
14 and hotel. In no event shall the property be used for
15 any residential use whether mixed use or otherwise."
16 And so I don't know, but I'm asking if this
17 would be relevant to the property in question.
18 ATTORNEY ROTHMAN: I don't know either, to
19 answer your question. I would say it sounds like if
20 there's language like that and what we are seeking to
21 do runs afoul of that, which I'm not sure it does, but
22 if it did, that's my client's problem.
23 COUNCILMEMBER DEAN: Right.
24 ATTORNEY ROTHMAN: I mean that's their
25 problem. But they have not indicated any -- any

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1 concern about their title or limitations on their
2 title to the land in seeking this rezoning.
3 COUNCILMEMBER DEAN: Okay. Could you find
4 out?
5 ATTORNEY ROTHMAN: Yeah.
6 COUNCILMEMBER DEAN: Okay.
7 ATTORNEY ROTHMAN: Since I'm coming back,
8 that's really easy.
9 COUNCILMEMBER DEAN: Okay. And the other --
10 the other thing was exactly Mr. Patrick's point: The
11 liberal inclusion of office uses is so ambiguous, and
12 so that's -- Because I looked through and just looked
13 at some of the massaging, you could say a massage parlor
14 is an office of sorts. And so that's something that I
15 think that we definitely need to look at.
16 And this is for Mr. Cooley: Do we have many
17 areas zoned for warehousing in the city?
18 MR. COOLEY: As I said, there were two.
19 COUNCILMEMBER DEAN: Two?
20 MR. COOLEY: The ones I pointed out.
21 COUNCILMEMBER DEAN: Right, right, right,
22 right, right.
23 MR. COOLEY: OW here and the subject parcel
24 here. It's just those two.
25 COUNCILMEMBER DEAN: And do we know about

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1 how big those spaces are?
2 MR. COOLEY: The areas?
3 COUNCILMEMBER DEAN: Uh-huh.
4 MR. COOLEY: Of the entire parcel?
5 You're at what? Six, something like that,
6 are you not?
7 ATTORNEY ROTHMAN: 19.
8 MR. COOLEY: Is it 19 acres?
9 ATTORNEY ROTHMAN: Yes.
10 MR. COOLEY: So just off the top of my head,
11 I don't know the accurate figure, but if this is 19
12 acres, this looks like I would guess is probably going
13 to be maybe 12, 15 acres, something like that, ball-
14 park.
15 COUNCILMEMBER DEAN: All right.
16 MR. COOLEY: Might be a little bit -- might
17 be a little larger than that. I'd have to look at the
18 three different parcels and see what it is --
19 COUNCILMEMBER DEAN: Okay.
20 MR. COOLEY: -- to give you accurate, which
21 I can do.
22 MAYOR PITTMAN: All right. So at this time,
23 we're going to go ahead and open the public hearing
24 portion. Those wishing to speak --
25 COUNCILMEMBER PACHUTA: I'm sorry. This is

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1 a question for legal.
2 If we open the public hearing and move to a
3 date certain, do we still need to hear the pros and
4 cons tonight?
5 ATTORNEY McLENDON: If we're going to open
6 it, we need to --
7 COUNCILMEMBER PACHUTA: And we need to open
8 it before we move it to a date certain?
9 ATTORNEY McLENDON: Yes, yes. I would --
10 COUNCILMEMBER PACHUTA: Okay. So --
11 ATTORNEY McLENDON: -- conduct the -- We've
12 advertised the hearing tonight. Have the hearing and
13 then --
14 COUNCILMEMBER PACHUTA: Okay.
15 ATTORNEY McLENDON: -- move it to the date
16 you want.
17 MAYOR PITTMAN: Okay. Thank you.
18 Those wishing to speak in support of this --
19 let me rephrase it: support of -- please come
20 forward. Remember 10 minutes, 10 minutes total.
21 Those wishing to speak in support of.
22 MR. THOM ABBOTT: Thom Abbott from
23 Northwoods. I just have a point of clarification
24 because this happened the last time we had a public
25 hearing and then we had another public hearing but

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1 there was no public hearing.
2 So when they come back with their revised
3 whatever and you've talked about some additional uses
4 or whatever, is there going to be another public
5 hearing that we can then comment on the new changes
6 and how it's worded?
7 ATTORNEY McLENDON: I would say --
8 MR. ABBOTT: Because -- I'm sorry.
9 ATTORNEY McLENDON: -- that would be at the
10 discretion of the Council. If we've had a public
11 hearing, we have hit the requirement of the Zoning
12 Ordinance, but it could be done.
13 Joe?
14 MR. COOLEY: What I would suggest is if
15 that's the case, not to -- and correct me if you think
16 I'm wrong -- not to close the public hearing but to
17 continue it to a date certain.
18 MAYOR PITTMAN: Okay.
19 MR. COOLEY: That way, the public hearing is
20 not closed; it is still open, and you can continue it
21 next meeting.
22 MR. ABBOTT: All right. Thank you.
23 MAYOR PITTMAN: Anyone else wanting to speak
24 in support?
25 MR. STUART ANDERSON: Stuart Anderson.

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1 In case I miss -- in case I lose my chance
2 because you don't continue the public hearing, the
3 warehouse situation. Since we're trying to get rid of
4 wholesale, warehousing tends to support wholesale, so
5 I see a lot of reasons for doing it. But the simple
6 one that I see is cut down on the warehouse because
7 you're trying to get rid of wholesale, anyway. Thank
8 you.
9 MAYOR PITTMAN: Anyone else wishing to speak
10 in support of?
11 ---
12 (No response)
13 ---
14 MAYOR PITTMAN: Okay. Anyone wishing to
15 speak against, please come forward.
16 MR. HART: Like I said before, this is one
17 set of buildings or one area of the city that was
18 actually built correctly. It's a nice looking office
19 park. It's made out of brick. It's not made out of
20 EIFS panels and corrugated metal and looks like the
21 nail mall. This actually is a real deal, and it's the
22 building block for small businesses in the United
23 States. This is very important. I wish we had more
24 parks like this in the city. It's actually a place
25 where actually the wholesale businesses are supposed

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1 to be, not in C-2, so I think that you're playing with
2 fire here.
3 The other office and warehouse area on the
4 horseshoe behind Ms. Pittman's house is built in the
5 stream buffer with all kind of problems. It's not
6 exactly what I would call the proper office park.
7 This is.
8 So I think you should be very, very careful
9 of what you're doing here because we need more like
10 what we have now, not less. I've started three
11 businesses in a building just like this. I mean Apple
12 Computers started in a place like this. This is what
13 you need in the city to bring in proper businesses in
14 the city. So we need to look at again, market this
15 instead of trying to change it to fit somebody else's
16 mold. Thank you.
17 MAYOR PITTMAN: Okay. Anyone else wishing
18 to speak against?
19 ---
20 (No response)
21 ---
22 MAYOR PITTMAN: Okay. At this time, we are
23 going to get a motion to continue the public hearing
24 and to defer it to a date certain.
25 Mr. Bates, do you want to make your --

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1 COUNCILMEMBER BATES: Everybody done?
2 MAYOR PITTMAN: -- motion now?
3 COUNCILMEMBER BATES: Make a motion to
4 continue this public hearing for the OW text amendment
5 to December the 3rd.
6 MAYOR PITTMAN: Do I get a second?
7 COUNCILMEMBER ALEXANDER: Second.
8 MAYOR PITTMAN: Discussion?
9 ---
10 (No response)
11 ---
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: Okay, (c). What do we do

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1 with that?

2 COUNCILMEMBER PACHUTA: Do we need to open

3 it?

4 ATTORNEY McLENDON: Well, I think we would

5 open the public hearing on that as well because that's

6 going to be I would imagine deferred forward until we

7 see the outcome of the first issue. If the first

8 issue is resolved, I would think we might see a

9 voluntary withdrawal of the second issue, so --

10 MAYOR PITTMAN: So just --

11 ATTORNEY McLENDON: -- I would say we have

12 the item, we need to have the hearing on it, do the

13 same thing, continue it to --

14 COUNCILMEMBER PACHUTA: Do we need to go

15 through the whole explanation of the item or can we

16 just open --

17 ATTORNEY McLENDON: I think we can --

18 COUNCILMEMBER PACHUTA: -- the public

19 hearing?

20 ATTORNEY McLENDON: -- have a truncated

21 explanation.

22 COUNCILMEMBER PACHUTA: Okay.

23 ATTORNEY McLENDON: Yep.

24 MAYOR PITTMAN: Go ahead.

25 MR. COOLEY: Truncated explanation. This is

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1 a rezoning from Office Warehouse to Office

2 Institutional at 3988 to 4064 Flowers Road, tax parcel

3 18-322-06-001.

4 MAYOR PITTMAN: Okay. Any questions from

5 Council on this?

6 ---

7 (No response)

8 ---

9 MAYOR PITTMAN: So do we move forward and

10 actually --

11 ATTORNEY McLENDON: Mr. Rothman, would you

12 like to say anything on this one?

13 ATTORNEY ROTHMAN: Madam Mayor, members of

14 Council, I request that you defer this matter along

15 with the previous matter that was deferred and have

16 them go together. Thank you.

17 MAYOR PITTMAN: Thank you.

18 So do we allow people to still speak?

19 ATTORNEY McLENDON: I think we do, and we --

20 MAYOR PITTMAN: Okay. At this time --

21 ATTORNEY McLENDON: -- will continue the

22 hearing.

23 MAYOR PITTMAN: -- we're going to open the

24 public hearing.

25 Those wishing to speak, again, 10 minutes.

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1 Wishing to speak in favor of, please come forward.

2 ---

3 (No response)

4 ---

5 MAYOR PITTMAN: Okay. Anyone wishing to

6 speak against, please come forward.

7 ---

8 (No response)

9 ---

10 MAYOR PITTMAN: Okay. Do I --

11 COUNCILMEMBER PACHUTA: Oh. Sorry.

12 I make a motion to continue the public

13 hearing on the rezoning from OW to OI till December

14 3rd.

15 MAYOR PITTMAN: Okay. Second?

16 COUNCILMEMBER ALEXANDER: Second.

17 MAYOR PITTMAN: Discussion?

18 ---

19 (No response)

20 ---

21 MAYOR PITTMAN: Call the roll, please.

22 CLERK BRYANT: Councilmember Alexander?

23 COUNCILMEMBER ALEXANDER: Yes.

24 CLERK BRYANT: Councilmember Bates?

25 COUNCILMEMBER BATES: Yes.

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1 CLERK BRYANT: Councilmember Dean?

2 COUNCILMEMBER DEAN: Yes.

3 CLERK BRYANT: Councilmember Fleming?

4 COUNCILMEMBER FLEMING: Yes.

5 CLERK BRYANT: Councilmember Pachuta?

6 COUNCILMEMBER PACHUTA: Yes.

7 CLERK BRYANT: Councilmember Patrick?

8 COUNCILMEMBER PATRICK: Yes.

9 MAYOR PITTMAN: Okay. Thank you.

10 The next is (d). This is also a public

11 hearing.

12 Cecil, what do we do with this? Open it and

13 defer it?

14 ATTORNEY McLENDON: Did we decide we were

15 moving this forward?

16 MR. COOLEY: We have two options: One, you

17 could do the same process you just went through, open

18 the public hearing and continue, or we could

19 readvertise.

20 COUNCILMEMBER BATES: And readvertising puts

21 us outside of the December 3rd meeting schedule.

22 MR. COOLEY: It does. It would probably end

23 up having to be the first of January -- or 3rd or

24 whatever it is.

25 MAYOR PITTMAN: Okay. Council?

1 COUNCILMEMBER BATES: My preference would be
2 to continue it on December 3rd. Saves advertising
3 costs, and this particular item has been on the agenda
4 for --

5 COUNCILMEMBER PACHUTA: Awhile.

6 COUNCILMEMBER BATES: -- awhile.

7 ATTORNEY McLENDON: If we want to follow
8 that strategy, we might have a truncated explanation,
9 the public understanding that that hearing will be
10 continued on the 3rd and the public comment would
11 continue on that date.

12 MAYOR PITTMAN: Okay. Mr. Cooley?

13 MR. COOLEY: This is a text amendment to
14 address signs for vacant properties. This is a public
15 hearing. We've had a first reading on it. This was
16 the second hearing, so you'll be postponing both or
17 deferring the public hearing and a second reading on
18 this matter.

19 Basically it was addressing the additional
20 signs under the Code to allow for signs on top of the
21 permit signs that are allowed for properties that are
22 vacant or have vacancies within them, and there was
23 discussions about the signs of the signs, setbacks,
24 etc.

25 MAYOR PITTMAN: Okay.

1 signs.

2 And so, you know, doing this piecemeal like
3 this, I mean every sign in the city has a special
4 little thing attached to it. Okay?

5 So for God's sakes, I don't think -- even if
6 you pass the ordinance, I don't think anybody enforces
7 it. I mean you certainly wouldn't -- You know, new
8 buildings built on Buford Highway, you know, brand new
9 buildings have got the wrong signs on them. They got
10 too many signs and too much of everything.

11 Okay. And the lights on the Monterrey's
12 down here during a moratorium on these lights and
13 stuff, I mean nobody's enforcing this stuff.

14 So you need to have a comprehensive sign
15 policy that no matter what kind of sign you got, free
16 speech or whatever, okay, it's addressed. It's not one
17 thing for the church; not one for the hotel, one for
18 your buddy, one for -- you know.

19 You've been working on this. We've talked
20 about signs in the city for eight years that I know.
21 We need one sign policy, you know. You need monument
22 signs, you need this size sign, you know, this, you
23 know.

24 I don't think you even need to pass this. I
25 think you need to go back and fix the entire sign

1 MR. COOLEY: And I won't get into the
2 details.

3 MAYOR PITTMAN: Okay, Council. Anything
4 from Council on this right now?

5 ---
6 (No response)

7 ---
8 MAYOR PITTMAN: Okay. At this time, I'm
9 going to open the public hearing.

10 Anyone wishing to speak for at this time,
11 please come forward.

12 ---
13 (No response)

14 ---
15 MAYOR PITTMAN: Okay. Anyone wishing to
16 speak against, please come forward.

17 Mr. Hart?

18 MR. HART: It seems like we're taking the
19 sign ordinance and we're doing it one little piece at
20 a time and we end up with all these conflicting things
21 going on because they're all written at different
22 times and different measures and different permit fees
23 and whatever instead of doing a comprehensive sign.
24 You know, a sign's a sign whether it says "for sale",
25 "lease", "vacant property," whatever; they're all

1 ordinance of the city in one piece so it all is
2 integrated, it all fits together. Thank you.

3 MAYOR PITTMAN: Okay. Anyone else wishing
4 to speak against?

5 ---
6 (No response)

7 ---
8 COUNCILMEMBER PACHUTA: I'll make a motion
9 to continue the public hearing on text amendment to
10 address signs for vacant properties till the date
11 certain of December 3rd.

12 MAYOR PITTMAN: Get a second?
13 COUNCILMEMBER BATES: Second.
14 MAYOR PITTMAN: Discussion?

15 ---
16 (No response)

17 ---
18 MAYOR PITTMAN: Call the roll, please.
19 CLERK BRYANT: Councilmember Alexander?
20 COUNCILMEMBER ALEXANDER: Yes.
21 CLERK BRYANT: Councilmember Bates?
22 COUNCILMEMBER BATES: Yes.
23 CLERK BRYANT: Councilmember Dean?
24 COUNCILMEMBER DEAN: Yes.
25 CLERK BRYANT: Councilmember Fleming?

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1 COUNCILMEMBER FLEMING: Yes.
 2 CLERK BRYANT: Councilmember Pachuta?
 3 COUNCILMEMBER PACHUTA: Yes.
 4 CLERK BRYANT: Councilmember Patrick?
 5 COUNCILMEMBER PATRICK: Yes.
 6 MAYOR PITTMAN: Okay. Thank you.
 7 Okay. At this time, we're going to have
 8 public comments. Please line up at the podium if you
 9 wish to speak.
 10 UNIDENTIFIED SPEAKER: No. Got one more.
 11 MAYOR PITTMAN: One more?
 12 MR. COOLEY: Mayor --
 13 MAYOR PITTMAN: Was this a public hearing?
 14 MR. COOLEY: Yes, ma'am, it is.
 15 MAYOR PITTMAN: Okay. I apologize.
 16 Commercial Design Standards.
 17 MR. COOLEY: Yes. You have in your package
 18 the ordinance dated November 15, 2012, that basically
 19 takes all the information and combines it.
 20 I ask you to look at it, because one thing
 21 that has been included in this under advice of counsel
 22 is an optional design review board so it splits the
 23 policy of whether it's the planning director or if
 24 y'all wish just to have a board.
 25 That being said, you know, I think it would

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1 be a good recommendation to open the public hearing
 2 and continue it till next time and have discussion at
 3 that point.
 4 MAYOR PITTMAN: Okay. Comments from the
 5 Council?
 6 COUNCILMEMBER FLEMING: If there's anyone
 7 either on Council or in the residents here this
 8 evening that still has questions regarding the
 9 ordinance, go ahead and use these two weeks and get
 10 their questions to Mr. Cooley.
 11 COUNCILMEMBER DEAN: Well, I still think
 12 that a work session would be appropriate since three
 13 members of Council were not present in discussion. We
 14 could send our comments to Council, but no one sees
 15 what those comments are until we get the final
 16 product, which is something that I've been expressing
 17 disfavor on many, many, many times.
 18 So I don't know what the other input is, and
 19 it doesn't seem very efficient to do -- all of us
 20 individually send comments to one person; whereas,
 21 with a work session, we're able to communicate and
 22 discuss things and have interaction. And that's why I
 23 was very disappointed to learn that the second work
 24 session was canceled. I could have attended the first
 25 one. I would have attended the first one; it was my

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1 anniversary. I didn't attend because I knew a second
 2 was forthcoming, and when it was canceled, I expressed
 3 my displeasure about that happening then.
 4 So I would prefer to have another work
 5 session where I have the benefit of all of your
 6 thoughts and your ideas and also the opportunity to
 7 share some of my own.
 8 MAYOR PITTMAN: Okay. Anyone else?
 9 - - -
 10 (No response)
 11 - - -
 12 MAYOR PITTMAN: Okay. At this time, we're
 13 going to open the public hearing portion.
 14 Those wishing to speak for the Commercial
 15 Design Standards, please come forward.
 16 MR. ANDERSON: Stuart Anderson. I have -- I
 17 don't know about revisions but I have questions.
 18 And something to Ms. Dean's comment is in
 19 the work session, sometimes public comment is allowed
 20 and sometimes it's not. And I would go on record
 21 saying that I would like, if there's a work session,
 22 to be able to participate. Thank you.
 23 COUNCILMEMBER DEAN: Well, I'm not sure
 24 exactly what work sessions are because we have been
 25 voting at work sessions, and so I think that's an

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1 excellent point.
 2 MAYOR PITTMAN: Okay. Thank you.
 3 Anyone wishing to speak for, please come
 4 forward.
 5 - - -
 6 (No response)
 7 - - -
 8 MAYOR PITTMAN: Anyone wishing to speak
 9 against, please come forward.
 10 MR. HART: This is the first time I got a
 11 copy of it, today, so I was able to go through it.
 12 And it seems like every page I was making
 13 five notes. And I don't think this is anywhere close
 14 to being ready to go. I mean it's -- I could go
 15 through page by page here, but we haven't the time or
 16 are not allowed the time to do that.
 17 But one thing that concerns me is that if it
 18 didn't meet the standards, it went to the back office
 19 and they did whatever they wanted to do. And I
 20 think -- I may be wrong here, but if you look at the
 21 nail mall and these other things that have happened
 22 here, perhaps the judgement is not as crisp in the
 23 back room as it needs to be.
 24 So I think taking the Council or the public
 25 out of that equation where the applicant can appeal

1 the process if they don't like the answer, but the
 2 public and the Council can't appeal that process, and
 3 that is the key to the problem we've had.
 4 Everything that's been done in the last
 5 couple years doesn't meet anything. Okay. And if
 6 somebody says anything about it, the only answer I've
 7 gotten is, "Well, go take it to court, then." Well, I
 8 don't think that's really the job of the public here
 9 to go hire attorneys to point out that y'all aren't
 10 doing your job or somebody's not doing their job.
 11 So that's on every page.
 12 Okay. But you know, Doraville's unique.
 13 It's got these streets where you could see the
 14 building from a lot of different angles. So what
 15 we're doing here is we got massage just on one side,
 16 but the back side of the building that faces another
 17 neighborhood has got this block wall sitting behind
 18 it. Okay? You need to have a three sixty. Go down
 19 New Peachtree and Buford Highway, all those buildings
 20 could be seen from all three angles.
 21 So on every page, there is a problem. It
 22 should be reviewed by a professional architect, not
 23 planners. You got tons of planners. Planners are
 24 like people with opinions. Okay?
 25 Sorry.

1 But you need a professional architect to
 2 look at these things because this is our future of the
 3 city, and you need to do it right on the front end and
 4 not constantly be causing these problems.
 5 So the procedures are wrong, the archi-
 6 tectural standard are -- we got metal panels in here,
 7 we got stacked block, we got 30 percent concrete
 8 poured stuff. It's a mess.
 9 So I think you need to have another work
 10 session. And one time I'll agree with Stuart is that
 11 the public, when you do these things in these work
 12 sessions, some of us, you know, may have something to
 13 offer that you probably haven't thought about before.
 14 So I think that keeping that in mind, this
 15 is not one of those deals where we just review it and
 16 stamp it through and then we got more problems
 17 embedded in the city's future. Thank you.
 18 MAYOR PITTMAN: Anyone else wishing to speak
 19 against?
 20 ---
 21 (No response)
 22 ---
 23 COUNCILMEMBER PACHUTA: All right. I'll
 24 make a motion to continue the public hearing on
 25 Architectural Design Standards to the date certain of

1 December 3rd.
 2 MAYOR PITTMAN: Do I get a second?
 3 COUNCILMEMBER BATES: Second.
 4 MAYOR PITTMAN: Discussion?
 5 COUNCILMEMBER DEAN: All right. Again I
 6 would like to say that on September 4th (reading) "A
 7 motion was made by Councilmember Patrick to approve
 8 the proposed architectural design standards schedule
 9 utilizing the standards approved by the Planning
 10 Commission posted on the City web site. The motion
 11 was seconded by Councilmember Fleming and was passed
 12 by unanimous vote."
 13 We have not followed that schedule. Three
 14 Council members were not here. Again I say, because
 15 this is important to me because this is a very
 16 important matter, I would like to have another work
 17 session. Three Council members were not in
 18 attendance, and I would like to --
 19 What should I do? Make a motion to -- or
 20 because we've made the motion and we passed it.
 21 MAYOR PITTMAN: Well, we have a motion on
 22 the table right now.
 23 COUNCILMEMBER DEAN: Okay. But I'm asking
 24 counsel.
 25 ATTORNEY McLENDON: I think you could have a

1 substitute motion that would be to -- what I'm hearing
 2 is to not continue this hearing; to have another work
 3 session and potentially readvertise. That's what I'm
 4 hearing.
 5 COUNCILMEMBER DEAN: Okay.
 6 ATTORNEY McLENDON: And that would be a
 7 substitute motion that someone could make. If it's
 8 seconded and voted on, we'd hear what happened.
 9 MAYOR PITTMAN: Well, we have a motion and a
 10 second right now.
 11 Additional discussion?
 12 ---
 13 (No response)
 14 ---
 15 (Brief discussion off the record between city
 16 attorneys.)
 17 ---
 18 MAYOR PITTMAN: Call the roll, please.
 19 CLERK BRYANT: Councilmember Alexander?
 20 COUNCILMEMBER BATES: Hold on. Hold on,
 21 please.
 22 ATTORNEY McLENDON: Hold on one second.
 23 Give me one second.
 24 ---
 25 (Brief discussion off the record between Attorneys

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1 McLendon and Felgin.)
 2 ---
 3 MR. COOLEY: Madam Mayor, I don't know if
 4 y'all are trying to listen to that or not, but just so
 5 everyone does know --
 6 MAYOR PITTMAN: Oh. Hold on, Joe.
 7 ATTORNEY McLENDON: Well, I didn't bring my
 8 Roberts Rules with me. I'm sorry about that. But I
 9 think that --
 10 I'll tell you what I want. I want to do a
 11 recess for a moment to go out in the hall on this one
 12 and talk for a minute.
 13 MAYOR PITTMAN: Going to take a --
 14 ATTORNEY McLENDON: Just a minute. Two
 15 minutes.
 16 MAYOR PITTMAN: -- two minute break.
 17 ---
 18 (Brief recess)
 19 ---
 20 MAYOR PITTMAN: Meeting come back to order.
 21 ATTORNEY McLENDON: Okay. All right. We
 22 have consulted Robert's Rules and we can have a
 23 substitute motion.
 24 What it would do is basically the main
 25 motion is on the table to defer it to a date certain.

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1 The substitute motion would come in and say,
 2 "No, we're not taking the action of the first motion.
 3 I would prefer to have this action." That is voted on
 4 just like the first motion. If it fails, you just
 5 move back to the main motion. So a substitute motion
 6 can be made at this time to do --
 7 COUNCILMEMBER DEAN: Okay. So -- All right.
 8 ATTORNEY McLENDON: -- whatever it is you
 9 want to do.
 10 COUNCILMEMBER DEAN: So I would say I would
 11 like to make a substitute motion to schedule another
 12 work session to discuss the design standards for a
 13 date certain December 10th.
 14 ATTORNEY McLENDON: You can have that
 15 substitute motion. Do you want to deal with the
 16 hearing date, defer the hearing to a --
 17 COUNCILMEMBER DEAN: And to defer the
 18 hearing date until after we have our work session.
 19 MAYOR PITTMAN: Okay. Is that your
 20 substitute motion?
 21 MR. COOLEY: If I may --
 22 COUNCILMEMBER DEAN: Uh-huh.
 23 MR. COOLEY: -- the only advantage of having
 24 a date certain for the meeting after that --
 25 COUNCILMEMBER DEAN: Okay. So you can --

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1 MR. COOLEY: -- you don't have to --
 2 COUNCILMEMBER DEAN: You've noticed it.
 3 MR. COOLEY: -- go through the advertising
 4 and all --
 5 COUNCILMEMBER DEAN: Okay.
 6 MR. COOLEY: -- that stuff to get --
 7 COUNCILMEMBER DEAN: Okay. All right. So
 8 when would --
 9 COUNCILMEMBER FLEMING: December 17th.
 10 COUNCILMEMBER DEAN: To December 17th.
 11 ATTORNEY McLENDON: You have a motion.
 12 MAYOR PITTMAN: Okay. So does she need a
 13 second for her sub- --?
 14 Okay. Do I --
 15 COUNCILMEMBER FLEMING: Second.
 16 MAYOR PITTMAN: -- get a second for the
 17 substitute motion?
 18 COUNCILMEMBER FLEMING: Second.
 19 MAYOR PITTMAN: Discussion?
 20 COUNCILMEMBER ALEXANDER: So we don't have
 21 to rescind the first motion first?
 22 ATTORNEY McLENDON: No.
 23 MAYOR PITTMAN: I've never heard of that.
 24 ATTORNEY McLENDON: What'll happen --
 25 COUNCILMEMBER ALEXANDER: Yeah, because

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1 we're voting on two motions at the same time.
 2 ATTORNEY McLENDON: No. If this motion
 3 fails, the substitute, you'll go back to the first.
 4 COUNCILMEMBER BATES: What if this one
 5 passes?
 6 ATTORNEY McLENDON: Kills the first. Had to
 7 look it up.
 8 MAYOR PITTMAN: Okay.
 9 COUNCILMEMBER BATES: So just to be clear,
 10 the substitute motion on the table is to have a work
 11 session on December the 10th with the continuation of
 12 the public hearing to December the 17th.
 13 COUNCILMEMBER DEAN: Yes.
 14 COUNCILMEMBER PATRICK: Can I make a
 15 comment?
 16 MAYOR PITTMAN: Uh-huh.
 17 COUNCILMEMBER PATRICK: The only concern I
 18 have is is the same concern we had initially, which
 19 was Council members have lives outside of Doraville's
 20 business, unfortunately, and it has been difficult to
 21 get the quorum that we had. We had -- we did have a
 22 quorum that night. And hearing from other Council
 23 members that work concerns would be difficult even to
 24 get here, even the night we had the open -- or the
 25 workshop, only a few people showed up, only a handful

1 of the diehards.

2 COUNCILMEMBER DEAN: Okay. But no, I would
3 have attended. I sent an e-mail saying, "It's my
4 anniversary. We're going to have another one, right?"
5 And I was told, "Yes, we will have another one," so I
6 definitely would have attended. But it was my
7 anniversary, and so I thought if there's another one,
8 then I'll go ahead and spend time with my husband.

9 So we had one other Council member, as far
10 as I know, who said he couldn't attend, and that was
11 Mr. Bates, and two others were not available, and I --
12 just personally, yeah, I'm kind of tied to the
13 meetings every week, but this is an important one that
14 I would definitely like to attend or at least have the
15 opportunity to attend.

16 MAYOR PITTMAN: Have you by chance had the
17 opportunity to send Mr. Cooley your thoughts yet?

18 COUNCILMEMBER DEAN: No, I have not sent
19 Mr. Cooley my thoughts.

20 COUNCILMEMBER BATES: And just to be clear,
21 my e-mail message was that I cannot attend meetings
22 outside of Mondays. I have set aside all of my
23 Mondays for the balance of the year for meetings; I
24 cannot attend meetings outside of Mondays until 2013.

25 COUNCILMEMBER DEAN: The 10th is a Monday.

1 somewhere. Get 'em in.

2 COUNCILMEMBER PACHUTA: Well, I do --

3 COUNCILMEMBER PATRICK: We do want to hear
4 what you guys have to say.

5 COUNCILMEMBER PACHUTA: I do want to stress
6 we put all the design standards online for public
7 comment for a month --

8 MR. COOLEY: It's still up.

9 COUNCILMEMBER PACHUTA: -- and we're trying
10 to --

11 COUNCILMEMBER PATRICK: How many comments
12 did you have?

13 COUNCILMEMBER PACHUTA: We had one comment
14 that said --

15 MAYOR PITTMAN: One comment.

16 COUNCILMEMBER PACHUTA: -- "Thank you for
17 posting this," and that's it. Because one of the
18 criticisms we get is that we're not taking public
19 comments, and the whole purpose of putting that up
20 there was to get those, and we did not receive any.

21 So if you have comments, please send them.

22 MAYOR PITTMAN: Yes. And for the Council, I
23 really want to reiterate, if you have comments, please
24 send them prior to the meetings. It really helps if
25 you could get them out to Mr. Cooley, please. Take

1 COUNCILMEMBER BATES: I've got it on my
2 calendar.

3 MAYOR PITTMAN: All righty. Call the roll,
4 please.

5 CLERK BRYANT: Councilmember Alexander?

6 COUNCILMEMBER ALEXANDER: No.

7 CLERK BRYANT: Councilmember Bates?

8 COUNCILMEMBER BATES: Yes.

9 CLERK BRYANT: Councilmember Dean?

10 COUNCILMEMBER DEAN: Yes.

11 CLERK BRYANT: Councilmember Fleming?

12 COUNCILMEMBER FLEMING: Yes.

13 CLERK BRYANT: Councilmember Pachuta?

14 COUNCILMEMBER PACHUTA: No.

15 CLERK BRYANT: Councilmember Patrick?

16 COUNCILMEMBER PATRICK: Yeah. Yeah, we'll
17 do it.

18 ATTORNEY McLENDON: That's it.

19 COUNCILMEMBER PATRICK: I would just request
20 please show up. We really want to hear your input.
21 The people that did come, I appreciate you coming out
22 that night. There was only a handful but I do
23 appreciate you.

24 If you have any more comments, please send
25 them to Joe or send them to someone, send them

1 the opportunity to send them out prior to the meeting,
2 prior to the work session. That really does help us.

3 And that goes the same for meetings, if you
4 have questions prior to, so we'll have the answers
5 prepared. That sometimes helps us move it along.

6 All right. Next and last on the agenda is
7 Public Comments. Please limit your comments to three
8 minutes. Please line up at the podium if you wish to
9 speak. Please line up if you're going to speak.

10 MS. BRADFORD: Cindy Bradford, Northwoods.

11 First of all, I would like to say that if
12 you-all had communicated with us about the SOB
13 ordinance, we might not have acted like such SOB's.

14 COUNCILMEMBER PATRICK: That's "might,"
15 right?

16 MS. BRADFORD: Okay. Now I want to talk
17 about one of our frustrations.

18 Brookhaven became a city. Chamblee annexed
19 in some area. Dunwoody became a city. DeKalb County
20 fought all of these things tooth and nail.

21 Doraville annexes in some property and
22 DeKalb County couldn't wait to shove it off on us.

23 Okay. Our economic development. That's
24 part of it, but let's make list here: the nail mall,
25 Moon Lingerie, proposed cell tower near our pool, HUD

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1 scammers owning -- wanting to open an assisted living
2 facility, an acupuncture clinic near MARTA -- yeah,
3 right -- opened by a husband whose wife had been shut
4 down a couple of months prior for an illegal massage
5 business, a sideways McDonald's and a raw sewage
6 facility.
7 Now let's talk about the raw sewage
8 facility. We've had two spills.
9 I've gotten a lot of facts that evidently
10 some of y'all aren't able to get your hands on, but
11 the surrounding businesspeople -- we have eyes and
12 ears everywhere -- have told me all kinds of things,
13 and it's -- the raw sewage facility, they're putting
14 too much raw sewage into Dekalb County's pipelines and
15 it's causing spills.
16 This could cause disease, this could run off
17 into our creeks and streams, not to mention the smell,
18 and I'm pretty sure the smell I put up with at my
19 house one weekend was from this place.
20 When are we going to take a look at these
21 kinds of things that we're letting in and when are we
22 going to go beyond legal and start considering what's
23 right and what's wrong as far as the residents go?
24 Just because something is legal doesn't mean
25 that we absolutely have to, for lack of a better word,

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1 bend over and let it in.
2 That's just the way I feel about it. We
3 annex a whole area in with a strip club, apartments
4 full of gangs and a massage parlor which is going to
5 make us exceed our massage parlor limit.
6 Then we've got the sign moratorium and we're
7 looking out the window, and as Chief probably would
8 say if he was here, I can no longer go to Monterrey
9 because they will definitely put special sauce on my
10 food if I go in there, because I brought up their
11 sign.
12 Thank you.
13 MR. ANDERSON: Hard to follow. Stuart
14 Anderson.
15 I just want to comment that Mr. Hart said
16 that he had just gotten the design standards tonight,
17 etc. They've been on the Web site for a month or two
18 months.
19 The reason I had withheld my comments was
20 because I thought there would be a work session and I
21 was going to be able to formulate my thoughts after I
22 had heard other people's, etc., etc.
23 The other thing is the fee schedule for the
24 SOB. It's based on what it costs us to legislate or
25 to -- not to legislate but to formulate the process,

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1 the fee. If we raise Sandra's salary considerably, we
2 could base that -- we could increase that fee because
3 her rate is higher than you could, so I thought I'd
4 mention that.
5 MR. TIM SNYDER: Tim Snyder. I had a couple
6 of statements and a question.
7 One of them was about the LED lighting. I
8 think we might need to be a little careful how we
9 phrase that because your city -- our city is LEED
10 certified, I believe, or at least we're trying to go
11 for that, and this lighting here is LED lighting.
12 Maybe the thing to do, I think Mr. Anderson
13 or Brian talked about maybe there should be some
14 wording that says that the actual LED itself can't be
15 visible.
16 To illuminate the interior of an opaque sign
17 so that it's illuminated is one thing. That's really
18 no different than putting the fluorescent bulbs that
19 are inside a lot of two-sided signs now, I think, and
20 they are a lot cheaper to run. So you might want to
21 say the LEDs as long as they're not visible, the
22 actual light head itself, or however you would phrase
23 that. That would be one thing.
24 Another question I had is that we have
25 parking pads in town that have been grandfathered in,

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1 and a lot of them, it's obvious that they were no more
2 than two railroad ties and a truckload of gravel.
3 I bring this up because there's a house a
4 couple doors down from me that has gravel right in
5 front of their front door, basically, held in by
6 railroad ties. The man that owns that house is losing
7 that house or selling that house for whatever reason.
8 I was wondering, even if this house had his
9 parking pad grandfathered in, is it in perpetuity?
10 Could we maybe say it goes back to the original design
11 standard if the house is ever sold? Is it too late to
12 include some type of --? That might help us with this
13 parking thing.
14 I think there are certain people that have
15 really violated the -- the advantage or whatnot of
16 being able to have a parking pad, and maybe we could
17 say that if you were to ever sell the house, then it
18 reverts back to the original house design, and that
19 might be a good way of stopping that.
20 The other question was also on the sewage
21 plant, and thank you for talking with me about that,
22 Mayor Pittman. Some of the questions that I had about
23 it were, do they need to have a license for this kind
24 of thing and are there any fines that are placed on
25 them in general.

1 And I talked to you about carrying
2 insurance. So could we find out if there is --
3 MAYOR PITTMAN: I am checking on that but --
4 MR. SNYDER: Okay. And you said that you
5 would. I was just --
6 MAYOR PITTMAN: Right. And real quick --
7 And Mr. Hart, I'm going to let you speak.
8 But when you're finished, I want to read
9 something that might help --
10 MR. SNYDER: Okay. I --
11 MAYOR PITTMAN: -- that I just received.
12 MR. SNYDER: I think that was -- that was
13 basically it.
14 Oh, I know. The other thing that I was
15 concerned about is that not knowing where the sewage
16 is coming from --
17 MAYOR PITTMAN: I'm fixing to answer that
18 question for you.
19 MR. SNYDER: Okay. Yeah. I'm just afraid
20 that there might be hazmat material, blood, medical
21 waste, so that was -- Do we know?
22 MAYOR PITTMAN: I'm going to read this to
23 you real quick.
24 Mr. Hart, if you would just indulge me for
25 two minutes.

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1 I just received this. I went on site today
2 along with the Chief and several other people, and I
3 personally called the health department. They were
4 out within 30 minutes. And the supervisor of the
5 health department just recently sent this, and I have
6 forwarded it to the Council as I was sitting here.
7 I will read it to you. I don't have my
8 glasses on me. (Reading) "Industrial Water Treatment
9 is a business that accepts seepage from contractions,
10 the pumps that pump septic tanks. They treat the
11 water with various agents and mechanically separate
12 the solids from the liquids. The solids are hauled
13 away to a landfill and the liquids go by way of the
14 private sewer line into the Dekalb County sewer
15 system.
16 "Due to the nature of the business,
17 Industrial Water Treatment is a likely large
18 contributor to" -- I told you I didn't have my glasses
19 on -- "contributor to the problem. Industrial Water
20 Treatment is permitted by the Dekalb Watershed
21 Management. They also have a business license from
22 the City of Doraville, which is permitted.
23 "Both 2600 and 2601-A Flowers Drive are
24 owned by Brian Tate. He owns the business Digital
25 Corporation and leases the space at 2600 to Industrial

1 Water Treatment. Sam Flowers is the owner of the
2 Industrial Water Treatment.
3 "They were both on site at the time of our
4 visit. They were given written notice to cease
5 operation, repair the problem with the sewer lines and
6 clean up the spill. Mr. Flowers has taken charge of
7 the clean-up. They were given a deadline of November
8 21st to comply. We will inspect again on Tuesday," if
9 that helps.
10 MR. SNYDER: Yes, that does.
11 MAYOR PITTMAN: Okay. Thank you.
12 MR. HART: I want to talk about the water,
13 you know. It's the opinion of someone in this
14 building that it was legal for them to move in in the
15 first place. I didn't find it anywhere in the
16 definitions of M-1 or in the definitions that keeps on
17 being e-mailed out that it met those standards.
18 It's an essential pumping station, okay, for
19 gasoline and oil and etc., etc. Okay. Essential
20 service.
21 This company receives all this matter from
22 other places around here. It's the same as how the
23 transfer station got in here. Doraville doesn't watch
24 the front door. And then after it's in here, then you
25 try to make up some excuse how you can either legalize

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1 it by changing the law or, quote, grandfather it in.
2 I heard that again.
3 If it wasn't legal when it came here, it
4 didn't get legal by being here. So forget the
5 grandfathering stuff. That applies to driveways and
6 buildings too.
7 But what concerns the citizens here, this is
8 raw sewage that didn't have a containment area around
9 the holding. It's basically a tractor trailer where
10 they're pumping the sewage in it, and then all this
11 about this separation stuff.
12 It's being dumped into the sewer system
13 which is minimal in that area, anyway. Parts of Tilly
14 Mill, they don't even have sewage. Tommy Galloway's
15 house and all those houses don't have sewer.
16 So you know, why do we take this on and
17 build these problems? Again, this goes back to the
18 architectural standards. We build in these problem
19 that constantly devastate this city. It's the reason
20 why the city -- it's not some outside force that's
21 causing all these problems. It's all self-inflicted
22 wounds. So if we can't get people in the building and
23 planning department that can't say no that should have
24 been -- if there was some question, it should have
25 been turned over to this public body for them to

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1 review it before they allowed them a license, not look
 2 on page three: "Oh, I think we can look the other
 3 way," and wink-wink, nod-nod, it's in. Again, a
 4 problem.
 5 And you know, Cindy and everybody keeps on
 6 addressing these things except it falls on dead ears
 7 -- deaf ears and dead ears. You've got to do
 8 something about the staff if that's the problem or do
 9 something about the way you do things, to prevent
 10 this. But you've now taken on -- now we've got a
 11 transfer station.
 12 Now we've got this sewage thing going on.
 13 And trust me, if you read it, it doesn't meet the
 14 requirements in M-1, it doesn't meet for minimum
 15 square footage in M-1. And why is Mr. Tate
 16 subleasing this to this company?
 17 And Ms. Pittman, we might remind the public,
 18 you did get a campaign contribution from Mr. Tate.
 19 Thank you.
 20 MS. CAROL LIVINGSTON: I don't know if this
 21 is out of order. I just don't think that you-all
 22 treat -- And I don't want to complain and all that
 23 kind of stuff, but I don't think you're aware that we
 24 are interested and that we do want to hear what you
 25 have to say. And if you could just look at us every

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1 now and then, or are we not supposed to hear what you-
 2 all are doing? And if we're not, then I'm going to
 3 quit coming.
 4 But I think he very much made us feel like
 5 we were part of this. And you know, let's all get
 6 better and start treating everybody like we want to be
 7 treated, and we'll get something going, you know. I
 8 don't have anything against any of you.
 9 And let's start right now that we all get
 10 here and say hello, and then when you want to say
 11 something that makes -- you know, that we should be
 12 included in, include us, and I think it -- I think
 13 things will be a lot better in Doraville. Thank you.
 14 COUNCILMEMBER DEAN: Can we get a group hug?
 15 MS. LIVINGSTON: I think we should.
 16 MS. BRADFORD: I think I saw a cape flying
 17 off.
 18 COUNCILMEMBER PACHUTA: Motion to adjourn.
 19 MAYOR PITTMAN: Thank you. Second?
 20 COUNCILMEMBER DEAN: Second.
 21 MAYOR PITTMAN: Discussion?
 22 ---
 23 (No response)
 24 ---
 25 MAYOR PITTMAN: Call the roll, please.

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1 CLERK BRYANT: Councilmember Alexander?
 2 COUNCILMEMBER ALEXANDER: Yes.
 3 CLERK BRYANT: Councilmember Bates?
 4 COUNCILMEMBER BATES: Yes.
 5 CLERK BRYANT: Councilmember Dean?
 6 COUNCILMEMBER DEAN: Yes.
 7 CLERK BRYANT: Councilmember Fleming?
 8 COUNCILMEMBER FLEMING: Yes.
 9 CLERK BRYANT: Councilmember Pachuta?
 10 COUNCILMEMBER PACHUTA: Yes.
 11 CLERK BRYANT: Councilmember Patrick?
 12 COUNCILMEMBER PATRICK: Yes.
 13 MAYOR PITTMAN: Okay. Meeting adjourned.
 14 Everyone have a great Thanksgiving.
 15 ---
 16 (Meeting adjourned at 10:00 p.m.)
 17 -o0o-
 18
 19
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C E R T I F I C A T E

1 STATE OF GEORGIA]
 2 COUNTY OF DEKALB]
 3 I hereby certify that the foregoing transcript
 4 was taken down, as stated in the caption, and the
 5 proceedings were reduced to typewriting under my
 6 direction and control.
 7 I further certify that the transcript is a true
 8 and correct record of the evidence given at the said
 9 proceedings.
 10 I further certify that I am neither a relative
 11 or employee or attorney or counsel to any of the
 12 parties, nor financially or otherwise interested in
 13 this matter.
 14 This the 10th day of December 2012.
 15
 16
 17
 18 Theresa Bretch, CCR
 19 Permit No. B-755
 20
 21 [SEAL]
 22
 23
 24
 25

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