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CITY OF
PROSPECT, KENTUCKY

CITY COUNCIL MEETING

JUNE 21, 2010

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4 MAYOR EBERLE: All right. I will
5 officially call to order the regular June meeting of
6 the city council of the City of Prospect, Kentucky,
7 June 21st. It is 7:00 by the wall clock and four
8 minutes after by my watch.

9 But we do have a quorum. We do know that
10 two members are not going to be present. We
11 knew that in advance. But with what we need as a
12 majority, and a majority would be four of the six,
13 and we do have four, so we are able to conduct
14 business.

15 First item of business is the minutes and
16 approval of the minutes for the regular city council
17 meeting of May 17th.

18 MR. SIMON: So moved.

19 MAYOR EBERLE: Simon and --

20 MS. ERTEL: Second.

21 MAYOR EBERLE: -- Ertel. Any
22 discussion? This is moved as written. And they
23 have been distributed earlier to the council, and
24 there are copies in the back as well for anyone
25 who would like to have a copy. Hearing no

1 discussion, I would -- I would call for a vote.

2 Those in favor signify by saying "aye."

3 COUNCIL MEMBERS: Aye.

4 MAYOR EBERLE: And opposed by "no."

5 Okay. And we have official minutes. My report
6 will be relatively brief, and certainly if you have
7 any questions when I've completed it to feel free
8 to ask.

9 The current year financial update, we have
10 received the accountant's reports and we have the
11 7% of our budgeted revenues collected and 90% of
12 our budgeted expenditures disbursed. And
13 calendar-wise we are 82% through the calendar
14 year, so we're very close on that.

15 We do have some collections yet to come in
16 on the final quarter for the insurance premium tax,
17 and that will not come in until after -- well, the
18 vast majority of it comes in after July 1st. So we
19 will -- we'll have to hold that open and the
20 auditors will have to look at that. But we're pretty
21 much on target for -- for the current fiscal year.

22 Big -- big news for tonight and for the rest of
23 this week and end of the first week of August is
24 the 4th of July.

25 MR. POTTS: End of first week of July.

1 MAYOR EBERLE: Pardon?

2 MR. POTTS: End of the first week of
3 July.

4 MAYOR EBERLE: End of the first week
5 of July. What did I say?

6 MR. POTTS: First week of August.

7 MAYOR EBERLE: Uh-oh. Okay. Well,
8 you know --

9 MR. POTTS: Unless it's going to be a
10 long --

11 MR. SPEAKER: You think --

12 MAYOR EBERLE: I'm glad Grover is
13 here.

14 MR. SPEAKER: Do you think we could
15 pass it real quick, Grover [laughs]?

16 MAYOR EBERLE: And Alan Simon is the
17 chair again this year. We have had a lot of
18 planning, a lot of work already put into it. All the
19 council members are going to be participating in --
20 in one way or another, and our staff has been
21 working. We do have -- we should have the
22 posters distributed tomorrow to the businesses.

23 We have three prime sponsors: Dairy Queen,
24 Republic Bank and the merchants of Prospect
25 Point, which I'll remind you is the post office

1 shopping area. And we have a Hunting Creek
2 Country Club again as a contributing sponsor.
3 They are allowing us to use their -- their land to
4 shoot fireworks off. And Cunningham Vehicles is
5 providing us again with the -- with the golf carts
6 that help us with the logistics in getting around.

7 We have, in addition to that, ten supporting
8 sponsors. They will be printed in the newsletter
9 which should be out by the end of the week. So, if
10 you have any opportunity to thank them, their --
11 those are ten local merchants -- well, nine local
12 merchants in Prospect area chambers of commerce
13 organization.

14 So we greatly appreciate their support, their
15 financial contributions, and their interest,
16 continuing interest in our 4th of July celebration,
17 our most well-attended and -- and well-received
18 annual event in July rather than August.

19 MR. SIMON: May I ask a question while
20 we're talking about it?

21 MAYOR EBERLE: And, Alan, I'll let
22 you -- yeah.

23 MR. SIMON: You talked about the
24 dunking booths?

25 MAYOR EBERLE: I did. We're -- we're

1 going to look in to see if we can get one.

2 MR. SIMON: How long you want to do
3 that dunk -- who's going to run it? Well, I'm --

4 MAYOR EBERLE: Yeah, I know. That's
5 part of the problem.

6 MR. SIMON: Do they have somebody
7 come along with it, or is it all -- it's ours when we
8 get it?

9 MAYOR EBERLE: It was -- it -- it's -- it
10 was an idea in my head.

11 MR. SIMON: Well, no. I'm -- I'm --

12 MAYOR EBERLE: We don't have any -- I
13 don't know where we get --

14 MR. SIMON: Because you know what,
15 dunk the mayor, everybody is going to love that.

16 MAYOR EBERLE: Well, then that -- no,
17 then it's a bad idea.

18 MR. SIMON: And dunk Ann Simms,
19 everyone is going to love that one, too.

20 MS. SIMMS: Todd asked me [phonetic].

21 MAYOR EBERLE: And if we can't work it
22 out --

23 MR. SIMON: I'll be the first in line.

24 MAYOR EBERLE: Somebody would have
25 to -- somebody would have to do --

1 MS. SIMMS: You'll be the only one in
2 line.

3 MAYOR EBERLE: Somebody would have
4 to be the gatekeeper for it. And --

5 MR. SIMON: Well, see, maybe do it for
6 an hour. Maybe do it for an hour. If you get it, we
7 could do it for an hour, hour and a half, because,
8 you know, you have to get somebody to watch it.
9 But --

10 MAYOR EBERLE: Right.

11 MR. SIMON: -- you know, I used to do it
12 at Goshen Elementary. People loved it.

13 MAYOR EBERLE: Yeah. Well, I --

14 MR. SIMON: Especially the kids.

15 MAYOR EBERLE: And --

16 MR. SIMON: I mean, they didn't want to
17 throw a baseball or anything.

18 MAYOR EBERLE: I might like it if it's 98
19 degrees.

20 MR. SIMON: Well, exactly. Yeah,
21 exactly.

22 MAYOR EBERLE: But we're -- yeah, we
23 are looking into that.

24 MR. SIMON: Check -- you know -- and
25 you know what, if we have to, we can -- we can

1 find somebody to man it. You know, let me know
2 and I'll send the feelers out and we'll find
3 somebody.

4 MAYOR EBERLE: Okay. And if we don't
5 do it this year, I think it's a -- it's a keeper for
6 next, you know.

7 MR. SIMON: Would be fun.

8 MR. MILES: If the police volunteers get
9 too hot, that's an easy way for them to cool off.

10 MR. SIMON: Yeah.

11 MAYOR EBERLE: Yeah. Marvin, would
12 you be able to do it for 50 minutes, Marvin?

13 MR. WILSON: I'll delegate that to
14 Lieutenant Wine.

15 MAYOR EBERLE: Keep your ammo dry.

16 MR. SPEAKER: We've only got one
17 bullet to worry about.

18 MAYOR EBERLE: But yeah, I -- I think it
19 would go over. If it's a question of --

20 MR. SIMON: It's a question -- yeah, it's
21 a question -- we should to have three-legged bag
22 races where we get the bags and kids will put
23 one -- both -- one leg in the bag and one leg out
24 and run in the bag and we used to have bag races.
25 But we would have somebody do that and that was

1 really hard to do early on. We used to do bag
2 races.

3 MS. SIMMS: You mean -- you mean we
4 would need to have a fair amount of room to do
5 that, and that green space is going to be dry
6 [phonetic].

7 MR. SIMON: Yeah. But -- but, you know,
8 the dunking booth would be, I think, a great idea.
9 I mean, people love that stuff. You know, I mean,
10 we could find somebody to run it. That's not a
11 problem.

12 MAYOR EBERLE: Well, we'll continue to
13 see -- and you know, at this point, I don't know,
14 whoever does dunking booths may be all occupied
15 for 4th of July.

16 MR. SIMON: Well, you know, let's do it
17 for next year. I mean, I think it's a great idea.
18 It's fun.

19 MAYOR EBERLE: Yeah. And we will
20 have radio Disney, the carriage rides, the
21 inflatable houses, and -- and --

22 MR. SIMON: Street people.

23 MAYOR EBERLE: Street people. What
24 else, Alan?

25 MR. SIMON: And -- and our -- our

1 vendor.

2 MAYOR EBERLE: Food vendors.

3 MS. SIMMS: Our food vendors.

4 MAYOR EBERLE: Two food vendors.

5 MR. MILES: Are we really going to see
6 the skydivers this year?

7 MAYOR EBERLE: They don't.

8 MR. SIMON: That's his job. You haven't
9 seen it yet; have you?

10 MR. MILES: I've never seen the
11 skydivers.

12 MR. SIMON: He hasn't, either.

13 MAYOR EBERLE: That's what always --
14 yeah. I'm in charge of the weather, and that's
15 what always happens. I -- I think it's --

16 MR. SIMON: We've had too much wind
17 and rain the last two years for the skydivers.

18 MS. SIMMS: Alan, are you and I the only
19 two that have ever seen the skydivers? No,
20 Marvin's seen the skydivers.

21 MR. SIMON: Well, Marvin --

22 MS. SIMMS: He knows it's for real.

23 MR. WILSON: It's real.

24 MAYOR EBERLE: They actually do
25 count.

1 MR. SIMON: Joe asked about that.
2 We -- we -- when Joe was the mayor, we had --
3 right at the last minute we decided we were going
4 to go or not. We went and it ran perfect.

5 MAYOR EBERLE: Right. That's right.
6 Joe remembers.

7 Okay. Well, plans are going well, we're on
8 target, and we hope everybody --- everybody
9 can -- can attend and starts -- parade starts at
10 5:30 and fireworks probably about 9:30 and many
11 activities in between.

12 I don't really have anything to report on the
13 congestion mitigation/air quality grant application.
14 We're still waiting to hear from the -- from the
15 state on that.

16 The grant is for a shared use path running
17 through little Hunting Creek Park here just north
18 of -- or just east of -- of the city hall and giving
19 access by pedestrian and bicyclists to city hall,
20 which we've never had before. We're waiting to
21 hear on that.

22 Also, Ann Simms has been working with the
23 Division of Emergency Management, as we talked
24 about before, with regards to a -- actually a
25 two-part grant. One part being for a generator for

1 the city hall in -- in emergency situations, and
2 then also for mitigation with erosion problems
3 down at the Timber Ridge and the culvert under
4 there where -- below the spillway at Putney Pond.
5 Again, waiting to hear on both of those.

6 Putney Pond Woodlands and Advisory
7 Committee, Stuart may want to comment on that.
8 But the Woodland Trail Bridge Campaign
9 continues, and we did do our filing of our annual
10 report to the grant source, which is the Kentucky
11 Heritage Land Conservation Fund. But both of
12 those in recently. And, Stuart, do you want to add
13 anything?

14 MR. MILES: Yes. Whenever I'm doing
15 trail maintenance, I continue to see more and more
16 people using it, which is very encouraging. And so
17 I just -- we have flyers with maps at both trail
18 heads now so people who are new can find their
19 way around, and also has a donation sheet on the
20 back if they want to donate towards the bridge.
21 And we're just going to continue our capital
22 campaign.

23 MAYOR EBERLE: Great. Stuart is
24 always working on the trails. And if you have
25 any -- any interest in working on trails, contact

1 Stuart and he will be glad to assist you.

2 The Forestation Board, we do not have a
3 representation of the Forestation Board here with
4 us tonight, but they have secured Emerald Ash
5 Borer treatments for city -- for trees on city lands.
6 Those trees have been treated. All the ash trees
7 ten inches in diameter and above have been
8 treated and there will be a brief follow-up
9 treatment in the fall.

10 Treatments are to last two years. We are one
11 of the few, if maybe the only other suburban city --
12 I better check with Anchorage, but -- to do
13 Emerald Ash Borer treatments. Metro has treated
14 some of their trees at Waterfront Park and -- and
15 maybe a few other spots. But we -- we have
16 accomplished that and we're hoping it prevents
17 loss of trees.

18 They will be -- the board will be updating their
19 tree inventory to record which ash trees have
20 received treatment and the -- and -- and so we can
21 track those and -- and make sure that we know
22 whether the treatment is -- is -- is in fact
23 effective.

24 Library committee, Tom Wills, many of you
25 know Tom as a weatherman with WLKY, is it; or

1 W -- yeah, WLKY?

2 MS. SPEAKER: WAVE 3.

3 MAYOR EBERLE: Was he with WAVE 3?

4 Okay. At any rate, Tom has volunteered quite a
5 bit of late since his retirement and worked hard on
6 the book sale, and he will replace Sarah Kelly,
7 who has moved out of town, and Sarah is -- she
8 was at our last meeting. So I guess we have
9 designated her as a -- in a consultant's role as
10 often as she wants to come back.

11 Sandra Leonard is our liaison to the library
12 committee. So is there anything else we need to --

13 MS. LEONARD: Sarah has agreed to do a
14 very first total inventory we've ever done, so we're
15 very grateful.

16 MAYOR EBERLE: Oh, great. We do have
17 with us a guest, a Mr. Graham Coat [phonetic], is
18 that right?

19 MR. COAT: Yes.

20 MAYOR EBERLE: Okay. We're pleased
21 to have you. He's with Troop 109 with St. Francis
22 in the Fields, and he's here -- you're working on
23 your communications --

24 MR. COAT: Yeah.

25 MAYOR EBERLE: -- badge? Okay. And

1 what's -- what's your rank right now?

2 MR. COAT: Star.

3 MAYOR EBERLE: Star? So -- and you're
4 working on a communications merit badge; is that
5 it?

6 MR. COAT: Yeah.

7 MAYOR EBERLE: Okay. Next -- next
8 coming up is life; right?

9 MR. COAT: Yeah.

10 MAYOR EBERLE: Okay. Well, we're
11 very pleased to have you, so. . .

12 MR. SIMON: Thanks for coming.

13 MAYOR EBERLE: Any other -- any
14 questions, follow-up on anything that I mentioned?
15 If not, we will move to the next item of business,
16 which is the police report. And Chief Wilson.

17 MR. WILSON: Okay. If you'll take a look
18 at the report, pretty much an average month. We
19 did have one unusual incident on May 16th in which
20 Officer Thomas encountered a subject driving with
21 the trunk open and the headlights on over on River
22 Road. And after he pulled him over and checked
23 him out, he thought maybe he was intoxicated, but
24 after giving him the portable Breathalyzer test, he
25 registered zero.

1 So he put him in the vehicle, had him sit in
2 his -- to get back in his own car. And Thomas
3 thought it was unusual, so he called for metro
4 police to back him up.

5 And when they got there, they attempted to
6 approach the vehicle again. Subject rolled the
7 window up and locked the doors and refused to
8 open the doors. And then he put his car in reverse
9 and took off. So we had a little brief pursuit.

10 A metro officer was slightly injured as he tried
11 to break the window to reach in and get control of
12 the steering wheel. But after a brief pursuit, the
13 subject did wreck his vehicle and they were able to
14 get him under control. And we called for EMS, had
15 them check him out, and later he admitted to us
16 that he had taken some LSD.

17 So he wasn't hurt, you know, seriously and --
18 and the officer was treated and released. So
19 everything worked out fairly well. And we're in the
20 process now of trying to recover our costs to have
21 our vehicle repaired, and we're going to do that
22 through the court system.

23 So, other than that, we had an average month
24 in terms of accidents, citations. And that's the
25 way we like it, right, Lieutenant Wine? But we had

1 a pretty good month.

2 You'll probably recall at the last meeting I
3 indicated that I was going to put the locations in
4 the newsletter where we were doing radar and
5 additional patrols.

6 And we did that, and for the past month we
7 focused on Deep Creek Drive and Deep Creek
8 Court and Fox Harbor and U.S. 42. We had
9 complaints of people running the red light here at
10 Fox Harbor. And we issued about three citations
11 and about three warnings, so hopefully something
12 like that will slow people down for a while.

13 But we'll continue to focus on those areas.
14 And throughout the year I'll continue to list
15 locations in the newsletter. Maybe not every
16 month, but perhaps every other month as to where
17 we're going to be, because I -- I want residents to
18 know where we're going to be because I want them
19 to slow down. And if we can have an impact like
20 that, then that's great.

21 Last month I gave you a -- a briefing
22 concerning the jewelry incident across the street
23 involving the subjects that we arrested. The FBI
24 is continuing their investigation. They met with
25 our officer last week and we took all the

1 information off of the GPS that was on the vehicle.
2 And they're continuing to follow up leads on where
3 those subjects had been and what they've been
4 doing. So -- but they're handling that and
5 coordinating that with agencies in Tennessee and
6 Florida. Officer Haverlin has done an excellent
7 job for us on that case.

8 Our block watch signs, I believe I mentioned
9 that several months ago, all of our block watch
10 signs are up now except for Fox Harbor, and we
11 anticipate that one going up probably at the end of
12 this week. So all the -- all the captains that I've
13 spoken to, you know, they're happy with that, and I
14 think residents will enjoy seeing those signs up.

15 Some people say, "Well, do they work?" Well,
16 I don't see any harm in having a block watch sign
17 up. It -- it may make a person think a little bit
18 before they commit a crime in our city. And if we
19 can prevent one crime, then it's worth it.

20 The mayor touched on the 4th of July. We do
21 have a commitment this year from Jefferson County
22 Sheriff's Office. Sheriff Aubrey has been good to
23 us. We used his deputies since 2001. We used
24 Louisville Metro Police Explorers. And both of
25 these groups are volunteers. You know, we -- we

1 are paid employees and we're out there that day,
2 but these folks, they're giving us their time.

3 So, on the 4th, if you -- if you walk by one of
4 them, hey, thank them for being there, tell them
5 you appreciate it, because they're not being paid,
6 and it's always a hot day out there.

7 But just say a kind word to them and thank
8 them for helping us out. I do that through a letter
9 to Aubrey after the event and I thank them when
10 we have roll call and throughout the day, but it
11 would be great to hear it from residents, too. So
12 I'll appreciate it if you'd do that.

13 MAYOR EBERLE: I think we have 12
14 deputies and 10 Explorers?

15 MR. WILSON: Yes. And since 2001,
16 we've used those groups, and I don't recall an
17 injury in all the events. So, in terms of public
18 safety of no one getting struck by a vehicle in the
19 parade or -- or anything occurring where someone
20 gets hurt, it's been a huge success to go that many
21 years and not have an injury. So -- but we're
22 very -- we're very happy with the work that they do
23 for us.

24 MR. SIMON: It's actually amazing the
25 amount of people we have come out and we don't

1 have any kind of problems. And we didn't have the
2 Explorers and the sheriff's department until Chief
3 came on years ago with just our eight or nine
4 police officers trying to handle the whole thing.
5 So he's made a big difference in that. Thank you
6 for that.

7 MR. WILSON: Thank you. Thank you.
8 That's all I have.

9 MAYOR EBERLE: Okay. Thank you,
10 Marvin. I -- I do notice we did have a -- a fine
11 paid for tall grass, and we've been paying
12 attention with all the rain and the heat --

13 MR. WILSON: M-hm.

14 MAYOR EBERLE: -- and Whiting heard
15 [phonetic] on it pretty well. Most everyone
16 complies when they're reminded, but this was a --
17 was this a vacant lot; wasn't it?

18 MR. WILSON: Yes, over in Sutherland.

19 MAYOR EBERLE: Okay. And we had
20 some trouble getting ahold people. So we -- we
21 mowed and assessed the costs of our mowing,
22 which we got money back from, so. . .

23 And I will call your attention in the back part
24 of your folders is a letter of appreciation from the
25 police chief in St. Matthews regarding the work of

1 our Officers Marianne Haverlin and Mike Thomas
2 and Chief Wilson with regards to the jewelry
3 suspects, I guess, still; right? Any -- any
4 questions or comments from Marvin's report?

5 If we have none, we will move to the
6 comments from citizens. Do we have any citizens
7 that would like to address the council on any
8 matters, whether we talked about earlier them or
9 not?

10 MS. SPEAKER: Oh, we do our thing?

11 MAYOR EBERLE: Yeah. Just if you
12 could state your name and -- and. . .

13 MS. BRANT: Yes, sir. I'm Debbie Brant
14 with Louisville Sign Company, and this is in
15 regards to a sign application for a Subway that is
16 moving to Timber Ridge Drive. We had applied for
17 a sign permit for the sign for the front of the
18 building and one going on the side. We went for
19 the one on the side. I do know that in some
20 regulations it did say none on the side.

21 We came with an application simply because
22 we knew at one time there was a Blockbuster sign
23 on that side of the building. So what we are trying
24 to do is just get him better visibility for his store.
25 And we know that there's some businesses in

1 Prospect Plaza that have one on the front and one
2 on the side. And so that's what we are here for.
3 The sign -- Subway sign is smaller than what the
4 Blockbuster Video sign was to begin with.

5 MR. SIMON: McDonald's came to us
6 wanting to put two signs on a number of years
7 ago --

8 MS. BRANT: M-hm.

9 MR. SIMON: -- and we turned them
10 down. That sign ordinance was put together by
11 residents of the city, commercial people, real
12 estate people, and council people. They do not
13 want two signs. The other signs were
14 grandfathered, but the law in Prospect now is one
15 sign. I'm not going to go against my residents.

16 MR. MILES: And that's my guess. I think
17 the ones that you're seeing that have two were
18 there before the current ordinance was passed.

19 MS. BRANT: Which was -- do you
20 know -- I don't know the date of the ordinance.

21 MR. MILES: It was before I was here, so
22 I'm not sure.

23 MR. SIMON: But the -- the -- the city
24 attorney is law in Prospect is one sign per
25 business?

1 MR. POTTS: Correct.

2 MR. SIMON: Okay.

3 MS. BRANT: On the -- on the street
4 frontage?

5 MR. SIMON: Right.

6 MS. BRANT: Right.

7 MR. POTTS: That looks like 91 when it
8 was passed. There have been some other ones,
9 but that's the fourth street [phonetic].

10 MAYOR EBERLE: Any comments with
11 regards to the issue that Mrs. Bryant -- Brant has
12 raised?

13 MS. SIMMS: I -- I will tell you that the
14 original sign was issued in error, and it did appear
15 at that time to be on the street. It is not, so I
16 denied it, because it's an illegal sign when you
17 came to me with it.

18 MS. BRANT: Uh-huh.

19 MS. SIMMS: And the mayor can take
20 over from there. But yes, as I told you, I
21 remembered clearly the incident.

22 MAYOR EBERLE: And I think we did --
23 did we deny the second time --

24 MR. SIMMS: Yes, I denied it.

25 MAYOR EBERLE: -- on the request? And

1 you -- you made a request; right?

2 MS. BRANT: Yes, yes.

3 MAYOR EBERLE: To the city?

4 MS. BRANT: And that's when Deborah
5 Skaggs had told me, "If you want, you can come
6 before the town council," so that's --

7 MAYOR EBERLE: Right.

8 MS. SIMMS: That's fine.

9 MAYOR EBERLE: Right. And we
10 appreciate your -- and I will remind the council on
11 the sign ordinance and I will just read, [reads] The
12 city council may grant variances to allow for
13 variations to the criteria specified in this chapter.

14 And then the standard of review, [reads] The
15 city council may consider applications for
16 variances only in situations where the applicant
17 has been denied a sign permit by the
18 administrator, which you hadn't.

19 MS. BRANT: M-hm.

20 MAYOR EBERLE: [reads] And the city
21 council may grant a variance if advised if the
22 following physical conditions exist: A) the zoning
23 on the lot which an activity is located is unusually
24 shaped or exhibits unusual topography; and such
25 physical characteristics prevent legal signage from

1 identifying the activity as compared to legal
2 signage identifying other activities in the
3 immediate area.

4 So that's what that -- that -- that would be the
5 appeal to the council on that -- on that basis.

6 MR. SIMON: And just for your
7 knowledge, I'm a business owner in Prospect. I
8 have a business right across the street from the
9 sign.

10 MS. BRANT: M-hm.

11 MR. SIMON: I'd love to have a sign on
12 the side, okay, but I don't.

13 MAYOR EBERLE: I think what it says --
14 well, I have trouble digging it out. But it says that
15 if there's two street frontages --

16 MS. BRANT: Right.

17 MAYOR EBERLE: -- basically you're on a
18 corner of a street, that the -- the second sign
19 could be allowed. But if it's not that way, yeah,
20 you can't. The ordinance doesn't allow it.

21 MS. BRANT: That's fine.

22 MAYOR EBERLE: The variance can be
23 granted by the council. And we -- you do actually
24 have two signs there because of the monument
25 sign. And I don't know -- is Subway on there now?

1 Because you moved from --

2 MS. BRANT: No.

3 MAYOR EBERLE: Okay.

4 MS. BRANT: It's not at all.

5 MAYOR EBERLE: Well, then --

6 MS. BRANT: I don't think -- the last time
7 I looked at it, I don't think there was available
8 space.

9 MAYOR EBERLE: Available space.

10 MR. SIMON: Talk to your landlord about
11 that. If he's going to have that big of a center, he
12 should have enough signs --

13 MAYOR EBERLE: There might be --

14 MR. SIMON: -- for people to go in there.

15 MAYOR EBERLE: Yeah. There might --

16 MR. SIMON: That's a landlord issue.

17 MAYOR EBERLE: There might be. It
18 would be Dave, Paul and -- to talk to [phonetic].

19 MS. BRANT: Yeah. Let me ask you a
20 question: The way that center sits, the front of
21 that center literally faces Timber Ridge --

22 MAYOR EBERLE: Right.

23 MS. BRANT: -- correct? So that side --
24 that side elevation, does that not considered being
25 facing 42?

1 MR. SIMON: There's businesses --
2 there's property in front of that.

3 MS. BRANT: Okay. So that stops at the
4 frontage to that street?

5 MR. SIMON: It would have to be on 42.

6 MAYOR EBERLE: Which would be, what,
7 McDonald's?

8 MR. SIMON: Right, McDonald's.

9 MS. BRANT: McDonald's.

10 MR. SIMON: See, McDonald's wanted
11 one in front and one along the side.

12 MS. BRANT: Uh-huh.

13 MR. SIMON: No, actually, they wanted
14 one inside the shopping center. We said
15 either/or --

16 MS. BRANT: M-hm.

17 MR. SIMON: -- take your choice.
18 Because everybody knows McDonald's. You -- you
19 sort of recognize McDonald's.

20 MS. BRANT: Yeah, you know the logo.

21 MR. SIMON: Yeah.

22 MR. MILES: And knowing Subway, I think
23 they'll find you -- I mean, aren't they moving just
24 from one part of Prospect to another?

25 MS. BRANT: They're moving from

1 Prospect Plaza --

2 MR. MILES: Right.

3 MS. BRANT: -- over to a new --

4 MR. MILES: So they already have a
5 client base that are going to -- you know, I'm sure
6 they're doing all kinds of advertising to direct
7 people where to find them. It's -- it's a
8 perpetual --

9 MAYOR EBERLE: You will have better
10 visibility.

11 MS. BRANT: Sorry?

12 MAYOR EBERLE: You will have better
13 visibility --

14 MR. SIMON: Yeah, absolutely.

15 MAYOR EBERLE: -- in Prospect Village
16 than Prospect Plaza.

17 MR. MILES: And that's right next to the
18 Kroger and. . .

19 MR. SIMON: The sign ordinance, to me,
20 was put together, and we actually brought
21 residents in that live out here and real estate
22 people just decide what would be a nice mix. And
23 if you notice when you come into Prospect, you
24 don't see signage everywhere all over the place.
25 And that sort of trashes things up and actually is

1 confusing to people because you see so much stuff
2 going on. He's had a good business there for --
3 for a number of years.

4 I mean, everybody knows where his business
5 is. And I don't think it's going to make a
6 difference. You just need to do some advertising.
7 But you know, I think I eat there probably twice a
8 week; okay? I don't -- I don't see -- I don't need
9 to see a sign. I know where he is.

10 MR. MILES: It's a perpetual -- we've had
11 many, many people come asking for this variance.
12 Everybody wants more signs, and we understand it,
13 but it's -- it's just not possible given the way the
14 law is written.

15 MS. BRANT: Okay.

16 MR. MILES: In my opinion. Others may
17 differ.

18 MAYOR EBERLE: But I thought the -- I
19 thought the monument sign had space.

20 MR. SIMMS: I think it does.

21 MS. BRANT: I'll take a look at it again --

22 MAYOR EBERLE: Yeah.

23 MS. BRANT: -- when I leave.

24 MAYOR EBERLE: If you need a contact
25 person on that, we can give you the contact

1 person. That would give you -- and that -- that
2 monument sign, we've tried to standardize all of
3 them.

4 MS. BRANT: M-hm.

5 MAYOR EBERLE: You know, we have --
6 there's still one gray one, but we were trying to
7 get blue and white. And Stock Yards Bank is blue
8 and white and Republic is blue and -- blue and
9 white, and Dr. Cochran [phonetic] is blue and
10 white. So that's kind of at least what we're
11 thinking of at city hall as a scheme to --

12 MR. SIMON: Just to give you an
13 example: I'm right across the street, I've got a
14 sign that sits right on 42, we're very close to the
15 highway. I have people come in my store and say,
16 "How long have you been here?" I say, "I've been
17 here 32 years." They go, "We've been here 20
18 years, we don't know you're here." So they
19 don't -- they don't pay attention to that signage. I
20 mean, I'm just serious. I mean, they don't pay
21 attention to signage.

22 MR. MILES: I don't think that's
23 something you should tell somebody who owns a
24 sign business.

25 MR. SIMON: No. I'm just saying that I

1 hear that all the time.

2 MS. BRANT: I can tell you a remedy.

3 MR. SIMON: I have people tell me that
4 they don't even know I'm here, and I can put up all
5 the signage I want. The problem is people have
6 tunnel vision going up and down 42. They're going
7 to work or thinking about they're coming home,
8 they're not really paying attention to what's on the
9 outside there.

10 You know, so it's -- you know, personally I've
11 been here 32 years. I don't think another sign
12 would make one iota of difference in your
13 business. I think it's up to the individual business
14 person to advertise to the community to do that.

15 Don't depend on -- on visual stuff out here
16 because it's not going to happen. It's just not
17 going to happen. I've got 32 years worth of
18 experience with it.

19 MAYOR EBERLE: Well, you do have --
20 you -- you do have drop-ins to Subway that some
21 businesses you're not going to -- you know, you
22 don't drive by the pediatric physician and say,
23 "Oh, I've got to go get my kid and bring them in
24 there." So, you know, there -- there -- there is a
25 difference, and we understand that and we try to

1 accommodate. But I think the problem is we have
2 to -- we have to -- we have to be consistent on --
3 on this stand.

4 MS. BRANT: Okay.

5 MR. MILES: Well, I'm personally glad
6 that Subway is moving in that location, because
7 that's certainly more convenient for me.

8 MS. LEONARD: Easier for you to get
9 here, huh?

10 MR. MILES: To get to. And -- and I
11 think --

12 MR. TIWARI: Another problem was more
13 parking, because the Mexican restaurant is over
14 there.

15 MR. MILES: Right.

16 MR. TIWARI: And the Mexicans take over
17 all the space in the dinnertime.

18 MR. MILES: Right. Right.

19 MR. TIWARI: And we don't have the
20 people to park trailer-truck, big school buses and
21 everything.

22 MR. MILES: Right.

23 MR. TIWARI: And plus that store is more
24 upgrade store, and the corner location of the
25 Subway look at them for two signs that add more

1 visibility, plus given more parking. That was the
2 reason to move that location. That Blockbuster
3 has two sign and Highland Cleaner has two signs,
4 other people have two signs when Highland
5 Cleaner doesn't have any road on the side but they
6 still have two sign. It was put later on.

7 So that was the idea, because every corner
8 location I opened, Westport store and that
9 Westport store has got also two sign -- I'm sorry.
10 My name is Deebak Tiwari, and I'm the owner of
11 the --

12 MAYOR EBERLE: Just for the record,
13 right, this is the owner of --

14 MR. TIWARI: Yes, I am the owner of
15 Subway.

16 MAYOR EBERLE: -- the manager or the
17 owner of the Subway.

18 MR. TIWARI: I'm sorry. I should have
19 told you before.

20 MAYOR EBERLE: For the record.

21 MR. TIWARI: Alan -- Alan knows me a
22 long time. So this was the reason and Subway
23 also preferred to have two signs there because of
24 visibility. And the McDonald's, we are not putting
25 right on the McDonald's -- right where that

1 drive-thru come where you see visibility from the
2 42. That was the idea to put the signs.

3 And -- and they require the 14 -- 14, 17 foot
4 sign. We reduced the sign since it's require only
5 15% of the sign is up there at the front of the
6 building. And so we are putting a 15% up there
7 and that has a very long wall on the side. That
8 was the idea putting another sign up there.

9 So there's nothing -- nothing else, because
10 everybody knows Subway, you know, like Alan
11 said, that everybody knows like 20 years I've been
12 there. So -- but since if you will come to the
13 store, I -- I will really prefer to all come again
14 [phonetic], you will find one of the best store
15 opening and best design is -- is not in any other
16 places.

17 MR. SIMON: You're going to be next to
18 Kroger's?

19 MR. TIWARI: Next to Kroger?

20 MR. SIMON: Really close to Kroger's
21 right there?

22 MR. TIWARI: Yes.

23 MAYOR EBERLE: No.

24 MR. TIWARI: Next to Star -- Starbucks,
25 Starbucks.

1 MR. SPEAKER: No, Starbucks.

2 MR. SIMON: That -- that probably gives
3 you more visibility if people come in to Kroger
4 than you having that center over there.

5 MR. TIWARI: Yeah, I know. I know.
6 People --

7 MR. SIMON: And so --

8 MR. TIWARI: Most employee are very
9 good, because every store is mine have it close to
10 the Kroger, and people they live around it and
11 work around it, they're my best customers, you
12 know. That really helps a lot. Since Quizno was
13 there, that's the reason I could not move --

14 MR. SIMON: Right.

15 MR. TIWARI: -- because they have
16 exclusive rights. When Quizno move out, I got a
17 chance to move over there. And really, otherwise
18 I'm doing really pretty good only because of this
19 situation of parking and other stuff. So I have to
20 move it over there. That's the only thing.

21 MAYOR EBERLE: It's right -- are you
22 right next to Starbucks?

23 MR. TIWARI: The corner location, the
24 corner next to the McDonald's.

25 MR. SIMON: Right.

1 MAYOR EBERLE: Right.

2 MR. TIWARI: The one on the side -- the
3 one on the side where the Blockbuster was.

4 MAYOR EBERLE: Right.

5 MR. MILES: Well, good luck. I wish you
6 the best.

7 MAYOR EBERLE: Yes.

8 MR. TIWARI: Thank -- thank you.

9 MAYOR EBERLE: Any other member of
10 the council want to address the signage?

11 MS. ERTEL: I --

12 MAYOR EBERLE: Yes, Ms. Ertel.

13 MS. ERTEL: I feel like I'm probably not
14 the only person that goes to Kroger almost every
15 day, and so I doubt that you will miss the extra
16 signage, because I think there are a lot of people
17 like me that will be going there and word will
18 spread that you're over there now. And so I
19 don't -- I don't think you'll miss that in the long
20 run.

21 MR. MILES: I didn't know you had a
22 store over here until my daughter told me you did.
23 Like I've lived here three years. I didn't know
24 there was a --

25 MR. TIWARI: Well, I agree he's right

1 when he said somebody came up at 20 years and
2 said, "I was here 15 years. A lady walked in and
3 said, When did you open?" You know, I know
4 exactly the same thing; he's not lying.

5 MR. MILES: And that's not going to
6 happen in this location.

7 MR. TIWARI: He -- he -- he -- earlier, he
8 mentioned a lot of people don't look at -- but there
9 are so many people also look at the sign. It's not
10 like one person don't look at the sign. There's so
11 many people look at the sign, so I do want to put a
12 sign. And a lot of times Subway -- for us to move
13 in the corner location only because of two sign.

14 MR. SIMON: I can -- I can tell you how
15 the residents are around here. My sign has been
16 off at night every night. I don't turn my sign on.
17 We came to a council meeting and Walgreens was
18 keeping their sign on at night lit up.

19 Three residents came here and complained
20 about the lights being on and mine weren't on.
21 Their lights aren't on anymore at -- at Walgreens.
22 They turn them out at 9:00. They don't leave them
23 24 hours a day.

24 And that's how much the residents out here
25 are really worrying about that type of stuff. So

1 you don't really want to aggravate the people
2 you're trying to draw to your business.

3 MR. TIWARI: No, but just make a point.
4 I've been here. I came here to open a
5 [phonetic] -- put a channel letter sign up in my
6 building before when I remodeled this same
7 Subway, which was my location, and then I was
8 denied.

9 And after three, four years later, the Wal --
10 the Walmart -- when Kroger came and they have
11 channel letters all over. And all of a sudden the
12 audience changed and the channel letters are
13 allowed. It was only box letter and box sign and a
14 brown build -- and this -- this was the sign.

15 So the same residents were here, the same
16 residents are now here. The Highland has two
17 sign on the corner of this side and this side. And
18 the same with the pharmacy sign then Kroger had
19 the Kroger sign then they have different three or
20 four signs together.

21 When I had a TCBY, they don't let me put
22 another sign, because one owner can't have two
23 signs [phonetic]. I took my business out -- I'm just
24 putting that how many times I've been denied.

25 TCBY was a different business for me and the

1 Subway -- and the Subway than TCBY. They don't
2 let me put TCBY. I have to put that business out
3 of my store because of the signage problem,
4 because they said there's no sign -- two sign --
5 one owner cannot have two sign. There was a
6 front, not on the side.

7 Now the things change that the channel letters
8 came because it was a big fish in the market, so
9 they -- they cannot deny him for putting a channel
10 letters on there. And now to all of us who have
11 [phonetic] channel letters, now I have two sign
12 Blockbuster had it. Now I'm denying, because
13 Blockbuster got error. I -- I would have had an
14 error, also, with a channel letter.

15 The error came at that time; reasons
16 [phonetic] never said anything. The error came --
17 this would've taken up [phonetic]. Mr. Mayor
18 [phonetic], I put a new light -- she told me to put a
19 new light over there. And next day, Ronny Fox
20 [phonetic] came, they took my whole neon sign the
21 next day because they said the audience doesn't
22 put neon lights all over the windows. So I lost like
23 2,000, \$3,000 right there.

24 MR. MILES: Were you doing the right
25 thing talking to us before you spend money at the

1 center?

2 MR. TIWARI: No, I understand. But I
3 learned along way, but this way the Blockbuster
4 had two sign and there was a sign, it was already
5 there. We didn't know that there was error. You
6 know, that's -- that's what I'm trying to say.

7 MR. MILES: M-hm. Right.

8 MR. TIWARI: But when there was error,
9 no residents had objected. When there error, I put
10 a neon light there, they came and police came and
11 took it out. So the errors would have been
12 corrected right there.

13 But because of that reason, I thought there
14 was two sign system, I move. I would not have
15 moved my store if it's not two sign. I'm just
16 saying, I mean, it's not you; that's how audience
17 and whatever -- somebody wanted to decide it,
18 decides. You know, 20 year -- 20 years I've
19 learned a lot about what's happened here.

20 MAYOR EBERLE: I don't think the city
21 has any -- in fact, I think the city prefers channel
22 letters, but --

23 MS. SIMMS: Yes.

24 MAYOR EBERLE: -- it could have been
25 the size and the -- and how much --

1 MS. SIMMS: Well, and at one time --

2 MAYOR EBERLE: -- of the frontage --

3 MS. SIMMS: -- they did have one that
4 originally went in, it was box letters. That was
5 changed eventually to what we see now in our
6 ordinance that says the size of the channel letters.
7 We modernized.

8 You know, they recognize that the ordinance
9 needed to be changed to accommodate those
10 things. But before the ordinance was changed, no,
11 we denied those because it was not legal to issue
12 such a permit.

13 MR. TIWARI: That's my point is because
14 Kroger came with a lot of people and a lot of
15 attorneys change it, but not the residents. When
16 the residents are complaining about two sign, the
17 Highland Cleaner doesn't have two signs. They
18 would have taken out just one little sign
19 everywhere. There's no -- no objection there. But
20 I'm just saying there was a Blockbuster have two
21 sign already. There was no objection. It wasn't
22 even error. But there was no objection, nobody
23 took that sign out. There wasn't being a
24 [phonetic] error raised, you know.

25 MAYOR EBERLE: Saying that the -- the

1 Blockbuster sign was -- was granted in error, and
2 that -- that may well have been the case.

3 MS. SIMMS: It was.

4 MR. MILES: I think -- I mean, am I
5 correct that an issue was the reason they got to
6 keep it was because we made an error --

7 MR. SIMONS: Right.

8 MR. MILES: -- in giving them, and
9 because it was our error, we couldn't make them
10 take it down. Again, I wasn't here when this
11 happened. But that's -- that's what --

12 MR. SIMON: But it's the sign -- but that
13 sign was not grandfathered.

14 MAYOR EBERLE: Correct. Not
15 grandfathered. And Kroger -- Kroger's got some
16 signs over there but they have three different
17 businesses in there; okay? So, if I -- in my
18 business over there, if I open up a second
19 business, I could probably get a second sign, but
20 it's only one business.

21 MAYOR EBERLE: That's how Fifth Third
22 [phonetic].

23 MS. SIMMS: Yeah.

24 MR. SIMON: I couldn't?

25 MS. SIMMS: No.

1 MAYOR EBERLE: Okay.

2 MS. SIMMS: You can have one sign.

3 MR. SIMON: They don't have to put both
4 businesses on it, both --

5 MS. SIMMS: No. At times, they've
6 allowed something --

7 MAYOR EBERLE: You're talking about
8 the liquor store?

9 MR. SIMON: No, I'm talking about --

10 MAYOR EBERLE: Which is separate.

11 MR. SIMON: I'm -- I'm talking about
12 Kroger. I mean, Kroger's got a bank in there.

13 MAYOR EBERLE: Fifth Third.

14 MR. SIMON: Fifth Third. And they've got
15 a pharmacy in there --

16 MS. SIMMS: M-hm.

17 MR. SIMON: -- which is -- and -- and
18 they have a grocery store. They have three signs.
19 They have three businesses, and that's what
20 allows them to have those three signs.

21 MS. SIMMS: But they have the one major
22 Kroger's --

23 MR. SIMON: Exactly. Exactly.

24 MS. SIMMS: -- sign. It's all
25 incorporated within -- under the name "Kroger,"

1 not two separate --

2 MR. SIMON: Right. Exactly.

3 MS. SIMMS: -- businesses. And that's
4 the person who decided some of that is no longer
5 with us.

6 MR. SIMON: Right.

7 MS. SIMMS: So I don't have --

8 MR. SIMON: And I had issue with some
9 of those signs. But it -- it -- it fit the ordinance
10 we're talking about [phonetic].

11 MAYOR EBERLE: Well, regardless of --
12 of our reluctance to take a variance tonight, we
13 certainly do wish you good luck. And I think, as
14 Stuart says, you're -- you're going to -- you're
15 going to be in a better location with one sign than
16 you were in the back of the Prospect Plaza. So,
17 hopefully, that will make things a little brighter for
18 you.

19 MR. SIMON: You're going to have a
20 whole lot more traffic coming around you.

21 MR. TIWARI: Well, I have no problem.

22 MR. MILES: And look what good that
23 second sign did Blockbuster; right?

24 MR. TIWARI: M-hm.

25 MAYOR EBERLE: And look at -- it done

1 a lot of good. Any other discussion on the sign
2 issue?

3 MR. TIWARI: Well, one more thing I want
4 to bring up. Can I put it over here or --

5 MAYOR EBERLE: Sure. Yeah. Why
6 don't you --

7 MR. TIWARI: This is -- this is different
8 than this one.

9 MAYOR EBERLE: Just for -- yeah, so we
10 get it on tape.

11 MR. TIWARI: My name is, again, Deebak
12 Tiwari, and I'm a resident up in 5506 Timber Ridge
13 Drive. And my house is situated right behind the
14 front of that MSD sewer system.

15 And I have called a couple of times to the city
16 that in the evening that place odor is so bad. That
17 is before the city used to own that place it was
18 there and they were cleaning up and they were --
19 they were producing the things.

20 You know, but now it's getting worse out
21 there. So we cannot sit outside, and we cannot
22 cook any BBQ, we cannot do anything on the yard.
23 I called a couple times and said this is a very big
24 issue.

25 And the second thing, MSD trucks roll in 6:30,

1 7:00 sometimes something happen in there. They
2 bring their truck to pull all those -- you know,
3 whatever, I don't know what kind of trucks.
4 Sometimes 10 or 20 and sometimes they make
5 those noise. You know, they have those alarm
6 noise. And they keep coming, coming. It's -- they
7 don't let you sleep, nothing. You know, you have
8 to wake up something happened here. It's -- it's
9 really very noisy out there.

10 MR. MILES: Have you called them and --
11 and told them?

12 MR. TIWARI: I -- I did. I did. But
13 there's no listening. And I was my understanding
14 when -- you know, the city has done that -- I don't
15 know what deal they did with them that they going
16 to move out of that place from there or something.
17 I have no idea what happened. And I'd like to
18 have a copy of that deal they made it to build the
19 city office and everything.

20 So -- and they were moving out and they have
21 to do something about that place, because it's
22 really, really nasty. I would like you guys come in
23 the evening and check that out. It's not really
24 good for -- for living my family over there. And
25 it's getting really worse. You know, I have lawn

1 furniture [phonetic] everything and white it out and
2 put it on the back. I can't even sit there.

3 MR. MILES: Can you -- can you do me a
4 favor? Can you call again next time it happens
5 and get the names of people you talk to?

6 MR. TIWARI: Sure.

7 MR. MILES: And just take some
8 contemporaneous notes of what they tell you. And
9 then that way I'll follow up if they don't fix it --

10 MR. TIWARI: Okay.

11 MR. MILES: -- and talk to them.
12 Because I -- I used to live in Butchertown and --
13 and we had an odor -- an issue -- an issue with
14 odors there and I know what it's like to not be able
15 to go in your backyard and enjoy your property
16 because of what other people are doing.

17 MAYOR EBERLE: We generally have
18 good relations was MSD and --

19 MS. SIMMS: We, too.

20 MAYOR EBERLE: -- we may be able to
21 talk to our --

22 MS. SIMMS: But the one thing MSD --
23 and I explained that to you. MSD requires you-all
24 to call. That way you get a work number, you get
25 a work order, and they can keep track down at

1 MSD. Certainly if we called and support something
2 and said --

3 MR. TIWARI: Right.

4 MS. SIMS: -- this is a real problem. But
5 until you get that original work number and until
6 they start a file on it, that's just how they operate.

7 MR. TIWARI: Okay.

8 MS. SIMMS: And we've had fairly good
9 success with them. But you need to call, you need
10 to get the work order. You might have to call two
11 or three times. And then the city will call and say,
12 "Nothing is happening. Can we talk about this?"

13 MAYOR EBERLE: Yeah. And like --

14 MS. SIMMS: But you've got to start with
15 MSD.

16 MAYOR EBERLE: -- Council Member
17 Miles says, yeah, you know, make sure -- will they
18 give --

19 MS. SIMMS: They'll give him a work
20 order.

21 MAYOR EBERLE: They'll give you the
22 work order; okay. And then ask for it. If they
23 don't give it to you, ask for a work order.

24 MS. SIMMS: Oh, yeah. You have to get
25 that.

1 MAYOR EBERLE: And then we can --

2 MS. SIMMS: That's all it usually takes.

3 MAYOR EBERLE: -- we can ride her on
4 that maybe.

5 MS. SIMMS: That's usually -- they have
6 been -- for the most part, when our residents call
7 MSD, they have been responsive. You explained
8 to me that you wanted us to do it, but the way it
9 works is you call them. We can only do follow-up.

10 MAYOR EBERLE: But we'd be glad to
11 follow up.

12 MS. SIMMS: We do kind of regularly.

13 MR. TIWARI: Thank you. I will do that.
14 You know, I appreciate that you told me, and I'm
15 going to call MSD.

16 MAYOR EBERLE: And we can swing
17 down there, too.

18 MR. TIWARI: Again I'll call them
19 because the guy who's, you know, big boss, I -- I
20 don't remember his name, but he always visit to
21 me over at my Subway downtown store. So I know
22 him personally, talk to him personally, too. But
23 there was another deal of moving out that place,
24 MSD from their pump station or something.

25 MR. MILES: My understanding is that as

1 part of the big order they have about cleaning up
2 the storm water mitigations is that -- and it's -- I
3 don't know what the timing is, but they have to
4 close down a lot of those small paw-hedge package
5 [phonetic] sewers. I don't know what the timing is
6 on that, but. . .

7 MS. SIMMS: Well, I was here when that
8 was done. And, Grover, you were around. But
9 what we have are not package plants. Ours are
10 actually --

11 MR. POTTS: They're part of the sewer
12 system now.

13 MS. SIMMS: They are part of the MSD
14 sewer system. So it's not a package plant being
15 shut down. This is part of the sewer. It's part of
16 the whole network. Yes, eventually they do intend
17 to take all of those plants offline, which is what
18 they call when it's a plain plant. They call -- or a
19 sewer plant. They call it taking it offline. And
20 they do anticipate taking those offline. I don't
21 believe things have worked anywhere near as
22 quickly on their overall projects as they thought
23 they might.

24 MR. TIWARI: Okay.

25 MAYOR EBERLE: Well, we can help you

1 work with them.

2 MR. TIWARI: Okay. Thank you, Mayor.
3 Thank you.

4 MS. ERTEL: And it may make more of an
5 impact if you have neighbors around you, everyone
6 calls in and -- and --

7 MR. TIWARI: Yeah. I'll talk to other
8 people -- a lot of people, also, and they really
9 agree that we need to know, because they're not
10 responding to me. So I called you and I think I
11 talked to you or somebody there and they said to
12 call MSD again. But now it's starting to getting
13 worse, so I've got a chance to come here and so I
14 said, let me address --

15 MS. ERTEL: Right.

16 MR. TIWARI: -- and that way you guys
17 know what is happening when the order --

18 MS. ERTEL: Have every neighbor call.

19 MR. TIWARI: Yeah. And thank you.
20 Thank you so much. It's nice meeting you, Mayor.

21 MAYOR EBERLE: Any other comments
22 from citizens? If we have none, we can move to
23 new business.

24 Does anyone have -- anyone on the council
25 have any new business?

1 MR. MILES: I do.

2 MAYOR EBERLE: Mr. Miles.

3 MR. MILES: The other day I am -- much
4 to the chagrin, I guess, of the mailman and -- and
5 the -- the garbage people, I work at home now. So
6 I'm much more observant about what goes on.

7 And the other day I was sitting in my front
8 yard on Friday and the -- one of the Rumpke
9 trucks, it was the recycle truck -- I live on a
10 dead-end street -- was backing down my street,
11 which is very narrow, at what I felt was an excess
12 rate of speed.

13 It wasn't -- I'm not sure what the law says, but
14 that person did not seem to be in control of that
15 truck as fast as they were going. I mean, there's
16 children who live there, people pull out of their
17 driveways. You know, that was way too fast.

18 And so the gentleman who then came down
19 with his little thing to collect my recycling, I very
20 politely told him he was going too -- the driver was
21 going too fast, asked him if he would please slow
22 the truck down and that I had called -- I called city
23 hall immediately to let them know. And I thought it
24 was all done and well.

25 I left my house, I came back about three hours

1 later. And Peggy and I have really gotten into
2 recycling, and we started out with one green bin
3 and then we got two green bins and that wasn't
4 enough, so now we have a garbage can that we put
5 "recycling" on it and we put our recycling in it.

6 And we talked to the recycling people and
7 they said, "You could do that, but if you have more
8 than one container, you have to bring it to the
9 street. But if you -- if you have that garbage can,
10 it's fine."

11 We've had that for nine months and we've
12 always left it where our garbage is, they've always
13 picked up that -- that bin and taken it to the
14 street, they left it in the street, we brought it
15 back.

16 The day that I complained they put a sticker
17 on my recycling can and said that I could no longer
18 use that can unless I brought it to the street. I
19 couldn't -- they would no longer go pick it up for
20 me. Well, that felt to me very much like
21 retaliation.

22 So I probably would have let this slide had
23 they not done that, but you know, I'm on the city
24 council and they did that to me. You know, I'm
25 wondering what they're doing to our residents if

1 they happen to complain. What I felt was a very
2 legitimate complaint about how fast they were --
3 and I've watched them every day for -- you know, I
4 work from home a lot -- back down my street with
5 that garbage truck. You know, clearly they were
6 doing something different on this day than every
7 other day they had backed down the street.

8 So I just wanted to bring that to their
9 attention. Now, I did get an letter or an e-mail in
10 response from Rumpke where they said they did a
11 test of how fast the truck would go backwards
12 and -- and they didn't think it would go more than
13 eight or ten miles an hour. I don't know how fast
14 it was going. It was going too fast.

15 But my issue I had is much to do with how fast
16 it was going, and it's also with what I felt was
17 clear retaliation for my bringing it to their
18 attention.

19 MAYOR EBERLE: Yeah. And we --
20 actually that -- that memo -- we called Rumpke
21 and --

22 MR. MILES: Right. Which I'm sure this
23 is in response to it.

24 MAYOR EBERLE: -- passed that on. And
25 that was what they sent back to Ann.

1 MS. SIMMS: Well, but I didn't tell them
2 about retaliation because I was not aware of --

3 MAYOR EBERLE: Yeah. We didn't --

4 MS. SIMMS: -- that when I --

5 MR. MILES: Well, right. Right.

6 MS. SIMMS: -- I typed up whatever --
7 whatever --

8 MR. MILES: Right. It didn't happen until
9 later on when I came home, after I made it home.

10 MAYOR EBERLE: How much --

11 MS. SIMMS: We acted too quickly.
12 Maybe that's it.

13 MR. MILES: No, no. You did fine. But I
14 mean, I think we need to follow up and ask them
15 about the issue of, you know, just the random
16 nature of a sticker on my recycle --

17 MS. SIMMS: I've already written myself
18 a note.

19 MS. LEONARD: Actually what I'd like to
20 know is: Can we have two green bins? Because
21 nobody on my street does. It's something,
22 including me, from time to time should. And then I
23 didn't know about using a trash container and
24 writing "rubbish" on it and then --

25 MR. MILES: "Recycling," not "rubbish."

1 MS. LEONARD: "Recycling"; okay. And
2 then on top of that, all of us take our stuff down to
3 the street.

4 MAYOR EBERLE: Yeah. I take mine to
5 the street.

6 MS. LEONARD: So I guess I really would
7 like to know what the rules are.

8 MS. SIMMS: I can probably tell you. And
9 if I make a mistake, Ann Milton will correct me. So
10 it's okay. She's there.

11 You have -- you are certainly allowed more
12 than one recycle bin. You can come to the city
13 call and you can buy it. The cost is 12.50; okay.
14 Recycle is picked up at the back door as is your
15 garbage. The only thing they really require you
16 bring out to the curb is yard waste. But will they
17 pick up two recycle bins in the back?

18 MS. MILTON: Yeah. But anything over
19 that, all of it at the curb.

20 MS. SIMMS: Then all of the recycling at
21 the curb.

22 MS. MILTON: All of it.

23 MS. SIMMS: If you have more than two
24 green containers at the back, then you have to
25 bring everything to the front.

1 MAYOR EBERLE: \$12 for the extra
2 container is just a flat fee. That's not a monthly
3 fee?

4 MS. SIMMS: No, that's just a flat fee.
5 You buy those.

6 MAYOR EBERLE: Yeah.

7 MR. SIMON: Doesn't that defeat the
8 whole purpose about what we're doing it for, keep
9 all the trash out of the front of the driveways.

10 MS. MILTON: Yeah. Well, what happens
11 at my home, we will put the recycle green bin at
12 the back of our garage, and when we have extra,
13 which we always do, we have just one of those
14 white garbage bags filled with bottles and
15 whatever and we just stick it on top of the green
16 bin and they always pick it up.

17 MAYOR EBERLE: Yeah.

18 MS. MILTON: Go back [phonetic] in the
19 house.

20 MAYOR EBERLE: We do that, too. And
21 break down cardboard and lay it beside.

22 MS. MILTON: Right. As long as it's on
23 top of or right next to that green bin, then they
24 always pick it up, so. . .

25 MR. MILES: Well, we call -- we talked to

1 them and they said that we could use this garbage
2 can, it has wheels, and they've just been wheeling
3 it out, which is no harder than grabbing two plastic
4 recycle bins.

5 So I'm guessing what we were doing was okay,
6 which again makes me feel like the -- the nasty
7 little sticker I got was in retaliation for my
8 complaining to them that day and had nothing to do
9 with the ability to do what I had been doing for
10 nine months without them having any problem.

11 MAYOR EBERLE: Well, and we can pass
12 that along as well. Ann Milton who usually
13 handles that is probably the most knowledgeable,
14 and she was gone on Friday. Was it Friday?
15 Yeah, this Friday. But we did follow up -- you
16 followed up that day.

17 MS. SIMMS: I followed up.

18 MAYOR EBERLE: Okay.

19 MS. MILTON: See, I think -- I think a lot
20 of the problem is some of our residents put their
21 garbage and recycling at the curb anyway. Some
22 of -- a lot of them don't. Some of the drivers do
23 little extra things for the residents. Nobody's real
24 consistent.

25 So, when something happens out of the

1 ordinary, then you kind of -- everybody kind of
2 gets up, well, they didn't do that before so why are
3 they doing it now. So those that put their garbage
4 out at the curb really should stop because that's
5 what your taxes are paying them to do. But then
6 they get lazy seeing -- they'll try not to do it if
7 they can get by with it, the drivers.

8 MS. SIMMS: Well, and another thing that
9 has to be brought up with this is a lot of people
10 who bring it to the curb have those electronic dog
11 fences and they don't want anybody entering in
12 where that dog is. The dog is restrained by that
13 fence and that collar. And a lot of them say, "I" --
14 they won't take the risk of somebody coming by
15 that fence. Dogs, as you know, can be fairly
16 territorial. So we're dealing with a lot of different
17 individual circumstances at homes.

18 MS. MILTON: And then we have drivers
19 on vacation, too, and they don't know the routes
20 so they kind of skip --

21 MS. SIMMS: Yeah.

22 MS. MILTON: -- and get here and hit
23 there. So, I mean, I think basically truthfully
24 Rumpke does -- will do a good job.

25 MAYOR EBERLE: Yeah, they do.

1 MS. MILTON: They do.

2 MS. SIMMS: They do, and they react to
3 us quickly and well and --

4 MAYOR EBERLE: And if you have a
5 problem, is it before 10:00, 10?

6 MS. MILTON: Day, all day.

7 MAYOR EBERLE: If you call us and we
8 get them before 10, they will -- they will rectify it
9 same day; right? Like if they miss -- I mean, the
10 most --

11 MS. MILTON: Well, she does it almost
12 all day. She leaves at 3. If I can get her in
13 there -- get in there --

14 MAYOR EBERLE: I thought there was a
15 cer -- after a certain time on a day they would get
16 it the following day.

17 MS. MILTON: Yeah. That's the way our
18 contract reads. But they try to accommodate us --

19 MAYOR EBERLE: Do they get it the
20 same day?

21 MS. MILTON: They do. Yeah.

22 MR. MILES: Well, my main concern was
23 they were going too fast. That concerned me and
24 so I called. And so, hopefully, they won't do it
25 again.

1 MAYOR EBERLE: Yeah. I mean, they're
2 real -- they were made aware --

3 MS. SIMMS: I think they've definitely
4 been put on notice.

5 MR. MILES: Yes.

6 MAYOR EBERLE: Okay.

7 MS. MILTON: You took one for the team.

8 MR. MILES: That's right.

9 MAYOR EBERLE: That's right. Okay.
10 Any other new business? Any unfinished
11 business? And assuming nothing else to be
12 brought before the council, I would entertain a
13 motion to adjourn.

14 MR. SIMON: So moved.

15 MS. LEONARD: Second.

16 MAYOR EBERLE: Those in favor signify
17 by saying "aye."

18 COUNCIL MEMBERS: Aye.

19 MAYOR EBERLE: Opposed by "no." We
20 are adjourned.

21 [WHEREUPON, City of Prospect, Kentucky City
22 Council Meeting concludes at 8:00 p.m.]

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CERTIFICATE OF REPORTER

STATE OF KENTUCKY AT LARGE:

I, CAROLA G. STRIJEK, 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

.

SEPTEMBER 27, 2012 _____.

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