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CITY OF  
PROSPECT, KENTUCKY

CITY COUNCIL MEETING

VOLUME 2

DECEMBER 13, 2010

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3 VOLUME 2  
4 DECEMBER 13, 2010

5 MAYOR EBERLE: Next item is the police  
6 report.

7 CHIEF WILSON: Okay. I'll try and keep  
8 this -- I'll try and keep this brief tonight. If you'll  
9 take a look at the report there, as you can see, we  
10 had a fairly light month. If you'll look at the  
11 narrative section on Page 2 under the incident  
12 reports, you can see where we had three out of  
13 four incidents involved situations where the  
14 offender and the victim knew each other.

15 And of course, I've always said, you know,  
16 one crime is one too many, but here in Prospect we  
17 have very few crimes that are committed by  
18 outsiders or strangers, but occasionally we do and  
19 we attempt to solve those. But in these three  
20 situations, the offender and the victim, they knew  
21 each other.

22 I have a correction regarding the damage to  
23 the mailboxes where we had several mailboxes  
24 damaged with pumpkins on the evening of  
25 November 19th, leftover pumpkins, of course, from

1 Halloween, and we had a total of nine incidents.  
2 We had two in Innisbrook, and the other seven  
3 were in Fox Harbor and Hunting Creek.  
4 Fortunately, only two of the mailboxes were  
5 severely damaged out of those additional seven.  
6 The two in Innisbrook, there was no damage  
7 actually to those mailboxes. But, you know, it's  
8 one of those things involving kids, and it's hard to  
9 catch unless you are there at that moment.

10 Around the holidays sometimes we have  
11 problems. And with the holidays once again  
12 approaching, I'll remind our officers to be vigilant  
13 in looking for juveniles out planning to commit  
14 some crime. It doesn't occur at every holiday, but  
15 it seems like around Thanksgiving and Christmas  
16 every now and then we'll be hit with some  
17 vandalism or minor crimes. But you'll see our  
18 officers out. We'll probably put an extra officer  
19 out on late shift to patrol for that.

20 A couple of other things that are going on  
21 within the police department, and if you all have  
22 any questions regarding the report, let me know,  
23 this is the time of year when we schedule for our  
24 in-service training, training that all officers are  
25 required to attend, so we're busy doing that right

1 now. And we're, once again, taking advantage of  
2 free training when it is available. Tomorrow  
3 Officer Timmons is attending training at a  
4 downtown hotel on Homeland Security and  
5 emergency management. He'll be down there with  
6 members of different agencies throughout  
7 Jefferson County. So we're always looking for  
8 those opportunities to get that free training  
9 because it has become so expensive over the  
10 years.

11 Another item I wanted to briefly mention is  
12 that we recently purchased our third hybrid  
13 vehicle, a Ford Escape. We have two out on patrol  
14 right now. We're very pleased with those results.  
15 We're getting about 24-1/2 miles per gallon with  
16 the hybrids, whereas, the Crown Vics we were  
17 getting 13-1/2. So we've been able to save quite a  
18 bit of money in using the hybrids.

19 We've only had them for a short time, so the  
20 jury is still out on it, but we hope and believe that  
21 they will perform quite well over the years. But  
22 you won't know for sure until three or four years  
23 down the road. But it has been a good purchase  
24 for us and we're pleased with that.

25 That's kind of a little quick scenario

1 regarding -- or -- or summary of what's going on in  
2 the police department. If council has any  
3 questions? Yes.

4 COUNCILWOMAN TUCCI: I have a  
5 question about, basically, police policy. Some of  
6 our officers do off-duty work using our police cars  
7 and our police equipment. What's our policy in  
8 terms of their response as a backup?

9 You know, if you've already contracted to  
10 work, let's say, at the Unitarian Church for, you  
11 know, traffic control or something, and then  
12 there's a big accident up in -- in Prospect, they're  
13 actually pretty close, they've got our car. Can  
14 they -- what do they do, and what are they  
15 required to do?

16 CHIEF WILSON: Well, they would be  
17 expected to respond to any emergency in the area  
18 within our city. Very few of our officers now work  
19 off-duty. In -- in the past, turn the clock back two  
20 or three years ago, many of them did. But right  
21 now we have one officer that works occasionally at  
22 the water company off of River Road. But that's  
23 pretty much been it for some time.

24 But if they're working off-duty -- and I would  
25 hope that this is the case with other departments,

1 too -- and an emergency occurs or something as  
2 you described in the city, they -- they should  
3 respond to that incident and take care of it.

4 COUNCILWOMAN TUCCI: I guess I'm  
5 concerned about words like "should" and  
6 "expectation," because that seems to leave a little  
7 wiggle room for somebody who decides that he or  
8 she doesn't want to do that. And my feeling is  
9 that's not -- that's not their place to make that  
10 decision.

11 CHIEF WILSON: M-hm.

12 COUNCILWOMAN TUCCI: Their  
13 responsibility is to respond to the city. And that's  
14 not a question of their judgment. If somebody  
15 calls and says, "We need backup," maybe you need  
16 to make an arrangement with the water company or  
17 with the Unitarian Church in advance that says, if  
18 I'm called away, I'm called away. Sorry, folks.  
19 Take an hour off my -- my salary or whatever.

20 But I don't like like the idea of leaving it up to  
21 them, because I -- I just feel --

22 COUNCILMAN SIMON: We have a policy  
23 in place.

24 COUNCILWOMAN TUCCI: -- this is --  
25 this is -- this is --

1 CHIEF WILSON: Right. We have a policy  
2 on all city work.

3 COUNCILWOMAN TUCCI: This is our  
4 equipment, this is -- and -- and --

5 COUNCILMAN SIMON: Do they have to  
6 respond? Do they have to respond?

7 CHIEF WILSON: Well, I'll take a look at  
8 that and make sure the word -- you know, I can  
9 make a revision to ensure that the word "shall" is  
10 in there.

11 COUNCILWOMAN TUCCI: M-hm. Yeah.  
12 I -- I would feel much better about that.

13 CHIEF WILSON: But I also like to think  
14 that the caliber of the personnel that we have that  
15 without hesitation they would go. And as I sit  
16 here, I would think that all seven of them would  
17 go.

18 COUNCILMAN MILES: And, Chief, I don't  
19 doubt that, but I see the Councilwoman's point on  
20 you can't always depend on people's good  
21 behavior.

22 CHIEF WILSON: Sure. I understand.

23 COUNCILWOMAN TUCCI: And I can also  
24 understand the individual who has already  
25 contracted with somebody feeling an obligation

1     there like, gosh, I said I'd watch this place and  
2     now I'm taking off.  You're relieving them of that  
3     moral ambiguity there that they might feel about  
4     where their --

5             CHIEF WILSON:  Sure.

6             COUNCILWOMAN TUCCI:  -- their priority  
7     is by taking it away from them.  Saying, we've  
8     already decided this for you and this is your  
9     responsibility.

10            CHIEF WILSON:  Right.

11            COUNCILWOMAN TUCCI:  You don't have  
12   to make this decision.

13            COUNCILMAN SCOTT:  Chief, I just have  
14   a follow-up question.

15            CHIEF WILSON:  Yes, sir.

16            COUNCILMAN SCOTT:  And you may have  
17   already answered this.  In last month's report,  
18   there was talk about a break-in over at Tallwood  
19   Court and that there were two suspects in the case  
20   and an arrest should be forthcoming shortly.

21            CHIEF WILSON:  Right.

22            COUNCILMAN SCOTT:  Was there any --  
23   any finality in that regard?

24            CHIEF WILSON:  We are still working  
25   that case.  Most subjects have moved and it's a

1 matter of locating them. One is a juvenile, but  
2 he's not in the school system and we have no home  
3 address on him. We're continuing to investigate  
4 that. And hopefully, by next month, I'll be able to  
5 report an arrest on that.

6 COUNCILMAN SCOTT: Okay. Thank you.

7 COUNCILMAN MILES: I'd like to  
8 comment on the pumpkin massacre that we had.

9 CHIEF WILSON: Yeah.

10 COUNCILMAN MILES: I think it would be  
11 a good idea next year in a newsletter and an  
12 e-mail blast to tell citizens after Halloween to  
13 quickly dispose of your pumpkins. Because, you  
14 know, people just left them on their door and that  
15 was a ready, ample supply of ammunition for this  
16 group. And I counted, at least, six or seven in,  
17 you know, Hunting Creek and Fox Harbor.

18 COUNCILWOMAN SIMON: But, you know,  
19 a lot of people leave their pumpkins up to -- not  
20 the carved ones, but the regular ones, up through  
21 Thanksgiving.

22 COUNCILWOMAN TUCCI: Sure. I did for  
23 a while, and then somebody took care of it for me.

24 MAYOR EBERLE: Any other questions,  
25 comments for Chief Wilson? I guess I will add that

1 we have been invited -- well, we're one -- back up  
2 a little bit.

3 We're the -- I think still the only city in  
4 Kentucky that has hybrid police cruisers. There  
5 are some -- some administrative vehicles that are  
6 hybrids. And we've been asked to have one of  
7 those in the -- in the inaugural parade on -- on  
8 January 3rd. So I'm sure you're all going to run  
9 downtown and watch us parade on that day.

10 Okay. Any other -- any other things? The  
11 next item on the agenda is comments from  
12 citizens. And again, we have comments with  
13 regards to the special order and the proposal for  
14 the Prospect Village Shopping Center. At this  
15 point, if -- if anyone has any comments to make to  
16 the council just on any subject, please approach  
17 the podium and address -- and state your name for  
18 the -- for the record.

19 MS. PHILIPPS: And I'm Tina Philipps,  
20 P-h-i-l-i-p-p-s. I'm Tina Philipps, and I live on  
21 Shadwell Lane. And my neighbor, Jim Stuckert,  
22 Jim and Diane Stuckert, and myself had received a  
23 letter from -- from Ann Simms regarding a light  
24 that they would like to install in the salt structure,  
25 the salt storage facility that's directly behind our

1 homes. And just the two of us on the street  
2 received the letter.

3 But in talking to some of our other neighbors,  
4 which we have quite a few here, they were also  
5 concerned because they can see the structure, it's  
6 in their backyard, also. We had a list -- I had  
7 responded back to Ann not with a -- and so did  
8 Jim, but not with an approval or -- or I say not an  
9 approval, but not a, "Let's go ahead and move  
10 forward with this," but some things that we require  
11 to see a review prior to saying, "Yeah, this is  
12 okay."

13 We believe having a light there is a good idea.  
14 Believe me, after last night and everything else  
15 and -- and the generators and the trucks and the  
16 lights and everything back there, a light is a good  
17 idea.

18 But based on how permits and stuff have been  
19 handled in the past with that facility and with the  
20 country club's facilities and the problem there  
21 seems to be with the city and country club and that  
22 whole area back there, we don't have, I guess, the  
23 confidence.

24 We want to -- we want to work with the city to  
25 get this done right. We want to make sure a

1 permit is gotten, because it's electrical work, and  
2 a facility that has, you know, hazardous material  
3 being stored, so. . . We don't want -- like  
4 currently there's a phone line lying across the  
5 ground, you know, that connects a couple of  
6 buildings. We don't want these lines laying on the  
7 ground. We want, you know, things installed  
8 properly.

9 So we ask to see plans, you know, and the  
10 permit application and the name of the contractor,  
11 the contractor's insurance certificate, his  
12 certification and licensing certificate, all normal  
13 things that you see with any permit ever applied  
14 for, or that should be. And that -- that's standard,  
15 you know.

16 So we don't really want to give our go ahead  
17 until we're sure it can be done legally, because  
18 the building was -- was built illegally, so. . . And I  
19 guess we've got that list. I don't want to go  
20 through that whole list and kind of bore everybody,  
21 but we also believe there's a lot of zoning issues  
22 back there, zoning problems which we have  
23 uncovered and found trying to work with Jefferson  
24 County.

25 So where do we -- how can we get this

1 information that's requested? And believe me, it's  
2 not -- we're not asking for anything special. It's  
3 just information that's normally attached to  
4 permits when you apply, so. . .

5 MAYOR EBERLE: I mean, if you can -- if  
6 you can -- if you can contact the city and just --

7 MS. PHILIPPS: I sent the letter with the  
8 list.

9 MAYOR EBERLE: Yeah.

10 MS. SIMMS: It's there.

11 MAYOR EBERLE: Oh, is it? Okay.

12 MS. SIMMS: Those would all be parts of  
13 the permit. Where we are with the permit is we  
14 cannot -- and this is -- this is Jefferson County's  
15 rule and it's a good one. We cannot, as the City of  
16 Prospect, apply for a permit. I've spoken with  
17 George Pate and said, "Is this okay should we  
18 decide to do it? What would I need to do?"

19 And he -- there were two basic things. He  
20 said, one, you need a licensed engineer. Yes, the  
21 electrician we use is licensed. That's fine. We  
22 have -- we will have all of that. And the other  
23 thing is we cannot apply for a permit without the  
24 signature of the country club because it's the  
25 country club's property.

1       So, however it's going to be handled, they  
2       don't want to give us permission until the  
3       neighbors are happy with it, because they don't  
4       want the neighbors offended. Well, neither do we.  
5       But we're sort of in a Catch-22, because we can  
6       tell you who our -- who we would have do it.

7               MS. PHILIPPS: M-hm.

8               MS. SIMMS: But we can't give you  
9       documentation of the permits and all until we  
10       receive permission from the country club. So, in  
11       the meantime, we kind of have to go on like we  
12       are.

13              MS. PHILIPPS: Okay. And for us then  
14       to -- to give our a-okay, our stamp of approval,  
15       because we -- we want it to happen, and we want it  
16       to happen expeditiously, we don't want to slow the  
17       process down, but, we -- you know, we want to see  
18       the plans. Any time that you go to put something  
19       in electrically, you just don't say, "Well, put a  
20       light there, you know, and tie it into that  
21       transformer over there. And if Tina's electric dips  
22       because of it, well, so be it."

23       We want to see that it's been thought about,  
24       that there's a plan, that the electrician knows  
25       where the cord's going. There's always plans. So

1 the information that you would assemble, that you  
2 staple to a permit application, that's what we're  
3 asking to see. We're not asking to see -- and then  
4 of course we'll follow up and make sure the -- the  
5 permit was issued, which we -- I guess we should  
6 have done with this whole fiasco with the building  
7 being built and then the permit being issued 15  
8 months after it was completed.

9 So we're still -- you know, we're still  
10 investigating and dealing with back inspections  
11 weren't done and how illegally that was done. So  
12 we -- kind of understand we've lost our confidence.

13 You know, we really don't trust that this will  
14 be handled properly, and it's adjacent to our  
15 property. We don't want something burning down,  
16 we don't want -- I don't know, the facility, we don't  
17 want stuff leeching from the facility poisoning the  
18 animals that are building their dens back there  
19 with all the debris, construction debris that was  
20 left over.

21 So I don't know. That's -- we -- if we can see  
22 that information and review it, then we'll say,  
23 yeah, let's do it. Let's -- as long as it's all, you  
24 know, properly being done. So how do we get that  
25 information?

1           MAYOR EBERLE: Well, as soon as we  
2 get permission from the country club, we could -- I  
3 mean, we will go ahead and -- I mean, it's -- it's  
4 just one lightbulb, and -- as I understand it, one  
5 lightbulb on a -- on a toggle switch like electric --

6           MS. SIMMS: That's what we --

7           MAYOR EBERLE: -- inside -- inside --

8           MS. SIMMS: Inside the building. But  
9 the -- the -- LG&E would have to put up another  
10 pole and the electricity would go from pole to pole.  
11 We know where that pole would be, and then  
12 that's --

13          MS. PHILIPPS: That's what we want to  
14 see. We want to see where the pole --

15          MS. SIMMS: You want to see where the  
16 pole would be.

17          MS. PHILIPPS: We don't want it, you  
18 know, like in Jim's dining room, because  
19 practically the salt structure is in his, you know,  
20 living room. So it -- you know, we want a -- or I  
21 don't want it on my property, either. There's  
22 already so much debris and -- and stuff that's been  
23 pushed in front of my property from the  
24 construction of the facility of the salt -- the salt  
25 storage facility.

1       And I guess we can take it up with the country  
2 club then. We can work with Randy and stuff and  
3 say, this is what -- I guess. I mean, does that  
4 sound feasible that we work with Randy?

5           MS. SIMMS: He would say where he --  
6 does he have a particular place that he would want  
7 that pole put in. That's -- that's fine with us. All  
8 it has to do is be close enough to the facility to  
9 bring electricity inside which would do two things:  
10 It would light up a bit inside, and it would allow  
11 them to put in -- to plug in in necessary times the  
12 skid steer which has to be kept warm when we're  
13 having really cold weather like this. It has to be  
14 warm in order to load the salt into the trucks.

15           MS. PHILIPPS: M-hm.

16           MS. SIMMS: So those are -- those are  
17 the only two re -- the only two things we want in  
18 there.

19           MS. PHILIPPS: Okay.

20           MS. SIMMS: But it has to come from a  
21 pole, and it's their property. And so he would -- if  
22 the country club would say, "Okay, the pole can go  
23 there, there, there," and they would probably do  
24 that in conjunction with an electrician who was --  
25 and they know our electrician. We'd certainly send

1 him over to talk to them. They would then say,  
2 "Okay. This is what would work," because  
3 essentially what we want is something that will  
4 work.

5 MS. PHILIPPS: M-hm. But -- so it  
6 sounds like you're asking if we can put the light  
7 there, but you have no plans. You don't know  
8 where the pole is going to go, you don't know --

9 MAYOR EBERLE: Well, we could --

10 MS. PHILIPPS: -- where the power is  
11 coming from?

12 MAYOR EBERLE: We could put a -- we  
13 could put a stake where the pole is.

14 MS. SIMMS: We could put a stake where  
15 we'd like the pole.

16 MS. PHILIPPS: Well, that would probably  
17 help the country club. Then the guys can look and  
18 say, "Well, that's going to be in the way of  
19 something that maybe they're doing," or, you know,  
20 that wouldn't be. But you can kind of understand  
21 where we're coming from.

22 And the country club is the same thing. We  
23 found out that they have had some violations and  
24 citations for the illegal construction of -- for the  
25 two-story building behind us and not getting the

1 permit. Apparently, Prospect approved all kinds of  
2 stuff for them and they just went ahead and started  
3 building the building, which they had to partially  
4 deconstruct and then go through the whole permit  
5 process.

6 So we also have some concerns about the  
7 country club's ability to handle it legally. We  
8 just -- our property has been devalued, obviously,  
9 by the ad hoc building of illegal buildings. And  
10 then going backward, we'll let's build -- now we'll  
11 get a permit, you know, what are they going to do,  
12 you know, so. . . I don't know. I'm worried about  
13 my property value. So I think it's been damaged  
14 way beyond re -- beyond repair.

15 So I guess that's -- that's about it. If we  
16 could get some kind of stake or pole or something,  
17 you know, put there so the country club can -- can  
18 get plans.

19 MAYOR EBERLE: Sure.

20 MS. PHILIPPS: But you can't have a  
21 permit without plans. So I guess that's -- was  
22 there anything else?

23 MS. BATES: Well, I'd like to hear --

24 THE REPORTER: I'm sorry. What's your  
25 name?

1 MS. BATES: Anna Bates, Shadwell Lane.  
2 So I would like your response about, first off, I -- I  
3 don't know that we really -- this isn't just about a  
4 light pole. This is about two organizations or two  
5 entities building and adding to a piece of property  
6 without following due diligence and the proscribed  
7 legal process. And we, as residents, having to  
8 live with those two entities' decisions and  
9 structures.

10 So, first, I guess for me, the issue is the salt  
11 structure itself was not addressed and built  
12 according to Jefferson County code. So what is  
13 the city planning on doing about that?

14 MS. SIMMS: The structure has been  
15 permitted. They had -- they were given everything  
16 they needed, and they certainly sent the permit.

17 MS. BATES: After the fact?

18 MS. PHILIPPS: No, no, no, no. No.  
19 They were given everything they needed -- at first,  
20 they were given plans for a building that was  
21 constructed in Elizabethtown because the  
22 contractor messed up. The building was  
23 constructed in 2008, this time of year in 2008.  
24 The permit date is March -- was it March 11th of  
25 2010?

1       Okay. So the permit was not gotten before  
2 the building was built. Nobody seems to know  
3 were the plans are. So we haven't seen any plans  
4 for the building.

5           MS. BATES: Yes. And my -- my first  
6 question is: Is the -- is the city council aware of  
7 this, or is this just your first hearing of this issue?

8           COUNCILWOMAN TUCCI: No, it's not the  
9 first time.

10          MS. BATES: So. . .

11          COUNCILMAN SIMON: About -- about  
12 the salt? No.

13          MS. BATES: So you were aware there's  
14 an issue?

15          COUNCILMAN SIMON: Not -- not  
16 permeated; no.

17          MS. PHILIPPS: It could have been a  
18 bigger issue, because there could have been  
19 violations and citations that issued as there were  
20 for the country club's building that they built.  
21 They were cited, you know, for not getting a  
22 permit, not having a licensed contractor, and all  
23 that. So we want to avoid that. We want it done  
24 right and legally so we don't have to worry, you  
25 know, about this facility.

1           MAYOR EBERLE: Well, we'll be glad  
2 to -- I mean -- the -- the plan won't be elab -- we'll  
3 be glad to -- to raise -- to put a stake, show you  
4 where the lightbulb would be inside the structure  
5 and -- and beyond that. Our agreement goes with  
6 the country club to where the structure is and what  
7 the structure was to be used for and that type of  
8 thing.

9           We don't own the land under the salt  
10 structure, we own the salt structure. And we  
11 drafted a memorandum of agreement through our  
12 city attorney in that regard, but we are still on  
13 country club land. So we would -- and we have  
14 attempted to -- to get their permission, and they  
15 asked us to ask you.

16           And now you tell us that you want the light. If  
17 you can tell the country club that you want the  
18 light, then they will grant us permission and we  
19 can drive a stake where it was so you can go out  
20 and look at the stake, you can go and see where  
21 the lightbulb would be. It wouldn't be on all the  
22 time. It would only be so they can see to load the  
23 salt for --

24           MS. PHILIPPS: Right. We -- we  
25 understand that --

1           MAYOR EBERLE: -- all the city streets.

2           MS. PHILIPPS: -- but we just want to  
3 see the -- the plans. The -- the plans that are  
4 required --

5           MAYOR EBERLE: That would be -- right,  
6 that would be the plan.

7           MS. PHILIPPS: -- you know, for the  
8 permit. We don't need to go down and see, you  
9 know, where the lightbulb's going to be. We want  
10 to see the documentation.

11          MAYOR EBERLE: Well, I mean --

12          MS. PHILIPPS: I mean, that's fine, too.  
13 I can just walk across my yard and do that. But --  
14 but we want to see the documentation that it is  
15 done --

16          MAYOR EBERLE: Yeah.

17          MS. PHILIPPS: -- and it's done legally  
18 and that a permit is issued. You know, not that  
19 we've applied for one, and, you know, proceed on  
20 with the work.

21          MAYOR EBERLE: But if -- if you can  
22 contact the country club and then they can get  
23 back with us and give us the clearance, because  
24 that's why we wrote the letter to you because --

25          MS. PHILIPPS: So before you have

1 anybody set any plans up --

2 MAYOR EBERLE: -- the country club  
3 said that -- that they wanted you to have input.  
4 And if your input is that you would like to have the  
5 light, you can let the country club know that and  
6 they can tell us that, then we -- then we'll go  
7 ahead with the plans.

8 MS. PHILIPPS: Okay. Because we --  
9 like I said, I know they are going to say, "Well, the  
10 city has to get a plan drawn up." Because there  
11 has to be plot plan. A plot plan has to be done  
12 and -- so it has to be all, you know, figured out,  
13 too. So -- but we really do want to see the plans.  
14 Not just, you know, a verbal okay and, you know,  
15 we want to do all of this in writing, too.

16 MAYOR EBERLE: Okay.

17 MS. PHILIPPS: And in back of the salt  
18 structure, one other side note, it appears that  
19 some priming or something has been done to the  
20 roof of it. Not what we agreed and not what we  
21 were given in writing was going to be done to it.  
22 But there's -- it's sort of an off-white color now.

23 MAYOR EBERLE: Well, we -- I thought  
24 we had an agreement, everybody had signed off on  
25 the color that it needed to be painted. That

1 paint --

2 MS. PHILIPPS: Did anybody see any  
3 colors?

4 MAYOR EBERLE: -- came off and we  
5 have yet to -- oh, no.

6 MS. BATES: And -- and again, this is --  
7 this is our issue is -- is that there is verbal  
8 agreement like you are asking us to give our  
9 consent and go to the country club and tell them  
10 we consent and then you guys will make a plan.  
11 We don't have confidence in that because there  
12 have been agreements that have been made,  
13 questions and answers that have occurred, and yet  
14 the result is not what was agreed to and planned.

15 So we're lacking confidence here, and we want  
16 to work with you. And I would really love to hear  
17 from the city attorney about this, too, about the  
18 status of all of this and how to proceed moving  
19 forward from here.

20 MR. POTTS: No, you don't.

21 MS. PHILIPPS: Well, I --

22 MR. POTTS: I'm going to tell you that  
23 they don't need to -- to do that.

24 MS. BATES: Which part of that?

25 MR. POTTS: All of it.

1 MS. BATES: So they don't have to have  
2 permits, they don't have to have our agreement,  
3 they don't have to abide by an agreement they  
4 already made with us?

5 MR. POTTS: No. I'm -- I'm saying that I  
6 don't believe that they violated any of the  
7 ordinances in the way they approached the  
8 construction of the -- of the facility.

9 MS. PHILIPPS: So violations --

10 MS. BATES: Well, so --

11 MS. PHILIPPS: -- and citations that were  
12 going to be issued but agreed not to be issued  
13 were just pie in the sky things by Michael Tackett,  
14 the inspector from Jefferson County?

15 MR. POTTS: Well, there's a question  
16 about who has jurisdiction.

17 MS. PHILIPPS: M-hm. Right. And that's  
18 what we're working with them now to establish,  
19 because I was kind of concerned about the  
20 comment you had made to me in August that you  
21 are exempt from the land development code.

22 MR. POTTS: We are.

23 MS. PHILIPPS: That seems to be a big  
24 surprise to the two different people --

25 MR. POTTS: It shouldn't be.

1 MS. PHILIPPS: -- that I talked to.

2 MR. POTTS: It shouldn't be.

3 MS. PHILIPPS: Well, it was a surprise to  
4 two of the people that I talked to in Jefferson  
5 County Planning and Development, and now they  
6 are turning their information over to investigation  
7 group because they are -- they are concerned that  
8 there hasn't been a different type of permit issued.  
9 The zoning for that area is R-4 and that's  
10 residential. And now that all these improvements  
11 are made to that space, it exceeds the 20%  
12 improvement. And so it should have been re-zoned  
13 or get a CUP or whatever, and they find no  
14 evidence of that.

15 MR. POTTS: Now, you know, I'm -- I'm  
16 not going to debate the specifics with you, other  
17 than to say that because of the nature of the use  
18 of that being on the country club property, and you  
19 can have a -- a country club can be in any zone,  
20 and this particular piece of property is part of the  
21 country club's property.

22 And this is a use that is associated with the  
23 country club and associated also with the city.  
24 And so those -- and it's -- it would considered  
25 technically an accessory use.

1 MS. PHILIPPS: Well, they are saying  
2 conditional usage permit was required, but that  
3 was not -- they're not finding any evidence of that.

4 MR. POTTS: I don't believe conditional.  
5 If -- if -- I don't believe the conditional use permit  
6 would -- would be required for it because of the  
7 nature of the property on which it's located.

8 MS. PHILIPPS: Well, they're specifically  
9 citing the salt structure. And they're concerned  
10 that it should have been changed and that the  
11 building that they constructed, the footprint of the  
12 building is larger than 20% of the other buildings  
13 within that parcel. And I was comparing it to all of  
14 the -- all the maintenance facility buildings on the  
15 country club property. And they're like, no, it  
16 would just be for that parcel.

17 So we're not hearing back from them for a  
18 couple of weeks for the holidays and whatnot from  
19 the -- from the investigation group there. But we  
20 were just calling and asking simple little questions  
21 about land development code, and they are running  
22 with it, because they're concerned with all the  
23 violations popping up. They --

24 MR. POTTS: They can run with it and do  
25 whatever they want to with it. This city is not

1 subject to the land development code.

2 MS. PHILIPPS: Okay. Even though we  
3 amended it?

4 MR. POTTS: It doesn't matter.

5 MS. PHILIPPS: Prospect amended it and  
6 approved that in 2006?

7 MR. POTTS: It -- the -- the city is not  
8 subject to the land development code.

9 MS. PHILIPPS: And neither is the  
10 country club?

11 MR. POTTS: The country club has a  
12 facility that's located in that zone and it can be  
13 operated in that zone. Now, if the country club  
14 has some violations, they are the country club's  
15 violations and not the city's violations.

16 MS. PHILIPPS: But -- so you're saying  
17 that the city did handle the permitting process  
18 legally, correctly, and -- and the way --

19 MR. POTTS: I'm saying that the city  
20 didn't handle --

21 MS. PHILIPPS: -- they should have for  
22 the salt structure?

23 MR. POTTS: I'm saying that the city did  
24 handle the permitting process correctly. They  
25 didn't need to get a conditional use permit for the

1 structure.

2 MS. PHILIPPS: Okay. And they didn't  
3 need to get a permit that had structural  
4 inspections involved with it or -- or anything else?

5 MR. POTTS: That's right.

6 MS. PHILIPPS: And any calculations?  
7 Hmm. Okay. Because we were really wanting to  
8 work with you-all, but we're getting completely  
9 different information.

10 MR. POTTS: Well, I mean, I'm just --

11 MS. PHILIPPS: So --

12 MR. POTTS: I'm telling you that -- that,  
13 in my opinion, and, you know, the -- we can have a  
14 discussion with the -- with the planning  
15 commission, we can have a discussion with the  
16 enforcement folks, too, I don't think the city has  
17 violated any ordinance to which it is subject.

18 MS. PHILIPPS: Okay. And we were  
19 really wanting to work --

20 MAYOR EBERLE: But, I mean, aside  
21 from that --

22 MS. PHILIPPS: -- with you-all, but it  
23 sounds like --

24 MAYOR EBERLE: -- do you want us -- if  
25 you can contact the country club and tell them that

1 you are in favor of the light. Now, we're talking  
2 about everybody along there and everybody on the  
3 other side of the road now, too?

4 MS. BATES: Before we go too --

5 MS. PHILIPPS: We don't know anybody  
6 that's -- that's contacted --

7 MS. BATES: -- fast, everybody missed  
8 two steps. The -- the --

9 THE REPORTER: I'm sorry. I forgot your  
10 name.

11 MS. BATES: Anna Bates, Shadwell Lane.

12 THE REPORTER: Thank you.

13 MS. BATES: Between Mr. Potts and your  
14 question, Mr. Mayor, is the issue -- I mean, I  
15 suspect that a lot of legal bills could be incurred  
16 discussing whether or not they have to abide by  
17 the planning and zoning regardless.

18 What my concern is is that agreements that  
19 were made about that salt structure with us as  
20 landowners abutting that property that was signed,  
21 how come those have not been adhered to?

22 And we -- we want to, Mr. Mayor, in particular  
23 I'm addressing you, we really want to work with  
24 you. I love the fact that we have salt and have  
25 safe roads. Not just for me but for every citizen of

1 Prospect. So we want to work with you. So we're  
2 asking you in good faith to come back to that  
3 agreement as it originally was written and are  
4 simply asking where are we, where are you on  
5 following through on that?

6 MAYOR EBERLE: We'll have to  
7 investigate that. I mean, I don't -- I don't know.  
8 Are we talking the memorandum --

9 MR. POTTS: No. She's talking about the  
10 agreement with the painting of the --

11 MAYOR EBERLE: Oh, the painting?

12 MR. POTTS: Is -- is that true?

13 MS. BATES: Yes. Yes.

14 MAYOR EBERLE: Oh, okay. Yeah. We'll  
15 get back with you on that.

16 MS. BATES: And how long can we expect  
17 to wait?

18 MAYOR EBERLE: I've got a letter ready  
19 to go out to the contractor probably this week.

20 MS. PHILIPPS: And that's because you  
21 said the paint is coming off of the structure? What  
22 does the manufacturer say? Did they -- did they  
23 not give you the information of how to maintain the  
24 warranty of it by using a particular paint, or you  
25 guys are just kind of like --

1           MAYOR EBERLE: We employ the painter.

2       Yeah, we --

3           MS. PHILIPPS: You just decided to paint  
4       it whether that -- that degrades the structure or  
5       whether that could cause harm to the -- to the roof  
6       of it? But the color, though, we have in writing,  
7       the two color choices -- or, you know, what it was  
8       going to be, and this isn't anywhere close. Off-  
9       white isn't dark green or dark brown. And that's  
10      the two colors. There's flat dark green, flat dark  
11      brown, and it's off-white and so are the two roofs  
12      on the country club buildings.

13          MAYOR EBERLE: I think I still have the  
14      commun -- well, it's my understanding that you  
15      wanted it to be the same color as -- as you  
16      required the country club to paint their roof.

17          MS. PHILIPPS: Right. And then the  
18      letter we got was from the country club stating  
19      dark brown, dark green flat paint.

20          MAYOR EBERLE: Well --

21          MS. PHILIPPS: And it's not -- that's not  
22      what they did.

23          MAYOR EBERLE: -- we matched the  
24      paint of the roof of the country club --

25          MS. PHILIPPS: We could have told you

1 to stop if we would have know you were going to  
2 do that.

3           MAYOR EBERLE: -- in a good faith effort  
4 to -- in a good faith effort to do what we thought  
5 was what was -- what was wanted to make the  
6 structure less visible. But it will have to be  
7 repainted at some point. No. But we will look into  
8 it.

9           MS. PHILIPPS: Okay. And so I guess --  
10 I mean, we'll -- I can get with the country club  
11 people, with Randy tomorrow about the pole and  
12 the light and whatever and we can go from there.

13           But I mean, as long as you, you know,  
14 understand, to reiterate what Anna said earlier,  
15 this is Prospect, we like the village feel, and we  
16 don't like the people coming in and throwing gas  
17 stations up and lights and everything.

18           Well, we don't like people coming to our  
19 backyard and building horrendous structures that  
20 are totally, totally outside the environmental  
21 design good taste guidelines, you know, that just  
22 is, "Well, we don't care about these people.  
23 Whatever. They'll move. We don't care. We'll  
24 just build this in their backyard."

25           And then just not even in good faith putting a

1 bush up, you know, to help hide it. And you say,  
2 "Oh, well, the plantings won't grow tall enough."  
3 Don't undersell plantings.

4 MAYOR EBERLE: Well, were you not  
5 satisfied with the pyramidal arborvitaes, because  
6 that was -- we thought that that would provide the  
7 largest screen year round and --

8 MS. PHILIPPS: Where are they at?

9 MAYOR EBERLE: -- eventually the -- the  
10 largest height.

11 MR. SPEAKER: The what?

12 MS. PHILIPPS: There are no  
13 arborvitaes. There are no pyramidal arborvitaes  
14 there.

15 MAYOR EBERLE: No, I know, but we --

16 MS. PHILIPPS: No, no. We were told --  
17 we were flat out told -- we have a letter saying  
18 that you-all were not going to do anything. If you  
19 would send us a letter --

20 MAYOR EBERLE: But if you can all  
21 agree on -- on what type -- what type of tree we --  
22 as you know, we had indicated that, you know,  
23 there's a whole bunch of landowners there, and if  
24 one says okay, then we -- we have to decide on --  
25 on a tree to put there, and we'll begin -- I

1 certainly understand your concerns about the --  
2 about the -- about the structure and --

3 MS. PHILIPPS: Right. I think at this  
4 point --

5 MAYOR EBERLE: -- you know, by being  
6 next to the maintenance area of the country club.

7 MS. PHILIPPS: Which when I bought the  
8 house I knew it was there, but then I was told,  
9 okay, this -- this is all that is going to be there,  
10 this is how this operates. And then as I'm moving  
11 in, the salt structure was being built. And then all  
12 of a sudden, the next spring they start building a  
13 building, they tear it down and built a new --  
14 another building because of the -- the problem with  
15 the foundation with the country club's building.

16 So it's -- I mean, when -- and I've lived by  
17 maintenance facilities for country clubs before,  
18 and it just seems like it's, you know, build it and  
19 they just have to live with it. You know, whatever,  
20 it's just a couple of people. So what? You know,  
21 and I guess I don't like that disrespectful, you  
22 know, kind of attitude.

23 But when it comes to pyramidal arborvitaes,  
24 they wouldn't survive down there if you have any  
25 leeching of the calcium chloride, the or whatever

1 your -- whatever you have in there, sodium  
2 chloride, calcium chloride, whatever it is. But a  
3 professional landscape architect could work you up  
4 a great plan for that, so. . . And they could work  
5 with the country club. It's obviously their  
6 property.

7 So -- but in a letter that you had sent to Mr.  
8 Stuckert, you indicated that -- that the country  
9 club would do that. And the country club sent us a  
10 letter saying absolutely not, so. . .

11 MAYOR EBERLE: Well, again, we were --  
12 we were willing to -- to alleviate some of the  
13 problem for you by planting. But again, the --  
14 we're -- we're planting trees on country club  
15 property, so we can't really -- you know, we do  
16 have a memorandum of agreement to build the --  
17 the salt structure on country club property. We  
18 don't have any other. . .

19 MS. PHILIPPS: Well, it's --

20 MAYOR EBERLE: But I don't think  
21 they -- I don't think they would --

22 MS. PHILIPPS: -- I guess you just had to  
23 say you didn't think about, you know --

24 MAYOR EBERLE: I don't think they  
25 would mind that. And as long as they are okay

1 and -- and willing to tell us that we can do it, then  
2 we stand ready to do it.

3 MS. BATES: So -- so it seemed like the  
4 appropriate thing to do is --

5 MAYOR EBERLE: You didn't state your  
6 name for the court reporter again so she knows  
7 where the comments are coming from.

8 THE REPORTER: Bates. Thank you.

9 MS. BATES: She's got it. So it seems  
10 that the appropriate next action would be to have a  
11 conversation where somebody who is of binding  
12 legal authority for the city, somebody from the  
13 country club, and then a member representing us  
14 can all be in the same room at the same time and  
15 we can do away with -- dispense with the round  
16 robin --

17 MAYOR EBERLE: Sure.

18 MS. BATES: -- of, I can't do that, I can't  
19 do that.

20 MAYOR EBERLE: Yeah. But we have to  
21 have some guarantee that the person that's coming  
22 from the neighbors represents all the neighbors.

23 COUNCILWOMAN TUCCI: Yeah.

24 MAYOR EBERLE: Because we can  
25 satisfy one and then -- and then all -- and then all

1 the other neighbors jump on us. You know, at that  
2 point, we just say, well, we'll just go with where  
3 we are.

4 MS. PHILIPPS: Well, we're -- we're  
5 friendly. We're not that political.

6 MS. BATES: Yeah.

7 MS. PHILIPPS: I think -- I think we're  
8 adults. I think we can handle that. So --

9 COUNCILWOMAN TUCCI: Well, pard --  
10 pardon us for our caution, but we have been  
11 burned a few other times.

12 MS. PHILIPPS: Oh, I under -- yeah, I'm  
13 sure you have.

14 COUNCILWOMAN TUCCI: And it only  
15 takes one holdout. If --

16 MS. PHILIPPS: Right.

17 COUNCILWOMAN TUCCI: So, if you have  
18 20 homes and -- and there are 19 people in  
19 agreement and there is 1 who isn't --

20 MS. PHILIPPS: I think we have --

21 MS. BATES: Well, wait a minute. So --  
22 so using that -- using your very own rationale,  
23 then how come 20 people weren't contacted about  
24 the light?

25 MS. PHILIPPS: How come they only sent

1 letters to two people?

2 COUNCILWOMAN TUCCI: I have -- I  
3 have no explanation for that.

4 MS. PHILIPPS: And how come no one at  
5 all was contacted about the facility being  
6 constructed in the first place --

7 THE REPORTER: One at a time. You  
8 have to do one at a time.

9 MAYOR EBERLE: Yeah. One at a time.

10 MS. PHILIPPS: If that anal -- then how  
11 come no one at all, no neighbor, no one at all, and  
12 we've asked every one, no one was -- was  
13 consulted about the construction --

14 MS. BATES: Yeah.

15 MS. PHILIPPS: -- of the -- of the salt  
16 facility.

17 COUNCILWOMAN TUCCI: I have no  
18 answer for that.

19 MS. PHILIPPS: And we understand the  
20 mayor in his letter had indicated, kind of put the --  
21 put on the shoulders of a previous mayor that  
22 apparently the existing salt structure was  
23 dilapidated and falling in. Well, that sounds like a  
24 complete, you know, management problem with the  
25 infrastructure of the city that it got that bad.

1           And then you had to rush and build this  
2 building like really fast. That's why all this stuff  
3 didn't get done right because you had to have  
4 someplace to put the salt. Well, you couldn't write  
5 a letter or knock on a door and say, "Hey, in your  
6 backyard this is what you are going to see. We're  
7 knocking down all these trees, we're not replacing  
8 any, you know, this is what we are going to build."  
9 I mean, no consideration. So -- but I think -- I  
10 think --

11                   MAYOR EBERLE: Okay. Well, we --  
12 we -- we'll wrap this up --

13                   COUNCILWOMAN TUCCI: Let me get  
14 back to my original point in terms of having three  
15 entities that need to agree. In the case of the  
16 city, it's pretty easy for us to have one  
17 representative. And similarly, I think it probably  
18 is for the country club.

19           And I think I, personally, would feel  
20 comfortable if I were absolutely certain -- I know  
21 you tell me you are all friendly, but I would feel  
22 much more comfortable if I were absolutely certain  
23 that when whatever people are affected by this on  
24 both sides of the street or however far you -- you  
25 cast your net are all speaking with one voice so

1 that we really only have three people or entities  
2 making an agreement, not two and then an infinite  
3 number of other people. That's all I'm asking is,  
4 you know, some --

5 MAYOR EBERLE: Not to have a moving  
6 target.

7 MS. PHILIPPS: Right.

8 COUNCILWOMAN TUCCI: -- some  
9 clear -- yeah.

10 MS. PHILIPPS: Yeah.

11 COUNCILWOMAN TUCCI: Not a moving  
12 target. Some clear indication that this is -- these  
13 are the parameters of the people that consider  
14 themselves primarily affected and that they are  
15 all -- they have designated you or you as their  
16 spokesperson. And then you have to deal with  
17 them if it turns out they don't like what you  
18 decided.

19 MS. PHILIPPS: Right. I mean, I -- I  
20 think that would work. A representative can  
21 always bring the information back and discuss, you  
22 know, that's presented.

23 And, you know, all -- as a representative,  
24 whomever we decide to use as a representative,  
25 will insist that a professional lay the plan out.

1 Not, you know, a couple arborvitaes that won't  
2 work in that particular situation but that a  
3 landscape designer, landscape professional would  
4 take care of it, and of course, get the proper  
5 permits. You know, that would be required,  
6 because that is what's required when you -- when  
7 you build around the area. You do have to have  
8 the seal from a landscape architect, according to  
9 Jefferson County, unless they're wrong again.  
10 That's, you know, so. . . Okay, then.

11 MS. BATES: So -- so the plan of action  
12 is what? What have we agreed to?

13 MAYOR EBERLE: You guys can get  
14 everybody that wants to participate and -- and --  
15 and agree with what you want and then contact the  
16 country club and -- and -- I mean, we -- we are, I  
17 think, probably the -- the -- the group that is  
18 trying to accommodate. You know, we're trying to  
19 make things better for you. If it was -- if that was  
20 in my backyard, I -- I would be concerned, as well.

21 We have no legal obligation to do it. We did  
22 it, we repainted it, we tried -- we suggested  
23 plantings, and we're ready to move as long as the  
24 country club is and as long as you get everybody  
25 to sign off -- I think the letter that we wrote were

1 the people that viewed it, not people on the other  
2 side of the street that don't back up to it. So and  
3 there were three, four --

4 MS. PHILIPPS: There's only two of us.

5 MAYOR EBERLE: One of those letters I  
6 believe, I think, came back. Did one? I can't --

7 MS. PHILIPPS: Actually, Jim had  
8 responded back, and then I responded back.

9 MAYOR EBERLE: But give us the  
10 addresses.

11 MS. PHILIPPS: Just the two of us.

12 MAYOR EBERLE: Give us the addresses  
13 then and -- so we don't have a miscommunication  
14 there, because we're -- we're -- we're trying to  
15 resolve a -- a problem and -- and hopefully make  
16 things better. But we have to know what's going  
17 on and, you know, we have to know, you know --  
18 you have to understand what we can afford and --

19 MS. BATES: Well, you afforded that  
20 building that I think you could have done in a much  
21 more tasteful way for less money. So I'm not  
22 unfamiliar with salt structures. I mean, it wouldn't  
23 be an issue, but --

24 MAYOR EBERLE: But if we can move  
25 ahead --

1 MS. BATES: -- you're creating money.

2 MAYOR EBERLE: -- if we could move  
3 ahead now --

4 MS. BATES: Yeah.

5 MAYOR EBERLE: -- that would -- that  
6 would be good.

7 MS. BATES: Okay. So. . .

8 MR. BATES: Mayor, I'm Brian Bates. I  
9 live at 7312 Shadwell Lane right next door to Ms.  
10 Philipps. And I just would like the record to  
11 reflect that we have received no notice whatsoever  
12 about the construction of the -- of the salt  
13 facilities or been in any kind of communication  
14 with the council, the city office of any of these  
15 negotiations whatsoever. And our property does  
16 abut directly to that facility.

17 MAYOR EBERLE: Okay. Well, if you can  
18 give me the -- the addresses of the property that  
19 abut it --

20 MS. PHILIPPS: Well --

21 MAYOR EBERLE: -- then we can move  
22 forward.

23 MS. PHILIPPS: -- I think you have them  
24 on your map and your -- when you collect the tax  
25 money, I mean.

1           MAYOR EBERLE: Well, I would -- I  
2 would rather that you -- that you give us the  
3 addresses that abut.

4           MS. PHILIPPS: Okay. I can --

5           MR. BATES: One other question -- one  
6 other question, Mayor: Is -- is there anything  
7 proposed? Because it seems to be that there's  
8 this incestuous relationship between the country  
9 club and the city.

10          And I -- I want to, at least, point out that  
11 while we have spent a lot of money on this --  
12 developing this beautiful park, but we have not  
13 apparently been allocating any funds towards  
14 purchasing any facility for the city to actually  
15 house maintenance facilities for vehicles, storage  
16 for vehicles, or perhaps salt.

17          So is there anything being planned or in the  
18 future looking at the acquisition of properties  
19 specific for the city for these type of things?

20          MAYOR EBERLE: For -- to house  
21 vehicles?

22          MR. BATES: Vehicles, salt, storage,  
23 relocating this?

24          MAYOR EBERLE: Well, the only vehicles  
25 we have are -- are parked on our -- in our parking

1 lot, so no. I mean, the answer would be "no,"  
2 we -- we do not have any plans to buy additional  
3 land or -- or construct a garage.

4 COUNCILMAN MILES: Do we have needs  
5 for a parking area?

6 MAYOR EBERLE: Well, I mean, we have  
7 plenty of parking. We only have --

8 MS. PHILIPPS: Where the Putney Pond  
9 stuff, do you need any --

10 MAYOR EBERLE: -- police cars and --  
11 and --

12 MS. PHILIPPS: -- storage for that or  
13 that vehicle that was going to be purchased so you  
14 can get in and out safely and all that or. . .

15 MAYOR EBERLE: No. We -- no. We  
16 have --

17 COUNCILWOMAN TUCCI: That vehicle is  
18 not purchased.

19 MAYOR EBERLE: -- purchased.

20 MS. PHILIPPS: Oh, they didn't purchase  
21 that four-wheel?

22 COUNCILWOMAN TUCCI: No.

23 MS. PHILIPPS: Okay. The last minutes I  
24 saw I guess was --

25 COUNCILWOMAN TUCCI: No.

1 MS. PHILIPPS: -- going to be done.

2 MAYOR EBERLE: Okay. Well --

3 COUNCILWOMAN TUCCI: Sometimes we  
4 talk about things. I mean, you know --

5 MS. PHILIPPS: Yeah.

6 COUNCILWOMAN TUCCI: -- you know  
7 how you do.

8 MS. PHILIPPS: But -- yeah, it seems  
9 like --

10 COUNCILWOMAN TUCCI: They say, "It  
11 would be really nice to have this," but that doesn't  
12 necessarily mean you run right out and buy it, you  
13 know, so. . .

14 MS. PHILIPPS: Well, it seems that for  
15 Putney Pond the same thing. We put all this  
16 money out, we do it, oh, now let's buy property to  
17 do an access road because, you know, build it and  
18 they will come kind of thing, which I don't know.  
19 That's a --

20 COUNCILMAN MILES: Well, that was  
21 always part of the plan. That wasn't an  
22 afterthought. That was always --

23 MS. PHILIPPS: Oh, pur -- okay. I guess  
24 the -- as long as the purchase for the property  
25 didn't fall through any time. So -- okay. That's

1 a -- we'll --

2 MAYOR EBERLE: Frank, did you have --

3 MS. PHILIPPS: We'll go over to the  
4 country club and we'll --

5 MS. BATES: And again, the plan of the  
6 action is we're supposed to get one of our group --

7 MAYOR EBERLE: You need to get  
8 together a group that represents you so that we  
9 can respond. And we're ready --

10 MS. BATES: So, if I call you tomorrow  
11 and I have representation for that group, you will  
12 agree to meet with the -- us and the country club  
13 by when?

14 MAYOR EBERLE: Well, when -- when  
15 they -- when you can get the group together --  
16 we'll -- we'll work on it. I'd have to look at my  
17 calendar and we --

18 MS. BATES: But sooner than the next  
19 city council meeting?

20 MAYOR EBERLE: By January 10th?

21 MS. BATES: Like two weeks is a  
22 reasonable amount of time?

23 MAYOR EBERLE: Yeah. But you're  
24 going to have to have the country club there, too.

25 MS. PHILIPPS: M-hm. Okay.

1 MS. BATES: I understand that.

2 MAYOR EBERLE: Because we asked the  
3 country club and they told us to ask you. They did  
4 not, you know, so --

5 MS. BATES: Right. And I'm trying to  
6 stop the round robins and --

7 MAYOR EBERLE: Exactly. Well --

8 MS. PHILIPPS: The finger pointing and  
9 the --

10 MAYOR EBERLE: -- they're they only  
11 ones that are standing --

12 MS. BATES: So I'm just asking for a  
13 commitment of time from you. So you will meet us  
14 as soon as possible within reason as soon as I  
15 speak for our group and get the country club  
16 together?

17 MAYOR EBERLE: Right. We get the  
18 group --

19 MS. BATES: Correct.

20 MAYOR EBERLE: -- the country club  
21 and -- and --

22 MS. BATES: And it will be you?

23 MAYOR EBERLE: Well, it'll be myself or  
24 Ann probably.

25 MS. BATES: And Ann has the full

1 authority to enter agreements --

2 MR. SPEAKER: To commit.

3 MS. BATES: I'm sorry? What?

4 MR. SPEAKER: To commit.

5 MS. BATES: You have the full authority  
6 to commit on behalf of the city?

7 MAYOR EBERLE: Well, it would be --

8 MS. PHILIPPS: Well, I guess we're  
9 concerned about that --

10 MAYOR EBERLE: Well, we could do --

11 MS. PHILIPPS: -- because she's -- Ann  
12 has committed --

13 MAYOR EBERLE: Whoever has --

14 MS. PHILIPPS: -- to us before about the  
15 plantings and then turned around and got a letter  
16 from yourself saying, "Oh, no." You know, so  
17 that -- I guess, that's -- that's why we're real  
18 insistent on someone who can sit there and say,  
19 "Yes, this can be done," not, "Oh, well, I have to  
20 go back and ask and then come back." We may  
21 have to do that --

22 MAYOR EBERLE: Well, out --our  
23 concern, our biggest concern -- I mean, Ann and I  
24 can both sign for the city. And if it involves a  
25 public safety issue, Marvin can sign.

1 MS. PHILIPPS: Okay.

2 MAYOR EBERLE: But our concern is that  
3 we don't know who is signing for your group and  
4 we don't know the name of your group and who is  
5 in it.

6 MS. PHILIPPS: Okay. We're the  
7 Shadwell Lane residents.

8 MAYOR EBERLE: So, if you can -- if you  
9 can get -- if you can get the list of people that you  
10 are representing --

11 MS. PHILIPPS: Sure.

12 MAYOR EBERLE: -- then we can move  
13 forward.

14 MS. BATES: And the rationale behind  
15 who and why they are on that list; right?

16 MAYOR EBERLE: You know, I don't --

17 MS. BATES: Okay. We're good.

18 MAYOR EBERLE: -- guess you have to  
19 have a rationale or anything.

20 MS. BATES: Okay. Great. Thank you.

21 MAYOR EBERLE: Because we meet  
22 them -- yeah. Okay. Thank you.

23 MS. PHILIPPS: Sally, do you want to add  
24 something to it?

25 MS. HASWELL: No. I just -- I support --

1           MAYOR EBERLE: Yeah. We can move  
2 ahead.

3           MS. PHILIPPS: Okay. All right then.

4           MS. HASWELL: Open communication.

5           THE REPORTER: I'm sorry. What was  
6 your name?

7           MS. HASWELL: Sally Haswell.

8           THE REPORTER: Thank you.

9           MR. FULCHER: Frank Fulcher, Whyte  
10 Hill Circle. I'd like to continue part of a  
11 discussion that we all had at the last -- the last  
12 meeting starting off with the minutes and the  
13 comments from citizens. A gentleman spoke,  
14 really breached the subject -- or broached the  
15 subject about -- about the deer problem, and it's  
16 not mentioned in here.

17           It's mentioned -- mentioned that there was  
18 some discussion, but there was a specific citizen  
19 commentary that he considers us to have a deer  
20 problem. And it's not noted in the minutes, and I  
21 think that's an oversight that should be corrected.

22           I'd like to thank the mayor for providing me  
23 with the village of Granville, Ohio deer  
24 management program. It's an excellent, excellent  
25 treatis on white tail deer, urban issues associated

1 with them, and how one place solved the problem.  
2 Now, I've looked at this, and in reading it -- and  
3 I'll be brief. But several things were discussed at  
4 the last meeting, I think, maybe -- maybe I heard  
5 them wrong.

6 But in here it's a note that -- it says deer are  
7 territorial and they would rather starve to death  
8 then move to another territory. So the argument  
9 that if we do something about our deer population  
10 or our deer overpopulation that there will be this  
11 mass surge of other deer coming in, it is not  
12 supported by the facts, at least, by the people who  
13 seem to understand the issue.

14 Now, another enlightening thing is the deer --  
15 the -- the reproductive cycle of the deer is that  
16 they have propensity to double or triple -- double  
17 their numbers every three years. And that's a --  
18 that is a significant issue that we're faced with.  
19 Now, we -- right now we all say, "Yeah, there's a  
20 deer problem, there's a deer overpopulation  
21 problem." But we're standing back, at least from  
22 my perspective, and saying, "Oh, gosh. What are  
23 we going to do about it?"

24 Well, here's -- here's a city, 3200 people,  
25 5200 people when Denison University is in -- in

1 session, not too different from us. I took the  
2 liberty of speaking with their city clerk today who  
3 says that their -- their program has been very  
4 successful. And she was willing to talk about just  
5 about everything you'd ever want to ask about a  
6 deer management program.

7 Their situation is that they have the -- the  
8 Ohio wildlife people did an inventory and they  
9 have 100 deer per square mile, and an  
10 optimization would be to get to 20. And they are  
11 looking at something like seven or eight years to  
12 get there.

13 So they have -- and I've just given  
14 Councilperson Leonard what I pulled off the  
15 Internet today, a very comprehensive program.  
16 Not -- not just a discussion of how they reached  
17 the decision but how they actually implemented it  
18 with permits, qualifications, timetables, fees,  
19 everything that they did. And they -- they find that  
20 it's -- it's very successful.

21 So I'm asking -- asking the council and the  
22 mayor to get serious about addressing our deer  
23 population, overpopulation. And -- and that's all  
24 I'll say for now. But if you could -- if there are  
25 any questions --

1 COUNCILWOMAN TUCCI: Frank -- Frank,  
2 I remember that -- that publication. We -- we got  
3 that a few years ago. What I don't remember is  
4 how much it -- it costs per deer or per, you know,  
5 acreage or whatever. Did -- did you get some  
6 information on what the cost of that would be?

7 MR. FULCHER: Yeah. Yeah. The  
8 woman -- I asked her that specifically, and she  
9 said, "Well, they let the -- they let the hunters  
10 keep the deer, the deer meat."

11 And she said, "But, you know, we started -- we  
12 have paid a butcher that any -- any meat that the  
13 hunters didn't want to take with them, the city said  
14 in an altruistic manner, We will pay for the  
15 butcher and then -- then give it to the homeless  
16 shelters," et cetera.

17 So she said, "We budgeted \$6,000 for the  
18 whole thing." And she said, "But we've never  
19 spent anywhere near that." I mean, so -- and they  
20 take out -- she said this year they are hoping to  
21 take out 125 deer from -- from the herd, the 700  
22 they have within -- within the city, within their  
23 city, so. . .

24 MAYOR EBERLE: And so they use  
25 hunters in the city?

1           MR. FULCHER: Yes. Archery.  
2 Exclusively archery. And there's a -- there's a list  
3 of qualifications that these archers had to go  
4 through, a number of hurdles. They had to take a  
5 state-qualified program, they had to be registered,  
6 they had to -- you know, there's -- there's quite a  
7 few things, as -- as I've said. I've -- I've given it  
8 to Ms. Leonard, and I'm sure she'll share it with  
9 you, but. . .

10           MAYOR EBERLE: Okay.

11           MR. FULCHER: Anyway, I -- I enjoyed  
12 reading this. I mean, this is quite -- quite a --

13           MAYOR EBERLE: Yeah. Today -- today I  
14 searched the Net like all different kinds, and that  
15 was -- that was the one that made the most sense.  
16 And -- and it's very accessible to read.

17           MR. FULCHER: Yeah. And -- and the --  
18 the source document of this was a -- was a -- a  
19 Cornell University study on white tail deer  
20 problems in urban areas. So it's been well thought  
21 out.

22           But I guess my point is here we've got 85% of  
23 what we need or should have looked at and now all  
24 we need is to kind of get off the snide here.  
25 And -- and I'm asking that this -- this group, you

1 know, take it under advisement and --

2 COUNCILMAN SCOTT: Yeah.

3 MR. FULCHER: -- and proceed.

4 COUNCILMAN SCOTT: Frank, I -- I  
5 understand what you're saying. I -- I agree that  
6 something has to be done. I've felt that way for  
7 some time. But we -- we never get off the mark.  
8 Nothing ever happens.

9 I mean, you come up and mention and tell us  
10 and inform us, and I appreciate that, but from that  
11 point forward, I'm one person on the council. I'd  
12 be more than glad if the mayor wanted me to get  
13 active in it and form a committee and other council  
14 people that are interested in searching this out to  
15 do it.

16 MAYOR EBERLE: That's my note that I  
17 just wrote down.

18 COUNCILMAN SCOTT: Oh, okay.

19 MAYOR EBERLE: Appoint a committee.

20 COUNCILMAN SCOTT: All right. Well, I  
21 volunteer to be to on the committee.

22 MAYOR EBERLE: I mean --

23 MR. FULCHER: That's one way to kill a  
24 good idea.

25 MAYOR EBERLE: I mean, it is -- right

1 now -- right now what you're asking us to do is  
2 against the laws of the City of Prospect. So we're  
3 going to have to have a committee and we're going  
4 to have to really look at what -- and -- and get  
5 some type of a -- of a policy with regards to --  
6 and -- and look at resources, too. But I don't know  
7 if Fish and Wildlife can -- can help us out. That  
8 would certainly be a place that we would go first.  
9 But --

10 MR. FULCHER: Yeah, I would --

11 MAYOR EBERLE: Yeah. I think if we  
12 had -- if we get some group studying it, looking at  
13 what the options are --

14 MR. FULCHER: Well, as I said, 85% of  
15 the ground has been covered. Because of talking  
16 to these people in Granville, they'll tell you that,  
17 you know, they worked hand in hand with the Ohio  
18 Wildlife --

19 MAYOR EBERLE: Right.

20 MR. FULCHER: -- Bureau or whatever --  
21 whatever they are.

22 MAYOR EBERLE: And I hope that we can  
23 get the same --

24 MR. FULCHER: That their safety officers  
25 were the ones who -- who kind of spearheaded it.

1 And as -- as Grover said the last time we were  
2 talking about this, the -- there's no problem with  
3 suspending an ordinance by -- by some -- some  
4 method, if I'm not incorrect.

5 MR. POTTS: No, you're -- you're correct.

6 MR. FULCHER: Okay. So, you know,  
7 those -- we don't need to be creating straw men  
8 when it comes to this thing. I think it's time to --  
9 you know, either take the position that we're going  
10 to forget the issue or move ahead with it. Okay.  
11 Thank you very much.

12 COUNCILMAN MILES: M-hm. Thank you.

13 MR. POTTS: Thank you, Mr. Fulcher.

14 MAYOR EBERLE: Any other comments  
15 from citizens?

16 MR. BENCH: Yeah. I'm Herb Bench. I  
17 know the hour is getting late and I just want to  
18 make this real quickly again just a point. This is  
19 my first time to one of these meetings, and I  
20 appreciate being here.

21 And I came up specifically for the Kroger gas  
22 station issue, but I saw this notice on parking as  
23 part of the handouts, and I don't know what the  
24 status of it is, but I think it's a great ordinance  
25 just as a citizen, I hoped it's passed and I hope

1 it's enforced. Thank you very much.

2 MAYOR EBERLE: Terrific segue. We  
3 have worked on that ordinance the last three days.  
4 And I think actually the one that's in your binders  
5 has a little bit different verbiage. I think  
6 Councilmember Leonard was saying that the  
7 exception should refer to which exceptions they  
8 are. So that heading is -- is a little bit changed.  
9 That is on for second reading, which is the --  
10 which is the final reading. And we will except a  
11 motion for that ordinance.

12 COUNCILMAN SIMON: I move.

13 MAYOR EBERLE: Anyone second?

14 COUNCILWOMAN LEONARD: Second.

15 MAYOR EBERLE: And that was Simon  
16 and Leonard. And we have discussion on it?

17 COUNCILWOMAN LEONARD: I  
18 appreciate the way it's written now. It doesn't  
19 change anything, but for me it's a lot clearer --

20 MAYOR EBERLE: Good.

21 COUNCILWOMAN LEONARD: -- and I  
22 appreciate your doing that.

23 MAYOR EBERLE: And so we're not back  
24 to first reading?

25 COUNCILWOMAN LEONARD: No. No.

1           MAYOR EBERLE: Any other questions or  
2 comments? We have discussed it at -- at some  
3 length previously and discussed the problem. It's  
4 been raised several times at council meetings.  
5 So, unless we have any further discussion, I will  
6 call for a role call vote with Council Member  
7 Leonard.

8           COUNCILWOMAN LEONARD: Yes.

9           COUNCILMAN SCOTT: Yes.

10          COUNCILWOMAN ERTEL: Yes.

11          COUNCILMAN MILES: Yes.

12          COUNCILMAN SIMON: Yes.

13          COUNCILWOMAN TUCCI: Yes.

14          MAYOR EBERLE: Passed it unanimously.  
15 Give our chief of police some -- some more powers  
16 there. We do appreciate the police in a city like  
17 Prospect undertaking code enforcement. It makes  
18 Prospect -- it contributes to Prospect being the  
19 city that it is.

20          Any new business? And we have no  
21 anticipated need and I think no real need for an  
22 executive session. And without further business, I  
23 would accept a motion -- entertain a motion to  
24 adjourn.

25          COUNCILMAN SIMON: So moved.

1 COUNCILMAN MILES: Second.

2 MAYOR EBERLE: That's Simon and  
3 Stuart Miles. Those in favor signify by saying  
4 "aye."

5 ALL COUNCIL MEMBERS: Aye.

6 MAYOR EBERLE: Opposed by "no." And  
7 we're adjourned.

8 COUNCILWOMAN TUCCI: Happy  
9 Holidays, everybody.

10 MAYOR EBERLE: Yes, Happy Holidays.  
11 [WHEREUPON, Prospect City Council meeting  
12 concludes.]

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CERTIFICATE OF REPORTER

STATE OF KENTUCKY AT LARGE:

I, SHERRI L. PERRETTA, Notary Public for the State of Kentucky at Large, do hereby certify that the foregoing was reported by stenographic and mechanical means, which matter was held on the date, and at the time and place set out in the caption hereof and that the foregoing constitutes a true and accurate transcript of same.

I further certify that I am not related to any of the parties, nor am I an employee of or related to any of the attorneys representing the parties, and I have no financial interest in the outcome of this matter.

GIVEN under my hand and Notarial seal this  
day of , 2010.

My Commission Expires: Notary Public  
MAY 27, 2013

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