

Aiken City Council Minutes

REGULAR MEETING

November 12, 2012

Present: Mayor Cavanaugh, Councilmembers Dewar, Diggs, Ebner, Homoki, and Price.

Absent: Councilmember Wells

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Larry Morris, Glenn Parker, Charles Barranco, Tim Coakley, Ed Evans, Kim Abney, Sara Ridout, Amy Banton of the Aiken Standard, Andrew O'Byrne of the Aiken Leader, and about 30 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Councilwoman Diggs led in prayer, which was followed by the pledge of allegiance to the flag.

Mayor Cavanaugh stated Councilmember Don Wells was not present at this meeting and has resigned from City Council. He noted that Mr. Wells was elected at the November 6, 2012, election to the State House of Representatives and was sworn in at 5 P.M. today for that office. He said we wish him well and appreciate so much his work on City Council and his thoughtfulness on issues.

GUIDELINES

Mayor Cavanaugh reviewed the guidelines for speaking at the Council meeting. He asked that those who would like to speak raise their hand and be recognized and limit their comments to five minutes.

MINUTES

The minutes of the regular meeting of October 22, 2012, were considered for approval. Councilwoman Diggs moved, seconded by Councilman Homoki, that the minutes of the October 22, 2012, meeting be approved as submitted. The motion was unanimously approved.

PRESENTATION

Audit Report  
FY 2011-2012

Mayor Cavanaugh stated a presentation would be made on the Audit Report for FY 2011-2012.

Mr. Pearce stated Laurie Smith and Nicole Hillman, of Elliott Davis, are present, as well as our Finance Director Kim Abney. Copies of some materials regarding the FY 2011-12 audit report that will be reviewed have been provided to Council.

Ms. Laurie Smith stated she had provided a lot of financial data to City Council and would briefly highlight the material. She said Nicole Hillman, who is part of the audit team, is present also. She pointed out they are always open for any questions after tonight about the audit process or the results of the annual audit.

Ms. Smith stated as part of the annual audit process required by the State of South Carolina, they have completed the audit as the City's external independent public accounting firm with three opinions in conjunction with the audit of the financial statements. She said this is what they consider in accounting standards an unqualified opinion, which is the highest level of opinions they can give. It is a clean opinion on the fair presentation of the financial information for the year, not only in accordance with

generally accepted accounting principles, but government auditing standards. She pointed out the Independent Auditor's Report letter. She said last year she talked about some of the wording in the report. She noted the paragraphs are longer than last year. There has been some movement with auditing standards to clarify what is done during the audit process. This makes the opinion longer in trying to emphasize what is really done in conjunction with the audit. In conjunction with a new standard that will be implemented next year, there will be some headings for the paragraphs which will address what each paragraph deals with.

Ms. Smith reviewed what happened from a financial standpoint for the year. She pointed out the Statement of Net Assets. She noted some important trends, pointing out the columns of Governmental Activities, Business Type Activities and a Total. One important thing to note is that during the course of the year the total assets grew about 2.5%, up about \$4 million over last year, with the largest concentration of the assets being in the capital assets, which include land, construction in progress, buildings, and equipment. She stated that Note 6 on page 40 of the report shows where the city began the year on capital assets. This shows what was added during the course of the year, what was removed or disposed of during the year, and where the city ended for the year. She said there was about \$5 million of actual investments in capital assets during the course of the year. A lot of that was in the infrastructure and road systems. That comprises about 78% of the city's total assets. She said that was the primary driver in the growth of the total assets from the prior year.

Ms. Smith stated another important section to look at on the Statement of Net Assets is the Liabilities. She pointed out the Liabilities were about \$14.4 million at the end of June, 2012. She said that is very flat and is almost the same as it was last year, within approximately \$20,000, which is very good. This means the liabilities did not grow. In the past she said she had talked about the Net Other Post Employment Benefit Obligation. She said that liability did grow \$1.8 million during the course of the year. That means the other liabilities went down, which kept the total liabilities flat for the year.

Ms. Smith then reviewed the Net Assets, which people refer to as equity. She said the Total Net Assets went up \$4 million, which is about 3% over the prior year. She said that is a very good trend. She said some other governments are not seeing increases in this area. They are struggling more. She said there are a lot of good things going on with the city's financial information. Looking beyond the Statement of Net Assets she pointed out some of the results of what drove those numbers to increase. She pointed out the Governmental Funds—the General Fund, Other Major Funds, the Capital Projects Sales Tax II and III. She pointed out the revenues were greater than the expenditures by about \$1.5 million for the audit period. She said there are some good budget and actual schedules behind the notes which will show that the City had very good control of expenditures compared to the budget. There was a positive variance on expenditures. The actual expenditures were about \$1 million under the budgeted expenditures for the General Fund. That was the primary driver of the increase in the Governmental Fund Balance. She said the audit firm looks at where the city is on the Governmental Fund Balance at the end of the year in relation to how many months of operating expenditures are on hand. The Government Finance Officers Association recommends that one be in the 2 to 5 month range. The City of Aiken is in the recommended range.

Ms. Smith referred to page 23 of the audit report and pointed out the Proprietary Funds, which show very positive results for the year. The operating revenues for the Water and Sewer Systems and Stormwater exceeded the expenditures, and the net assets were also increased by about the same number as the Governmental funds of approximately \$1.5 million. She noted that the Capital Contributions are significantly down from last year, but there was still an increase in the assets for the year.

Ms. Smith moved to the Fiduciary Funds on page 25 of the audit. She said there were two funds represented that she wanted to talk about—one being the Pension Trust Fund. She stated the City is not really a part of the South Carolina Retirement Systems as it relates to this. The City has its own Pension Trust Fund. She noted that at the end of the

year the City had assets accumulated of about \$22 million. These investments are at fair value, so as the market moves from day to day the value of the assets will move. She noted there has been a lot of talk about the South Carolina Retirement System being underfunded at the state level, and a lot of talk about other state retirement systems being more underfunded than South Carolina's system. She noted that with the City's Pension Trust Fund there are a lot of note disclosures. The City is actually overfunded on the Pension Liability by about \$341,000. The second column relates to the Other Post Retirement Benefits Trust Fund. At the end of the year she noted the City was just under \$2 million in assets accumulated. She said earlier in looking at Net Assets there is a \$6.6 million liability that has not been funded on the Post-Retirement Benefit Trust Fund. She said they are seeing a lot of their clients go back and look and do studies of what drives the numbers and look at what they are offering. There is a lot of movement in that area. That is a standard that has been out four or five years. It is a very complicated standard in that it requires the use of an actuarial calculation. She said there is a lot of movement as far as a second look at what they are offering and what that means as far as the liability.

Ms. Smith moved to page 51 of the report on Note Disclosures. She pointed out the Other Post-Employment Benefits (OPEB) liability. She said from the calculations the annual OPEB costs, including the health care benefit, is about \$2.5 million for the year. It was funded \$225,000 in the Trust Fund and then the payments that were made for existing retirees total about \$450,000. That liability grew about \$1.8 million for the year. She said that is the biggest challenge now that a lot of governments are having in how to deal with the OPEB liability.

Ms. Smith stated the second opinion was on page 109 and 110 of the audit. She said this is a report on Internal Control Over Financial Reporting and Compliance required by Governmental Auditing Standards. She pointed out that during the course of the audit they did not have anything they considered a material weakness or significant deficiency noted in the Internal Control Over Financial Reporting or any problems of Compliance with laws or regulations.

The third opinion issued is on page 111 and 112 of the audit. She said this is a report on Compliance with the requirements that have an effect on the federal funds received and expended. She said the City was required to undergo a Single Audit this year because the City received over \$2 million in federal funds and expended that amount. There is some movement in the future that there will be some changes in the Single Audit process and threshold. She said at the \$2 million level there may be some relief in what is required as far as Single Audit testing. She pointed out the Schedule of Findings and Questioned Costs related to the Single Audit. The major program that was tested was the Airport Improvement Funds. They totaled about \$1.2 million of expenditures of the total \$2.1 federal funds that were expended. She said they did have one finding noted on page 116 and 117 related to the federal grant. It really dealt with the timing of how the expenditures were recorded. The City committed about \$138,000 in expenditures on the Schedule of Expenditures of Federal Awards in the prior year. That was due to some communication between the departments in administering those funds. In talking with the federal agency, she said they were instructed to put those funds on this year's schedule so there is no need for any funds to be repaid. The funds will still be the city's, and the city is okay with how they were used. The reporting of them this year cleans up the issue. She said the officials have talked with each other, and they have worked this out so you will not have an issue with this in the future.

Ms. Smith then reviewed charts regarding the audit which she distributed. She said the first three charts relate to the liquidity. She said the City's liquidity is very good. She said they look at the cash balances, and they represent about 187 days of expenditures. A cash balance of three to six months is viewed as adequate, and the city is at the top end of that threshold. The next charts relate to the fund balances. She said the charts show the fund balances going over the trend of seven years. She said the city is maintaining the fund balances so there is not a lot of fluctuation in the fund balance, which means there is good fiscal control of the budget process and the expenditure process.

Ms. Smith stated she wanted to review a required communication called the Fast 114 Report. She said the report is more of a narrative report than a financial report. She said this communication explains the audit process. She stated there is materiality used in performing the audit procedures. There are certain accounting estimates in the financial statements, with the biggest ones being the actuarial calculations on the pension funds and the Other Post Employment Benefit liability. She said during the course of the audit there were no disagreements in management. There were no difficulties encountered in completing the audit. She said last year she talked about the implementation of a new accounting standard called GASB 54, where there was some change in the terminology on the governmental funds from reserved and unreserved to more restricted, committed, and assigned. She stated no new standard was implemented this year to talk about. She said she would briefly talk about two new standards that are coming in the future. The one coming next year is GASB 63, which talks about deferred inflows and outflows. The biggest thing to understand about this is that it is a lot like the fund balance standard that was implemented last year. This means that the Statement of Net Assets will be renamed and will be called the Statement of Net Position. You will see some of the unearned revenue become a deferred item. Some of the terminology will change on the statement and will not be a big issue to implement. She said there is a new standard which is three years out that will be required to be implemented in the year ended June, 2015, that relates to the Pension liability. It affects Aiken because the Public Safety employees are part of the Police Officers' Retirement System at the state level. That will require the city to record a liability for the period ended June, 2015 on the Statement of Net Assets, which will be called the Statement of Net Position. She said they will be working with the city on the addition of some fiscal tables and some introductory section to the financial information so the city can file a Comprehensive Annual Financial Report again in conjunction with the Government Finance Officers' Association program for Excellence in Financial Reporting. She said the city had received that certificate every year for numerous years. She said that completes her summary and highlight of the audit report.

Councilman Dewar asked if anyone audited the Pension assets of \$22 million. Ms. Smith stated they had audited the fund as part of the Annual Financial Audit. She said they had audited the \$22 million in pension assets and investments. Councilman Dewar asked if Ms. Smith concurred that the city's pension plan returned 8% last year. Ms. Smith stated the information on page 47 relates to the assumptions for them to make their actuarial calculations. They are assuming that the city will have 8% per annum. She said if you earn 9% one year and 6% the next year, they will move that to what they call a smoothing asset and they will amortize it over a period of time. Councilman Dewar asked if there was an area in the report that shows what the pension plan earned last year. She said it was not in the report, but she could get the information for Council. She said page 26 of the report looks at what the city had in Net appreciation in fair value and interest and dividends in relation to the plan for the year. Councilman Dewar asked if he could look at last year's audit and come to any conclusion about the rate of return on the assets. Ms. Smith stated it is hard to look at investments from an investment perspective in 3 months, 6 months, or 1 year. She said many times this is looked at on a three or five year basis. She said the investment advisors would have that information, and she would be glad to get it for Council. It was suggested that this information be added to the audit report. Ms. Smith stated the place for that information would be in the CAFR with a fiscal table.

Councilman Dewar asked Ms. Smith to review page 51 the Other Post Employment Benefits for him.

He pointed out the beginning is \$4.8 million. She stated the \$219,272 is a cost. Because the fund is underfunded, that is the cost of the liability. Councilman Dewar asked if the city was supposed to put in \$2.5 million. The actuarial calculation said the city needs to fund \$2.5 million. The \$286,261 is an adjustment where they blend the estimate versus the actual and amortize it over a 30 year period. He said the \$225,000 is what the city contributes to the fund. He asked what the Payments made for Retiree Benefits of \$450,066 is. He wondered if that was payment for expenses. Ms. Smith stated that is what the city has been doing for years. She pointed out for the people who have retired already, this amount is paid to the provider for the retirees' health insurance. Councilman Dewar asked the trend of that particular cost. Ms. Smith stated looking at the

assumptions in the note will give the health care cost trend. She said they are assuming 10% per year, declining, 1% each year until 5% in 2017 and 18 and then flattening out at 5%. Ms. Smith stated what they are saying is that the current rate the city is paying will increase 10% a year. Currently the city is paying \$450,000. The standard in computing the \$2.5 is assuming that every employee whether they are 25, 30, or 60 will retire, and the city will fund what it will cost to provide their health care benefits every year they work for the city instead of waiting until they have actually retired. She said it is a big estimate on how much it will take to provide that benefit when the 25 year old retires and they still have 40 years to 65, versus the person that is 50 or 60 years old who has less years. Councilman Dewar asked Ms. Smith if she was comfortable in terms of financial reporting to the city. He asked if she was comfortable that the city is adequately financed for that particular item. Ms. Smith stated presently the OPEB liability is growing fast. Like most governments, the city has not found a way to fund it like the Pension Fund is funded. She pointed out the Pension Fund is fully funded with the \$340,000 in assets. She said the OPEB liability presently is not funded, and the estimate is about \$6 million to get it fully funded. Councilman Dewar stated the city had been encouraged not to put as much money in there because once it is there it can't be taken out. If it never materializes, then it is essentially lost money. Ms. Smith stated presently the city has about \$1.9 million in the fund, but the city would have to put another \$6 million to be fully funded. She pointed out we know there will be change in our medical care costs because the numbers can't be supported over time. She said the federal government is also concerned about what is going on. She said there is a very small percentage of governments in South Carolina who have funded their OPEB liability because it is a revocable trust. Once it is put in, you can't take it out. She felt some funding is good, but where we know there is going to be significant change in the future she felt the position to not totally fund it is probably a wise one. Councilman Dewar stated if the city has a surplus from the budget year, would Ms. Smith recommend that the money be OPEB obligation. Ms. Smith stated she would encourage the city to have a study done and get some advice from people who are experts in the area and how best to deal with the liability. She said she had seen a study help a lot of governments understand the importance of funding the fund more and the importance of what benefits they are offering and what that means. She said matching the benefit with what the employees need is critical.

Mr. Pearce stated we do have our plan attorney, Anthony Warner, taking a look at OPEB funding. He said we will continue to look at that. He pointed out Mr. Warner was comfortable with the funding level that the City is doing with the OPEB Trust account. He pointed out that the audit shows we contributed a higher percentage this year than ever before.

Councilman Dewar asked Ms. Smith if she had a sense of what the liability is that the State will impose in 2015. Ms. Smith stated she looks at the state retirement system's annual audit report. She said the way the liability will affect the city is a % of the covered payroll for the police officers that are in the Police Officers Retirement System to the total covered payroll for the Police Officers Retirement Plan. She said that Aiken's percentage would be a small percentage. However, their last audit report showed them underfunded close to \$1 billion.

Councilman Dewar asked where the assets are listed from the Capital Projects Sales Tax programs. Ms. Smith stated those are considered major funds. She said those are shown on pages 16 and 17 of the audit report.

Councilman Ebner stated he had a few questions. He pointed out page 8 under Governmental activities the third item regarding Transfers from governmental activities – Capital Project Sales Tax to business type activities – utilities for capital asset infrastructure constructed. He wondered if that meant we had finished a project and then we put it into our capital assets. We wondered if we were putting money from our Capital Projects into keeping the city running. Ms. Smith noted that on page 39 that during the course of the year part of the Capital Projects Sales Tax dollars were collected and \$315,000 was sent to the Water and Sewer Fund for a capital asset for the fund. Councilman Ebner pointed out then the money goes in as a capital asset for a business

use and is not used to fund the day to day operations. Ms. Smith stated the money goes in for the purchase of a capital asset whether it be equipment or infrastructure.

Councilman Ebner stated on page 11 under Budget Highlights for the Year there is a comment about commercial garbage services. He said he thought we had finished the commercial garbage services. Mr. Pearce stated the commercial garbage collection had ended. Councilman Ebner wondered if that statement should be removed from the audit. Ms. Smith stated that is a comment regarding revenues for next year. She said it is predicted that there will be a decrease in revenues due to the elimination of the commercial garbage service. Councilman Ebner stated we had done away with commercial garbage service two years ago. Mr. Pearce responded there was a last piece of business of selling the trucks and getting rid of the assets. Ms. Smith pointed out the statement is actually referring to 2013 that there will be no revenue from commercial garbage service.

Councilman Ebner stated on page 29 there is a statement under Water and Sewer System Fund regarding activities necessary to provide services being accounted for including operations, maintenance, finance and related debt service. He wondered if the debt service was the interest we would pay to another fund such as for borrowing money from a fund to build the water tank. Ms. Smith stated that could be the case, but the city has some revenue bonds outstanding in the fund.

Councilman Ebner noted page 34 Note 2, item 4 regarding transfer of budgetary amounts between line items within a department can be done with the approval of the City Manager. He said his question is whether he could transfer enterprise money. Mr. Pearce stated utilities funds are not used to support the General Fund. He said enterprise revenue stays in that fund. Councilman Ebner stated the statement says funds can be transferred between departments and the Enterprise Fund is a department. Mr. Pearce stated as a policy Council has to approve the transfer of funds. The statement shows that the City Manager as the operations officer actually effects the transfer by the signing of a note. Ms. Smith stated that talks about departments as in the General Fund and also in the Enterprise Fund there are departments. The statement refers to transfers to departments within the funds.

Councilman Ebner noted item 7 that unexpended appropriations lapse at the end of the year. He said it had been mentioned that all of the General Fund monies had not been expended last year. He asked how that money is handled. Mr. Pearce stated annually in August once all the revenue and expenditures have been confirmed, staff brings a request to Council for the carryover of funds to be designated for certain items and Council votes on the matter.

Councilman Ebner moved to page 46. He said on the Retirement Plan the city had the actuary here. Two years ago he had given Council some misinformation about how he calculated the actuary on Social Security benefits when a person turns 62 and is retired. He said if the person is retired the benefit from the City would be reduced. He said he assumed the numbers are correct in the audit. Mr. Pearce stated Mr. Anthony spoke to the fact that for each employee there is an actuarial amount that is calculated that would be paid in retirement benefits. So depending on the election of the employee they would either get the money now or get the money later. Councilman Ebner stated he just wanted to be sure the funds are correct.

Councilman Ebner called attention to the percentage contributed for the OPEB costs on page 52 of the audit. He said the percentage increased considerably this year from about 20% to 22% the past few years to 27% this year. He wondered if that was part of the study to be sure we don't overpay. He said if this is increased 5% a year in a few years we will be at 100% which is \$6 million out of the budget. Mr. Pearce stated the actuarial assumptions are under review. He said changes had been made in benefits for new employees as far as what the city will pay. He pointed out the actuarial amounts were assuming some of the deductibles at \$100 instead of \$1,000. He said we will be looking at that as we go forward and as we prepare the budget for next year. Councilman Ebner wondered if going up 5% is necessary until we get all the changes with the new medical

care, etc. done. He noted that on page 58 Funding Progress of OPEB we also went up 6% on percentage contributed. He wondered if that was a requirement. Ms. Smith stated she assumed that contribution was something that was voted on. Mr. Pearce stated that contribution was in the budget. He said those figures were prepared based on the advice received from the plan attorney. Councilman Ebner stated it was odd that it goes along smoothly for four or five years and then it goes up so much.

Mayor Cavanaugh thanked Ms. Smith for her presentation on the audit report and for answering the questions.

#### Billboards

#### Digital Signs

#### Electronic Signs

#### Signs

Mayor Cavanaugh stated a presentation and request regarding digital billboards would be made to Council.

Mr. Pearce stated the matter concerns electronic signs, signs in general and digital billboards. He said Ron Wade, Sales Manager for Enloe Sign Company, is present along with some other individuals who represent some concerns.

Mr. Pearce stated this past summer, Ron Wade had come to him regarding concerns about our sign ordinance from 1999. He said Mr. Wade wrote to see if he could present his case to Council to amend our Zoning Ordinance prohibition against any billboards within the Aiken City limits, to instead allow electronic signs, which could be a monument or pole-mounted electronic digital sign along the lines of the sign that is located at the USCAiken Convocation Center on the Robert M. Bell Parkway. Council granted permission for this sign to change its message on a rotating basis--a variance from Zoning Ordinance provisions that require any message to remain fixed.

He said he forwarded Ron's letter to Planning Department staff and to Planning Commission Chair, Wilkins Byrd. They prefer direction from Council regarding this request--and, should Council determine that Planning Commission should take action on Ron Wade's request--where on the existing Action Item Agenda this particular item should be placed.

Mr. Pearce stated Mr. Wade had presented a notebook of information for City Council regarding state law, and some examples of ordinances from other cities in South Carolina regarding signs.

Once Ron's presentation is completed, for Council consideration is where on the 2012-13 Action Item Agenda this item should be placed, if desired.

Mr. Ron Wade stated the purpose is to talk about electronic message centers or digital boards. He said presently the city does not deny an electronic message center, but denies changing the message except for once in a 24 hour period. He said he would like to address that matter. He said Mr. Larsen would like to address the code.

Mr. Wade stated he wanted to summarize some things that have been of concern to most Councils of other locations. He said the information in the notebook was prepared by DAK Tronics and addresses many of the concerns that Councils have had in other places. He said one of the concerns has been safety. Many people say an LED sign is distractive and causes accidents. He pointed out the reports from various places. He said it has never been proven that a sign has caused a problem for people driving. He said there had also been concern about brightness of the electronic signs. He said in the past the old signs used to use flood lights. Today's signs are LED signs and are very energy efficient. The brightness in the signs can be controlled today. One of the things not included in Aiken's ordinance is a section on how to control the brightness of the signs. He said he would recommend that the ordinance be amended to include information on brightness of



signs. He said LED signs are basically brighter in the daytime and dimmer at night. He said the LED signs have automatic sensing for the brightness or dimming.

Mr. Wade said LED signs are very efficient on power. He said for a 32 square foot sign the average sign only uses about 428 watts, whereas a fluorescent sign generally uses about 600 watts. A neon sign probably uses in the 1,000s of watts. He said a typical hair dryer uses between 400 and 1,500 watts. An average LED sign operates for less than \$1 per day. He said businesses want the digital signs as a means to transmit information. He pointed out with the current sign ordinance a business can get an electronic sign, but they can't utilize the technology the way it is meant to be used, which is to have continuous messages on the sign. He said the messages on the signs are for the benefit of the people of Aiken. He said businesses that do have LED signs can only show one message at the time for a 24 hour period. He said sometimes they put so much on the sign that it is hard to read, since they can't change the message. He pointed out that the typical sign that businesses have today where they put the letters on the sign have been around for some time. He said the problem is that letters fall off these signs, and words are misspelled. He said electronic signs come in two versions—a monochrome sign, being one color with mostly verbiage, or you can get full-color signs with verbiage and also a picture. He pointed out it is not just businesses that want the digital signs. The signs can benefit the whole community. He said churches and schools also want the digital signs to advertise their activities. He said digital signs have been used to inform citizens of emergency situations. He said people are not always listening to the radio or watching TV, and signs can inform people as they travel the roads. Mr. Wade said we need to take advantage of the technology.

Mr. Wade said businesses want the digital signs and are buying them where they are allowed as it helps their business to grow. When businesses grow the city will benefit as well from tax revenue. When businesses grow they can employ more people.

Mr. Wade pointed out a report in the notebook information that was done by the Small Business Association. He said the report states that the average business will grow from 15% to as much as 115% in revenue by using electronic message signs to grow their business. He said that is why businesses want electronic signs.

Mr. Wade stated he was asking that Council change the ordinance to reflect what other cities and counties have done in allowing electronic signs. He pointed out a spreadsheet he had prepared which compares some other cities that allow electronic signs. He said all allow the signs, and all but Aiken allow them to be changed. The average change time for messages is from 6 to 8 seconds. He encouraged Council to look at the information regarding electronic signs and encouraged Council to look at the sign ordinance overall and update the terminology.

Mr. Eddie Larsen, a resident of Aiken, stated he had been in the sign business since 1965 all over the country—Chicago, Pensacola, Florida, etc. He said he had helped write at least a dozen sign codes. He said he was offering his services to be a part of any committee that Council may designate to develop a more updated ordinance. He said courts have ruled that sign codes have to be content neutral. He said that means that as a community you are allowed to enact ordinances that control size, setback and height, but unless it is of a pornographic nature you can't tell someone what to do within that parameter. There must also be a code that stands alone and not open to interpretation by an individual which by his interpretation might influence the code that was passed by a prior Council. He said an individual can have an opinion, but you can't alter the effect of the code by an interpretation. He said today we have technology advances, we have illumination sources which Mr. Wade alluded to, and a lot of energy concerns. All of these things should be considered in the code. Sign sizes, height and setbacks should be regulated within different zoning districts or business districts, but they need to be reasonable. The objective is not to put a person out of business, but to make them successful, and then the community is successful. He said we have seen downtowns where most of the stores are closed or are junk shops. He said we don't want that to happen in downtown Aiken, Whiskey Road, or any part of town because it becomes a blight on the community. Another issue is the size of the sign or the area of the sign, not



the brick, stone or metal pylon cover. He said that is another issue of interpretation; someone has interpreted that those things need to be considered in the total square footage of the sign. He said Aiken is the only community he is aware of that does that. He pointed out the Carpet and Tile Center on Whiskey Road went with the maximum size sign they could put up under the code. They wanted to put a nice stone platform underneath it which is their business--advertising stone. They had to forego it because the code does not allow it. All they have is a naked pole holding up the sign when it could have been a beautiful sign. He said things like that have to be taken into consideration. He said basically he is saying that restrictive sign codes do not help the local business. The business is fighting for every shrinking dollar today. He is fighting against chain stores who have big dollars for advertising on television, radio and newspapers. He is fighting to survive. He felt the community should be helping him to survive, not throwing up roadblocks. He said they are asking that Council designate a committee or channel them in the right place, and let them work with the community and develop something more workable than the existing sign ordinance. He said their goal is not to be extreme and to sell the biggest and brightest, but want something that provides an adequate message. He asked that Council consider their request.

Mr. Mark Steinkamp stated he is a new resident to Aiken and has been here about 4 months. He said they love the community and recently built a house in Aiken. He said they hope to spend the rest of their days in Aiken. He said he appreciates and commends Council for the development of the community. He said he wanted to reiterate what Mr. Wade said. He said he wanted to read a couple of sentences from the Small Business Administration report about safety. He pointed out safety is the main concern that his company hears about when a town starts getting requests for electronic displays. "Electronic message centres are not a distraction to drivers; it is quite the contrary. Their exceptional readability and conspicuity mean that electronic message centers (EMC's) actually increase driver safety. The federal government and other reviewers, after conducting numerous studies, analyzing court cases, and reviewing the available literature, have concluded that signs and electronic message centres, if used properly, are traffic safety enhancement devices." He pointed out that safety then should not be a concern. He said he has a LED display with a control system, and he would be more than happy to show it to anyone who wants to see it and fully understand how it operates and how it can be controlled and used in a responsible manner.

Councilwoman Diggs asked about affordability. She wondered if the average small business could afford to purchase the signs and maintain them.

Mr. Wade stated he felt they could. He said most businesses want to grow and the signs help grow their business. He said the signs vary in price, based on size and ability. Not everyone can afford them, but they try to work out financial packages for those who want an electronic sign. He said some banks even want to know what kind of sign the business will have. He said the Small Business Association says that 50% of the business draw comes from a sign and 85% of the business comes from within a 15 mile area. He said an electronic sign is the most cost effective way to advertise over a 10 year period.

Councilman Dewar stated they had done an excellent job in their presentation. He said Council was being asked to give their sense as to whether or not the Planning Commission should consider changing the sign ordinance. He pointed out the information notebook does highlight some issues that we need to look at. He said a sign is installed and then there are trees that block it. He said he had been getting calls about cutting bushes in the downtown parkways because it is hard to see cars coming. He said it is embarrassing when the sign cannot be seen because of the trees, as the business is wasting money to put up a sign that people can't see. He said he was willing to ask the Planning Commission to look at the sign ordinance. He pointed out political signs. He felt most politicians running for office have to worry more about the signs that they put up and get picked up by the city. He felt there should be areas in the city where political signs can be put up in the right of way near an intersection in designated areas. He said he would endorse the city looking at the sign ordinance.

Mayor Cavanaugh stated he did not have a problem with looking at the ordinance. He said, however, he does feel that signs can be a deterrent to safety and be unsafe. He said he feels it depends on where they are put and how many. He said he is trying to visualize going down Whiskey Road with businesses down Whiskey Road having an electronic sign flashing and messages changing. He said he understands the comments, but there will be different opinions. He said if Council wants to send the request to the Planning Commission for review he is willing.

Councilwoman Price asked if the three who had spoken were all with Enloe. Mr. Wade responded they were all with separate companies. He stated the others came with him for the presentation so it would not look like it was just Ron Wade wanting to change something. Councilmember Price stated she supports reviewing the ordinance for some possible changes. However, she supports the Mayor's comments. She said she did not want Aiken to look like a Las Vegas. She said with all the lights, changing and glitter, it can become that way if it is not regulated and done properly. She felt we should look at our sign ordinance. She said she had noticed some signs along Whiskey Road going south. She said she finds herself not being able to catch all of the message on the sign. She felt the signs can be distracting, and we have to be careful about the timing and how many we would allow on a road.

Mr. Wade said he did not want Aiken to look like Las Vegas either. He said his family goes back to 1845. He said he loves Aiken. He said the message center is not a Las Vegas sign. He said a message center is an extension of your computer screen on the sign. It is an information center. He pointed out the sign at the Convocation Center. He said the sign is in a 55 mph zone. The sign is too small. One has to slow down to read the sign. He said the proper sign needs to be erected. He said a study has been done on that. He said if the sign is too small and there is so much on the sign, it is difficult to read and could be dangerous.

Mr. Larsen stated the sign Councilwoman Price had alluded to is not an electronic sign, but is a large billboard and has tri-vision panels that rotate. He said that sign is in a completely different field from what they are talking about. He said they are talking about on-premises signs. That sign is an off-premise sign. He said what they want to provide is a communications device. Presently the city allows them, but what good are they if you can only change the message once every 24 hours.

Councilwoman Price stated she supports the study by the Planning Commission.

Councilman Dewar moved, seconded by Councilwoman Price, that Council send the request regarding signs to the Planning Commission for their review and study. The motion was unanimously approved.

## BOARDS AND COMMISSIONS

### Appointments

#### Jack Hunter

#### Ed Giobbe

#### Planning Commission

Mayor Cavanaugh stated Council needed to consider recommended appointments to boards and commissions of the city.

Mr. Pearce stated Council has 23 pending appointments to fill vacancies on different City boards, commissions, and committees. Two appointments are presented for Council's consideration. He pointed out also that a message had been received from Wilkins Byrd and he was asking that he not be reappointed to the Planning Commission when his term expires in December, 2012.

Councilmember Ebner has recommended that Jack Hunter be appointed to the Planning Commission to fill the unexpired term of Ed Giobbe who has resigned. If appointed, Mr. Hunter would fill the remaining time on Mr. Giobbe's term and also be appointed to fill a two-year term that would begin December 1, 2012, and expire December 1, 2014.

Councilmember Wells has recommended that Liz Stewart be reappointed to the Planning Commission. If reappointed Mrs. Stewart's term would expire December 1, 2014.

For City Council consideration is approval of two appointments to the Planning Commission.

Councilman Ebner pointed out Councilman Wells is no longer on Council. He wondered if the appointment of Ms. Stewart would still be valid.

Mayor Cavanaugh pointed out the nomination was made at the last Council meeting when Councilman Wells was still on Council.

Mr. Gary Smith, City Attorney, stated whether or not Councilman Wells continues as a member of Council, Council still has the right to vote on the appointment. Whether Council chooses to have Ms. Stewart appointed or not is up to Council. Council as a body could decide not to appoint Ms. Stewart and chose to leave the position vacant until Councilman Wells' replacement is elected which would be in March, 2013. Council could have a vacancy or Ms. Stewart could continue to serve until a replacement is made. He said the proposed appointment was made when Councilman Wells was a member of City Council, and it is okay for Council to continue with the appointment.

Councilman Dewar pointed out because Mr. Wells is no longer on Council, even if Council assumed that he could not make the appointment Ms. Stewart would still serve until a replacement is approved by City Council.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the appointment of Jack Hunter to the Planning Commission to fill the position of Ed Giobbe who has resigned with the term to expire December 1, 2014, and that Liz Stewart be reappointed to the Planning Commission with the term to expire December 1, 2014. The motion was unanimously approved.

Councilwoman Price recommended that W. Frank Wright be reappointed to the Environmental and Energy Committee, that Brian Parks be reappointed to the Park Commission, and Velice Cummings be reappointed to the Design Review Board.

Councilwoman Diggs recommended that John E. Owen be reappointed to the General Aviation Commission, that Marilyn Brown be reappointed to the Environmental and Energy Committee, and Mary Barnett be reappointed to the Park Commission.

Councilman Dewar recommended that Brendan Doherty be appointed to the Board of Zoning Appeals for a three year term to replace Jane Page Thompson. He acknowledged that Mr. Doherty is related to his wife. He also recommended that Bob Besley be appointed to the Planning Commission to replace Brendan Doherty. He thanked Wilkins Byrd for his 10 years of service on the Planning Commission.

#### ANNEXATION – ORDINANCE 11122012

Mary Ellen Davis Thompson  
1734 Two Notch Road  
TPN 122-09-02-023

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex property at 1734 Two Notch Road and zone it Residential Single-Family RS-10.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF .27 ACRES OF LAND, MORE OR LESS, OWNED BY MARY ELLEN DAVIS THOMPSON AND LOCATED AT 1734

TWO NOTCH ROAD AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. Pearce stated Mary Ellen Davis Thompson owns a 0.27 acre of improved property at 1734 Two Notch Road. She has filed her request to annex this property into the Aiken City limits and zone it Residential Single-Family (RS-10). This annexation request is the result of an emergency agreement she signed with the City. We have connected her to our sanitary sewer system after her septic system failed. Please note that the annexation request does not include the right-of-way of Two Notch Road adjacent to the property.

At their October 9, 2012, meeting, the Planning Commission unanimously approved annexing this property into the Aiken City limits and zoning it RS-10, Residential Single-Family. It currently exceeds the minimum requirements for this designation.

For Council consideration on second reading and public hearing is an ordinance annexing 1734 Two Notch Road into the city limits and zoning it Residential Single-Family RS-10.

The public hearing was held and no one spoke.

Councilman Ebner moved, seconded by Councilwoman Diggs, that Council approve on second reading an ordinance annexing 1734 Two Notch Road to the city and zoning it Residential Single-Family RS-10. The motion was unanimously approved.

UTILITY REQUEST – RESOLUTION 11122012A

Water

Sanitary Sewer

Sewer

Aiken County Complex

1930 University Parkway

TPN 104-12-19-001

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration regarding a request for water and sanitary sewer services for 1930 University Parkway, the site of the new Aiken County Complex.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE PROVISION OF WATER AND SANITARY SEWER UTILITY SERVICES TO PROPERTY LOCATED AT 1930 UNIVERSITY PARKWAY.

Mr. Pearce stated Council reviewed this request at the October 22, 2012, meeting. He stated Aiken County is building its new Government Center on 20 acres at 1930 University Parkway. This property is currently contiguous to our city limits. They have filed a request for City water and sanitary sewer service. Council's policy has been, for properties contiguous to our City limits, that annexation would be required in order for an owner to obtain City services. However, Aiken County has asked for waivers from this policy. Specifically, they seek a waiver from executing an annexation agreement immediately, to instead file an application no later than January, 2013, from our landscaping regulations, and from having the City Inspection Division inspect this project. It would instead be inspected by the County Building Inspector to ensure compliance with all applicable building codes.

The Planning Commission, at their October 9, 2012, regular meeting, did not pass any recommendation regarding the County's request for water and sanitary sewer utility services, as well as for waivers or conditions related to landscaping, signage, and site lighting. Their vote was split 3 - 3 on a motion to approve the request. Planning Commission members voting against a motion to grant the County request expressed concern about granting any exception to City policies for water and sanitary sewer service to unincorporated areas. They cited comments made by our City Attorney. He had

expressed concerns about waiving Council's usual annexation requirements, because to do so may have an impact on future developments.

Mr. Pearce said he had been in contact with County Administrator Clay Killian several times. Clay says the County is willing to submit an annexation petition with the City early next year. As we have done in similar instances, if the annexation is approved by City Council, code inspections on this construction project in progress will continue to be conducted by county building officials through the time a certificate of occupancy is issued. In addition, the County has submitted a revised landscape plan that shows 238 ligustrum bushes and 41 gem magnolia trees being planted on the border with residents on Lincoln Avenue, and a gate at the Lincoln Avenue emergency entrance. A little distance down the hill some oak trees will be planted. They have also confirmed they will comply with City lighting standards for developed tracts. An information meeting with Lincoln Avenue residents was held November 6, 2012, and 8 residents attended, including several residents who attended the October 22, 2012, Council meeting. At that meeting, the revised landscape plan was reviewed by the residents. Clay indicated that the southwestern corner of the parking lot will not be developed and will be landscaped instead. A copy of the revised landscape plan has been provided for Council review.

Mr. Pearce stated Planning Director Ed Evans looked at the revised landscape plan. There is a significant increase in the number of ligustrum bushes to be planted, as well as other plantings. The thought is that with the planting scheme of the ligustrum bushes and the trees that once they reach maturity there would be a similar effect like what is on Whiskey Road at the Palmetto Golf Course with screening the County Complex from the neighbors. Also, a revised parking lot plan was provided to Council at this meeting. The southwestern corner of the parking lot, which is the part of the lot closest to Rosemary English, will not be developed into individual parking spaces, but will be a grassed area similar to the grassed area at the Convocation Center at USCAiken, which will allow for overflow parking. In addition the plan which has been provided at this meeting shows a gate to Lincoln Avenue. The intent of the County is to use that access point only in case of an emergency. That access would be kept gated and locked at all times. They stipulated at the October 22, 2012, meeting that the lighting for the parking lot at the complex would comply with the City's lighting ordinance. There was considerable discussion in October about the inspections, the sprinkler requirement, and how the building will be constructed. He said he wanted to clarify that the building will meet the International Building Code. The inspections would be done by County inspectors. The construction project started before the application for the utilities. This has been done in the past with the Town Creek Baptist Church and the AT&T building on Whiskey Road, where the construction was started in the county and later the property was annexed. In those cases the county inspectors did those inspections and the final Certificate of Occupancy.

Mr. Pearce stated he had talked with Larry Morris and with Ed Evans. The landscape plan that has been submitted at this point does comply with the Zoning Ordinance. The lighting standards are set forth under the Zoning Ordinance. He said it was his understanding from talking with Mr. Killian that with approval of the utilities request that the County is prepared to take that approval and attach that to an annexation application. That request could be filed just as soon as the paper work is completed.

Mr. Pearce stated Clay Killian, County Administrator, Brian Sanders, Assistant County Administrator, are present as well as K. J. Jacobs, Architect who was at the October 22, 2012, meeting.

Mr. Killian stated Mr. Pearce had done a great job in summarizing the status of the request for utilities. He said he would like to thank Mr. Pearce, Mr. Evans and his staff in helping them clarify what the city is looking for along the back boundary of the property. He said the drawing shows extensive work to be done to try to get it to a level that City Council and the residents along Lincoln Avenue will be comfortable with. He said Mr. Pearce had mentioned the change in the parking lot plan. He said the parking lot plan had to be modified to meet the Aiken County Code. The modified plan will still give 410 parking spaces. It is felt that the southwest corner of the property will only need to be

used for overflow parking in rare occasions. There will be about 200 employees in the building every day. There will be about 40 fleet vehicles that will be parked on the upper east end of the property. There will be about 170 parking spaces for the general public on most days. He said in working with Mr. Evans and his staff their goal was to try to comply and meet the goal.

Councilman Dewar stated he was not clear why the County wants a waiver from the City inspection process. He said it seems the request has changed and the County is not asking to be exempt from the policy for immediate annexation, but the County is asking that the City not be involved in the building inspection as it normally is for city projects.

Mr. Killian stated the project had been vetted through the International Code Congress in Birmingham, Alabama. County inspectors have been working with them for several months. To try to get city inspectors up to speed on the project with the complications of the HVAC in the building, the other mechanical systems, and complications of the building, it was felt would delay progress on the building. He pointed out the County Building Inspection staff is larger than the City's Building Inspection Department to perform the inspections.

Mr. Pearce stated he had an extensive conversation with the City's Building Official Mike Jordan. Mr. Jordan would strongly prefer that the County finish the inspections of the process rather than him coming in the middle of the project.

Councilman Dewar pointed out, however, if the code being followed is the International Code what would be the difference in the City inspecting the building and the County inspecting as they would both be using the same code.

Mr. Pearce stated the County inspectors would have done the initial inspections for the foundation for the site plan as far as the mechanicals. The City's Building Inspector would not have the benefit of those initial inspections. It works better to let the County finish the inspections.

Councilman Dewar stated there is an element of frustration. He said he did not think we would let another developer come in and do the same thing. He said we are essentially saying to a developer that we are not setting a precedent that they can build what they want and the city does not have to inspect it. He said he was perplexed with the situation. He said he felt the City and the County should have been together on this project a year ago. The building has not been a secret, but has been one of the most talked about projects in the county. He said he was disappointed that the City and County did not get together a year ago and work this out before the design was done. He said this issue should have been anticipated. He said the City's policy is clear.

Mayor Cavanaugh stated he appreciated what the County had done as far as the landscape plan, and it looks better. He said he had some of the same concerns that he had at the last meeting. He said he had asked the question many times as to why the County did not come to the City and respect the city's policies. He said it seemed if any organization is going to respect another government organization, they should respect each other's policies. He said there had been some conversation with Mr. Pearce and Mr. Evans over a year ago. He pointed out the policy was known many months ago. Yet the County came in and did what they did. Now the County is saying they want to continue with the County policy. He said this might seem trite to some people, but he felt this was very important as the policy has been in effect at least since 1990. It has been changed some since that time, but was initially adopted in 1990. He felt we would be moving backwards to not require compliance with the policy. He said he wanted to work with the County, but where do we go from here. He felt to not require compliance with the policy would be opening the door and weakening the city's policy. He pointed out the Planning Commission did not approve the request. He felt there were some major points that the City needed to be concerned about. He said there is a lot of other land to be annexed, and what do we do with future requests. He said some people say the city's policies are too tight, but Aiken is not just like any other city. It is a unique and beautiful city. He said he has a hard time going against city policy. He felt the City was wrong by giving water

to the County for the building to start with. He felt the City and County should have met before now as the County knew the policy a long time ago.

Councilman Homoki pointed out the County is not just any developer. It is not like a commercial entity. The County has promised to be good neighbors. They will install a buffer which will protect the individuals living in the Lincoln Avenue area. He felt the City should have been more proactive in getting with the County earlier. He said it is Council's decision as to whether they would be granting waivers to other entities or not. He said he did not feel the County was a regular customer. He said the proposed complex will be a very pleasant addition to the City of Aiken and be a great facility. He was concerned about getting hung up on a little bit of technicality. He said this was not the first time Council would be going against "established policy." However, going against policy has not been done many times. He felt the County was not the usual customer. He felt the City should have been more proactive. He pointed out the property is in the County, and they can do whatever they want to do in the county.

Mayor Cavanaugh stated Councilman Homoki sees the matter differently from him. He pointed out the city has other policies and he was concerned about entities meeting this policy and other policies of the city. He said Council can do what they want to, but he was concerned about not complying with city policies and others asking for waivers. He felt it was the principle of the matter and not necessarily the customer.

Councilman Dewar stated this matter was not the city's fault. He said everyone has known about the County building. It has been the most talked about project in a long time. He said Council had fought to get the building to stay at its present site. He said the County had essentially clear cut the property without telling the neighbor. They started the construction and seem to have put the City in a position where we can't say no. He said the City cannot deny them the right to construct the building. He did not feel that the issue was the city's fault.

Mayor Cavanaugh stated the property is in the county, and they can do whatever they want to do, but when they start building the foundation and then ask for water and sewer but don't want to go by city policy that concerns him. He said the situation upsets him.

Councilman Homoki stated he agrees this should not have happened, but he is being a realist. He said Council has the authority to grant approval, and he felt they should. He said he was not blaming the City for the situation. The County should have made the city more aware of the situation earlier. In response to a question by Councilman Dewar as to whether Councilman Homoki was comfortable with why the City can't inspect the project, he stated he was comfortable with the County inspecting the project. He said the County inspectors would be using the International Code.

Mr. Killian stated there was a time when the County was going to build on the current site on Richland Avenue. He said they spent over \$200,000 in doing geotech and concept work. The City was proactive in making sure that did not happen as well. He pointed out the building became an issue before the Design Review Board, and this cost the County four or five months trying to decide where to put the building. It opened the opportunity to look at other alternatives, and the alternative ultimately selected was the first site picked by the engineering firm selected to evaluate about a dozen sites. He said they had tried to stay downtown as much as possible. He said it was much more land locking to build on the current site and hurt flexibility in the future, but County Council chose to stay at the current site. He said they were moving in that direction. They had concept plans drawn for the building. He said he had places to move everyone out of the building, to tear it down, and rebuild on the current site. He said a lot of things were involved that kept the County from rebuilding on the current site.

Mr. Pearce stated that matter was caused by a citizen that petitioned to have the current building put on the Historic Register.

Councilwoman Price stated we have known the people who are connected with this for some time. She said some people she knows that have had direct input love this town and



would not do anything to destroy what we are trying to build in terms of character for the community. She said since the last Council meeting she has been confronted by a number of citizens. She said the comment has been how do you allow them the same right as you will be giving to another government entity. They want to know if they can do the same thing and why the City would be doing this from government to government. She pointed out the County Complex has become quite a visible project with a lot of people looking at the matter. She said we hear a lot about transparency and integrity. She said they want to protect the integrity of the process so every citizen feels they have the same right as another government entity.

Mr. Pearce stated Council has the right to condition the approval for the water and sewer services upon an immediate filing of the application to annex, which would meet the policy requirement. He said his understanding now is that the County is ready to file an annexation application. They want to use the detail from the approval for the utility request and attach that to the annexation application. He said he felt Council had been very clear about the policy that they want an annexation as part of receiving the services if the property is contiguous. He said he understands the County is ready to take any conditional approval that Council may approve and attach that to the annexation application. In effect Council would be enforcing the annexation requirement by conditioning the approval on the annexation application being filed.

Councilman Dewar stated their request would not include the City Building Inspector inspecting the project. Mr. Pearce pointed out the City Building Official did not want to be responsible for inspecting the building. Councilman Dewar stated that was the last consideration for him. That is the Building Official's job. Councilman Dewar asked when Council decides what they will finally do, will the resolution be changed to reflect what Council agrees upon. Councilman Dewar asked why we would need a direction sign for Lincoln Avenue if it is only going to be used as an emergency exit.

Mr. Killian responded they would not put a sign there. Mr. Jacobs responded that they would want to reserve the right to have the sign in the future if Lincoln Avenue is upgraded. Anything they would do in the future would comply with the city's sign ordinance so it would be no different from any other city parcel.

Councilman Dewar pointed out in the agenda packet in Roger Dyar's review of the Aiken County Complex Traffic Management Study, there are four recommendations. He wondered if the resolution of approval should list these four items in the approval.

"The site plan should include provisions to allow for better accommodation of a traffic signal in the future if and when warranted and installed at the main access point to include the following:

- a. Lengthen the throat on the main exit to create necessary stacking of at least 150 feet.
- b. Provide traffic control at the first aisle of parking at the beginning of the stacking area for exiting traffic to promote traffic flow and prevent stacking back towards University Parkway. This might be done by installing stop signs on the initial aisle approach while leaving the entry traffic uncontrolled, as is done in major shopping centers. Other options to accomplish the same goal may be available requiring further site plan changes.
- c. Allow for the installation of underground conduit as needed under the main site access for future signal cable.
- d. Allow space for future installation of traffic signal poles and guy wires on all corners of the main site access."

Mr. Killian stated the only recommendation they asked not to comply with was the 150 feet for stacking on site. The plan calls for 110 feet for stacking on site.

Councilman Ebner pointed out they had discussed before that would be the owner's business as to what the stack up would be on site.

Councilman Dewar wondered if the four recommendations could be included in the resolution of approval. Mr. Pearce stated they could be included in the resolution if Council includes that in the motion and it is approved by Council.

Councilman Dewar pointed out in the Planning memo under the Comprehensive Plan, TR-8 there is mention of sidewalks in the area. He wondered if the plan included sidewalks. Mr. Jacobs responded they were not planning to build a complete street that is referenced in TR-8 nor did the Planning staff recommend that they do so. Councilman Dewar pointed out that was a goal of the Comprehensive Plan.

Councilman Dewar said another comment in the agenda packet talks about the SC 19, University Parkway, Rutland Drive intersection which has a gas station in the southeast corner, and is close to Aiken High School and will be impacted by the proposed County Complex. It is recommended that right turn lanes be added to the southbound and westbound approaches to this intersection to better accommodate truck traffic. Consideration should be given to installing vehicle detectors to detect movements at the signalized location. Councilman Dewar stated he understands this to be saying that the County Complex will impact the intersection and traffic should be modified at the intersection.

Mr. Killian stated they have in their plan to modify the traffic pattern in front of the County Complex. It is hoped to use Sales Tax 3 funds to do some work all along University Parkway from that intersection to beyond the County Complex building. That will not be done immediately.

Mr. Jacobs stated the way he reads it is that the traffic report acknowledges that the traffic at that intersection will be changed and impacted by the development. It states there is a way to improve that, but the recommendations from the traffic engineer did not include that.

Councilman Dewar responded that was in the Northside Transportation Study that he was referring to.

Councilwoman Price asked if there was enough space for a frontage road in front of the County Complex.

Mr. Killian stated he thought it may be, but not sure. He said they are looking at a westbound left turn lane and an eastbound deceleration lane turning into the Complex. He said there will be some widening in front of the building site. He said in front of the Complex the County could provide right of way if there is not already right of way there. Mr. Pearce stated he thought University Parkway had 100 feet right of way.

Councilman Ebner stated Council had talked about a lot of things, but a lot of the concerns are not in the resolution as presently worded. He said they talked about the exception of city building inspections, and items 3, 6, 7 in the resolution deal with items that have been agreed to on the concept plan, and item 8 had been discussed. He asked if the resolution could be rewritten and include all the things Council wants to include. He said he was not sure Council knows what they would be voting on until it is rewritten.

Mr. Pearce stated whoever makes the motion should include all the items that Council wants in the resolution. Then we will work with the City Attorney to make sure the resolution includes all the items requested by Council. He said he understands Council wants the four conditions listed on page 95 of the agenda packet from Roger Dyar on the Traffic Management Study included in the resolution. The other items concerned Lincoln Avenue, the revision to the parking lot plan, as well as the revision to the landscape plan. The additional condition would be that an annexation application be immediately filed in the Planning Department.

Councilman Ebner pointed out that the resolution does not reference the new concept plan for the landscaping and does not say anything about the exemption from the city inspections.

Mr. Pearce pointed out it would not be an exemption from inspections. It is just that the County would perform the inspections rather than the city. The Building Official is not comfortable coming in mid-stream to a project. The past practice by the Inspection Department has been that if the project commenced while the property was in the county and the County was performing the inspections, that the City would allow the County to complete the inspections.

Councilman Ebner stated at the last meeting that he and Councilmembers Dewar and Price stated that they hear from contractors that there is a difference in the County and City inspections. The County specifically pointed out there is a difference in sprinklers. He said he wants to find out what the difference is in the City and County inspections, as both use the International Building Codes. He said this is the time to find out. He wanted to know how to find out the differences. He wondered if the difference was personal interpretation in the codes. He pointed out that in his business there was not a lot of room of interpretation of the codes. He said it seems to be a wide interpretation between the City and County's interpretation of the building codes.

Mayor Cavanaugh stated he felt we could get a copy of the policies that the County has. He pointed out the County, however, does not have a Tree Preservation Ordinance.

Mr. Jacobs stated on paper they both use the same Building Codes. He said if one polled design professionals, contractors or anyone in this business, they would find antidotal evidence and opinions about how each individual jurisdiction handles interpretation of the building codes. He pointed out the inspectors are taught not to accept liability on projects. The liability rests with the professionals that stamp the drawings. In this case it would be him from an architectural standpoint. The design professionals are the ones that have ultimate professional liability should something go wrong with the building. The local building officials do not have a liability.

Mr. Pearce pointed out the Tree Ordinance requirements are in the Zoning Ordinance and do not come under the building codes.

Councilman Dewar stated the frustration is that Council has heard from some local businesses regarding their frustration in dealing with the City. He said they hear that the City is difficult to work with and if given the choice the businesses do not want to come into the city but prefer to stay in the county. He said this is the time to find out what is wrong with the city. He pointed out that evidently the County is not comfortable with the City Inspector inspecting the County Complex for some reason, either because the County has already started with County Inspectors, or because you are not sure the City Inspectors can do it, or there are differences in interpretations. He said he did not know why this matter was an issue and why the City Building Inspectors could not inspect the County Complex like they do for every other project that comes into the city.

Mr. Killian stated this was not the time to discuss the matter. He pointed out the comments of Councilmember Homoki, that the County is a different customer. He said the County is a governmental entity that supplies their own rules and regulations. He said they believe their rules and regulations for the site are sufficient. He said they had agreed to go further than that in order to get water and sewer service from the City and to be annexed by the City at some point. He said they feel that the County regulations are sufficient for the site.

Mr. Pearce stated the City had worked with Fresh Market and had worked with the shopping center owner on Academy Sports and Outdoors and received nothing but compliments about their interaction with Planning staff. He pointed out these people deal on a national level and have multiple developments in other states, but they were very complimentary about the Planning staff and said it was a very positive experience.

Mr. Jacobs responded that the County had also had nothing but positive comments for city staff and nothing said is meant to imply anything other than positive comments.

Councilwoman Price stated she felt the discussion is about what is the difference in the rules.

Councilman Ebner stated he has dealt with regulations and at times there is a difference of opinion, but the rules have to be followed.

Mayor Cavanaugh stated he felt Council is looking for the differences in the City and County inspections. He felt this could be done outside this meeting with the City and County looking at how they do things. Mayor Cavanaugh stated he was disappointed in this matter because he felt there are problems on both sides of the issue. He felt the City and County should have worked on this matter some time ago before any construction was done. He said he wanted to support and work with the County and be partners with the County. He said it was disappointing to him that the matter came to this point.

Ms. Rosemary English, of Lincoln Avenue, stated it had been stated there were probably errors on two sides, and she felt there was a third side that was not addressed, that being the property owners in the Lincoln Avenue area. She wondered if the County has a policy that citizens are made aware of plans for construction of a building. She pointed out that Lincoln Avenue residents were not aware of the construction for the County Complex. She said they knew a building was to be built, but they were not aware of the specifics. She said the residents felt they were not shown dignity and respect in this matter either. She pointed out the work was started, and then the County came to the City. She said they feel there has been a violation of City rights. The County feels there has been a violation of County rights, and residents in the area feel there has been some individual rights that have been violated. The residents feel that a building of this magnitude and the magnitude of doing away with all the natural greenery and trees would not have taken place anywhere else without property owners knowing about what was going to take place. She said the residents never received a flyer, a public sign, or notification about a public hearing concerning the proposed plans for the County Complex. They feel they have been wronged. She said they had looked at the paper design of the buffer, but there is a long way from what the paper design is to what will actually happen. There were very tall trees in the area and now 4 foot trees are to be planted in the area. She said that is a big difference from what was there. She felt there had been a lot of violations, and they wanted this to be considered very carefully. She said the City and the residents are at the County's mercy. The County started the building and she did not feel that the City would stop the County. The residents feel the County has taken away all the trees and invaded their privacy. She said she liked the idea of having the County Complex near, but she did not expect to lose all the trees behind her house. She said some residents are concerned about annexation as when the County property is annexed their property will be contiguous to the city limits. Residents are concerned about an increase in traffic in the area. They are also concerned about a gate to Lincoln Avenue from the County Complex property which is to be used only for emergencies. She said she had just wanted to share some of the concerns of the residents in the Lincoln Avenue area.

Mr. Pearce stated the residents would not have to annex, but they could annex. He said Council does not enforce annexation.

Mr. Killian stated he appreciated Ms. English's comments. He said if there had been a situation where the property was to be rezoned, then residents in the area would have received notification. He said the policies did not require rezoning to allow the County Complex to be constructed there. He said they probably made the assumption that since they had talked about the building for many years that everybody else knew about it as well. He apologized for assuming that everyone knew about the building.

Councilwoman Price stated the point is that the complex is in their backyard and all the greenery is gone. That is a shock to the neighborhood.

Councilwoman Diggs stated if the residents had been notified that all the trees and shrubbery was going to be removed, the residents would not have been as shocked. Now they see the back of the building and University Parkway, whereas the trees had screened

this view. Things have changed for them. She said we have to consider the feelings of residents and let them know what is to happen.

Mr. John Paveglio stated he wanted to express some concerns on this project. He said the City and County had worked together and compromised on the landscape plan, and he was sure they could work together on the inspection. He pointed out the policy is that to receive city services the property needs to be annexed. He said he could not understand why the County would not go ahead and annex the property as this is a requirement. He said he was not sure the City and the County had come to an agreement yet on some of the stipulations. He pointed out the matter of inspection of the building had been discussed at length, but until there is an agreement he felt they could not annex. He suggested that the City and County work these matters out and then annex the property for them to receive the services. He wondered if the City and Council would be able to come to an agreement at this meeting. He said he had read in the paper that the County would apply for annexation next year. Mayor Cavanaugh pointed out the County had changed their mind and had agreed to annex the property immediately. Mr. Paveglio stated he was concerned that if the services are provided that the County annex the property and that the County meet the regulations and concerns of Council. He felt all the details should be worked out before the resolution is approved.

Councilman Dewar stated he was comfortable that Council could come to an agreement at this meeting with all of the issues. He said he probably would not support it because he was not comfortable with annexing a project and then the City not inspecting the project. He said he would agree to the resolution being drafted and brought back to Council for action at the next meeting.

Councilman Dewar stated some of the details are that the County will annex the property immediately. The City Engineer will approve the design of the water service. The landscaping will be based on the new landscaping plan that has been submitted. The signage on University will be limited to one monument style sign at each entrance. There will be no sign on the Lincoln Avenue exit. The Lincoln Avenue driveway will be gated and used only for emergency access. The plan is to comply with the city lighting ordinance. The four items from the on-call Traffic Engineer regarding a traffic signal be included in the conditions for utility service. He also felt there should be some wording about the building inspections being done by the County inspectors.

Mr. Paveglio stated he had suggested that the City and County inspectors work together to make sure there are no disagreements on the inspections. He felt all the details should be worked out before approving a contract. He felt this was an important decision, and he was concerned as to whether Council had all the answers yet.

Mr. Pearce pointed out that the approval would be a conditional approval. The conditions would be in the agreement. If the County does not meet the conditions in the resolution that Council approves, then the services would be cut off.

Mayor Cavanaugh stated he did not have a problem with the County inspectors doing the inspection. He was just disappointed the way it came about and the County starting the construction before asking for the city services.

Councilman Dewar stated the item regarding the building inspection should be worded so the County will continue their inspection of the building rather than the City. He wondered if it would be appropriate to ask for the County to indemnify the City for law suits based on construction of the building since the City will have no role in inspecting the building.

Mr. Smith stated municipal governments can't indemnify county governments and county governments can't indemnify municipal governments. That is constitutionally prohibited. It was pointed out the Engineer of Record takes the responsibility for the building design.

Mr. Jacobs stated the County had requested a waiver from the City inspection process and had asked that the county inspectors inspect the building rather than the city inspectors so they would appreciate the matter of inspections being clarified.

Mr. Pearce stated his understanding is that Council is asking that the following be included as conditions in the resolution to provide water and sewer service to the County Complex on University Parkway.

1. On page 95 of the agenda packet there were four conditions raised by the Traffic Engineer. Those are to be included in the conditions with the exception that condition (a) would be 100 feet for stacking rather than 150 feet.
2. The landscape plantings would be done according to the landscape plan that was submitted and discussed at the October 22, 2012, information meeting and included in the November 12 agenda packet.
3. The design of the parking lot would be according to the plan presented to Council at this meeting.
4. The other conditions in the resolution would remain in effect except that the annexation application would be filed within 30 days from the date of this Council meeting and attach the resolution with the conditions approved by Council.
5. The County would be responsible for inspecting the construction project and issuing a Certificate of Occupancy at the appropriate time. The City Building Inspector would not be involved in inspecting the project.

Councilman Ebner stated we have just said the County would inspect the building. With all the discussion we would say the City has waived City inspections. He said he wanted that in writing in the resolution.

Mr. Pearce stated the inspections would not involve the City Inspection Department at all. Aiken County would perform the building inspections.

Councilman Ebner stated regarding the difference in inspections one way was to compare the two. He said he would accept a letter from the Engineer of Record from the County and the City Engineer of Record.

Mr. Pearce pointed out the City does not have an Engineer of Record for the Building Code. He said the City has a Building Official.

Councilman Ebner stated there is an Engineer of Record for the City. When something is built you use both the design standards for roads and parking lots and land development regulations. When somebody makes a change in the City someone has to approve it.

Mr. Pearce stated the City does not have a City registered engineer on the County Complex project.

Councilman Ebner stated he needs some authority from the City to say that the City's interpretation and use of the standards are what the County uses.

Mr. Pearce stated that would have to come from the Building Official. He is not an Engineer of Record, however. He is a Building Official who enforces the Building Codes in the city limits.

Councilman Ebner stated he thought the Building Official comes under auspices of the LLR which gives him the authority to review them. He said he wanted the Building Official to say if there is a difference between the City and County regulations.

Mr. Jacobs stated he felt you would not get a code official to write that there is no difference between his review and interpretation of the International Building Code from another entity. He said one can look at the actual codes. If talking about the Building Code, both are using the same International Building Code. Then there is the actual processes or steps that the persons applying for a permit and going through the development process have to take. You can compare those between the City and the County. He said that is probably a worthwhile endeavor to understand if the City has more or less processes or hurdles, is the City paper work easier or harder to fill out, is it on line, etc. He said things that you are hearing are individual's opinions. He pointed out that other jurisdictions have reputations across the people working with them. Some take a very, very strict interpretation of the Building Code. Some take a loose interpretation; some are very logical. Some are irrational; some change their mind a lot. Some say it once and believe it to the end. He said for this he felt you might want a focus group of developers, architects, engineers, etc. to come together and talk candidly about their experiences with the City.

Councilman Ebner asked if there is a difference between the codes and ordinances that the City and the County use.

Mr. Pearce stated the state mandates the current version of Code that local jurisdictions must adopt. That is uniform state-wide.

Councilwoman Price stated the codes are not a problem. It is the process to get there. She said it is probably a good idea to have a focus group to discuss the issues and try to figure out how we can make the process easier.

Councilman Ebner stated he did not want to propose a focus group and felt it would not work in this case. He wanted another review of what the conditions would be in the resolution.

Council continued to discuss the conditions for the resolution.

Councilman Ebner asked if items 3, 6 and 7 would be listed.

Mr. Pearce stated item 3 was the landscaping requirement. Lighting is item 7 and the County said they would comply with that requirement. Item 6 is that the Lincoln Avenue driveway be gated and used for emergency purposes only. The County stipulated that in their presentation. It was pointed out the County has submitted a landscape plan for the property and item 3 describes the plan. It was pointed out that items (a) and (b) of item 3 should be depicted on the landscape drawing submitted, but item (c) is not shown on the landscape drawing. It was felt that the verbiage regarding the landscaping and buffer should be spelled out in the resolution. The wording for the inspections would be—that all inspections of the construction project would be done by the Aiken County Building Official and the County Building Official will be responsible for issuing a Certificate of Occupancy at the appropriate time.

Councilman Dewar stated he would not support a motion for approval of utility services with conditions as discussed because he felt the City and County should have been able to work together. He challenged the business community that if they are disappointed with the city's process that they need to let the city know.

Mr. Pearce stated he would be glad to meet with anyone. He said we have met with some groups in the past and worked through some issues. The persons who have attended those meetings have expressed their being impressed with the improvements they have seen. For the two major projects that have come through recently, the persons involved were very complimentary of staff.

Mayor Cavanaugh stated if there are concerns from businesses or developers they do need to come in and talk about it so their concerns can be addressed.



Councilwoman Price moved, seconded by Councilman Homoki, that Council adopt the resolution to provide water and sewer services to the Aiken County Complex to be constructed on University Parkway with the conditions as discussed by Council and stated by the City Manager. The motion was approved by a vote of 4 in favor and 2 opposed. In favor were Mayor Cavanaugh and Councilmembers Diggs Homoki, and Price. Opposed were Councilmembers Dewar and Ebner.

NORTHSIDE TRANSPORTATION STUDY – ORDINANCE 11122012B  
Comprehensive Plan

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Comprehensive Land Use and Transportation Plan to incorporate the Northside Transportation Study.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN COMPREHENSIVE LAND  
USE AND TRANSPORTATION PLAN TO INCORPORATE THE NORTHSIDE  
TRANSPORTATION STUDY.

Mr. Pearce stated City Council met with the Planning Commission on July 16, 2012, to develop an Action Agenda for FY 2012-2013. The first item on the Action Agenda was the Northside Transportation Study. This study is proactive, attempting to guide transportation improvements so that growth can occur, rather than attempting to adopt guidelines after development has already taken place.

The Northside Transportation Study assesses major thoroughfare recommendations contained in the Northside Comprehensive Plan. There are several areas that encompass the major findings of this study.

Roadway needs through 2035 are identified primarily through two widening projects: Widening Edgefield Highway (SC 19) from two lanes to four lanes from Hampton Avenue to SC 191 and also widening University Parkway (SC 118) from two lanes to four lanes from SC 19 westward to Trolley Line Road.

This study identifies several safety issues at locations along SC 19 as well as the intersection of York Street (US 1) with Rutland Drive/Rudy Mason Parkway (S.C. 118).

An analysis of eleven intersections throughout the study were examined with recommended short-term and long-term improvements.

At their October 9, 2012, meeting, the Planning Commission unanimously recommended that the Northside Transportation Study be adopted for inclusion in the City's Comprehensive Plan.

City Council unanimously approved this ordinance on first reading at the October 22, 2012, meeting.

For City Council consideration on second reading and public hearing is an ordinance amending the Comprehensive Land Use and Transportation Plan to incorporate the Northside Transportation Study.

The public hearing was held and no one spoke.

Councilman Dewar stated he felt the plan was an excellent plan, but we had a chance to apply it tonight at the intersection that will be affected by the construction of the Aiken County Complex and we ignored it. He felt the Northside Transportation Plan was a good plan.

Mayor Cavanaugh moved, seconded by Councilman Homoki, that Council approve on second reading an ordinance to amend the Comprehensive Land Use and Transportation Plan to incorporate the Northside Transportation Study Plan. The motion was

unanimously approved by four Councilmembers, with Councilmembers Diggs and Price out of the Council Chambers.

#### AUDIT – ORDINANCE

Elliott Davis  
Financial Report  
FY 2011 -2012

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration accepting the Fiscal Year 2011-12 Audited Financial Statements.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE ACCEPTING THE FISCAL YEAR 2011-2012 AUDITED FINANCIAL STATEMENTS AND AUTHORIZING VARIANCES TO THE FISCAL YEAR 2011-2012 BUDGET ORDINANCE.

Mr. Pearce stated our auditor, Elliott Davis, LLC, has prepared the FY 2011-12 financial audit, required by state law and our city code, of our city finances. In this audit the line items from our FY 2011-12 budget and adjustments to them show actual revenues received as well as actual expenditures made. We are happy to report that this audit shows no material weaknesses, no significant deficiencies, and no instances of non-compliance material to our FY 2011-12 financial statements. Therefore, we have received an excellent financial audit report from our auditors. The only comment we have received from them was to ensure that Federal Grant Funds are clearly designated as such in our financial statements. Our departments receiving federal grant funds have already coordinated with our Finance Department to ensure that is the case.

Mr. Pearce pointed out that Elliott Davis Shareholder Laurie Smith had made a presentation on the Audit Report earlier in the meeting and answered questions for Council.

For Council consideration on first reading is an ordinance to accept our FY 2011-12 audited financial statements.

Councilman Dewar moved, seconded by Councilman Ebner, that Council accept the FY 2011-12 audited financial statements and authorizing variances to the fiscal year 2011-12 budget ordinance. The motion was unanimously approved. Councilwoman Price was not in the room.

#### BIKEWAY-PEDESTRIAN WAY TRANSPORTATION PLAN

##### Resolution

Mayor Cavanaugh stated Council needed to consider a resolution in support of the joint City-Council Comprehensive Bikeway-Pedestrian Way Transportation Plan.

Mr. Pearce stated Tom Lex, who worked extensively with the study group that developed the plan, had contacted him about the recently completed Bikeway-Pedestrian Way Transportation Plan that was approved by the Augusta Regional Transportation System [ARTS] Transportation Subcommittee, at their August 2, 2012 meeting.

In order to encourage SCDOT to include bikeway and pedestrian pathways in projects, Mr. Lex believes a resolution from Aiken City Council will help in having these features included in appropriate new or improved roadway designs. The resolution proposes that the City of Aiken will pursue a comprehensive approach for including bicycle and pedestrian pathways through Engineering, Education, Encouragement, Enforcement Evaluation, and Equity for development and transportation projects as described in the plan. Also, the City of Aiken will review established regulations, policies, and operating practices as deemed appropriate and feasible, so transportation systems are planned, designed, constructed and operated to make bicycling and

pedestrian movements part of the City's transportation planning and programming. Also, the City of Aiken will identify opportunities for implementation of the recommendations from the plan in planning, design, construction and operation of all City transportation projects.

For Council consideration is approval of a Resolution encouraging bikeways and pedestrian ways whenever feasible in new or improved roadway construction.

Mayor Cavanaugh stated he felt the words appropriate and feasible were very important in the resolution. He pointed out considering funding and the economy we have to be very careful as to what we agree to do. He felt we want to be more bicycle friendly, and the city had done some things within the city. He felt the plan looks good. He thanked Tom Lex for his leadership on the committee. He said we just have to be sure we have money to do some of the things.

Councilwoman Diggs moved, seconded by Councilman Homoki, that Council approve the resolution encouraging bikeways and pedestrian ways whenever feasible in new or improved roadway construction. The motion was unanimously approved.

#### REZONING – ORDINANCE

1103 Richland Avenue E.

Benjamin Timmerman

Real Estate Development Partners, LLC

Family Dollar

TPN 121-11-01-001

Mayor Cavanaugh stated an ordinance had been prepared for first reading to extend the time for the concept plan for Family Dollar on Richland Avenue E. at Beaufort Street.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE TO REZONE CERTAIN PROPERTY CONSISTING OF 1.24 ACRES OF LAND, OWNED BY BENJAMIN TIMMERMAN, III, ET AL FROM LIGHT INDUSTRIAL (LI) TO GENERAL BUSINESS (GB).

Mr. Pearce stated that Judd McAdams of RED Partners in Charlotte, NC, had contacted him about the proposed Family Dollar Store at Richland Avenue East and Beaufort Street. By Ordinance 06252012 Council approved rezoning and a concept plan for this lot. This approval is set to expire December 22, 2012. Due to circumstances beyond RED Partners control, this project was delayed by Family Dollar. It appears Family Dollar is in the process of building up to 500 new stores nationwide.

Mr. McAdams is confident a 90-day extension will provide them with the necessary time to complete this project as Council previously approved. This new deadline--if approved by Council--would be March 22, 2013.

For Council consideration, therefore, is First Reading of an Ordinance to amend Ordinance 06252012 to extend the deadline for meeting the conditions for rezoning from December 22, 2012, deadline to March 22, 2013.

Councilman Homoki moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to extend the deadline for meeting the conditions for rezoning of property at 1103 Richland Avenue E from December 22, 2012, to March 22, 2013, and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved. Councilman Dewar was not in the room.

BUSINESS LICENSE - ORDINANCEInsurance Companies

Mayor Cavanaugh stated an ordinance had been prepared for first reading regarding amending the Business License Ordinance.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE BUSINESS LICENSE ORDINANCE PROVISIONS FOR INSURANCE COMPANIES.

Mr. Pearce stated the Municipal Association of South Carolina has alerted us to an amendment to the State law that affects our existing business license code. These changes specifically relate to how business license fees are charged to insurance companies who write premiums within our City limits.

Our City Attorney and Finance Department staff have reviewed the proposed changes to our Business License Ordinance. They are in agreement that these modifications need to be made. MASC has requested all municipalities effect this business license amendment before the end of calendar year 2012.

For Council consideration on first reading is an ordinance to amend the Aiken Business License Ordinance as related to the rate structure for insurance companies.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that Council approve on first reading an ordinance to amend the Business License Ordinance relating to the rate structure for insurance companies and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

EMERGENCY SEWER REPAIRMcDonald's RestaurantU.S. Highway 1Sewer LineI-20

Mayor Cavanaugh stated Council needed to consider approval of funds for emergency sewer repair work.

Mr. Pearce stated Larry Morris and his staff had to make an emergency repair to the U.S. Highway 1 sewer line that serves the McDonald's restaurant at the I-20 exit. This line runs under the highway. Raw sewage surfacing on October 24, 2012, at a chain restaurant with a high traffic volume was seen by staff as an emergency situation. After obtaining as many emergency bids from vendors as possible, Carolina Tap and Bore had the best responsible bid at \$28,685 to bore under U.S. Highway 1, preventing interruption of traffic on this highway, to replace this collapsed sewer line. That work is now complete and the replaced sewer line is working well.

In compliance with City Code Section 2-347, Emergency purchases and testing, for Council consideration, is acceptance of this emergency repair report from our Engineering and Utilities Department Director as well as approval of the use of reserve funds in the amount of \$28,685 to pay Carolina Tap & Bore for this emergency repair work.

Councilman Dewar asked what reserve funds would be used. Mr. Pearce responded that the funds would be unused funds from prior years which are held in reserve. He said we hold some monies in reserve to be able to pay for emergency situations. He pointed out that the designated funds were designated for some specific projects.

Councilwoman Diggs moved, seconded by Councilwoman Price, that Council approve the emergency repair and approve the use of reserve funds in the amount of \$28,685 to

pay Carolina Tap & Bore for performing the emergency repair work. The motion was unanimously approved.

WATER AND SEWER SYSTEM REPAIRS – ORDINANCE

Capital Projects Sales Tax

Water Lines

Sewer Lines

Mayor Cavanaugh stated an ordinance had been prepared for Council’s consideration to borrow from reserve funds for water and sewer system repairs.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AUTHORIZING BORROWING FROM THE CITY OF AIKEN  
GENERAL FUND RESERVE ACCOUNTS AS OUTLINED IN THIS ORDINANCE  
FOR THE PURPOSE OF FUNDING WATER AND SEWER SYSTEM REPAIRS.

Mr. Pearce stated Engineering and Utilities Director Larry Morris has identified seven water and sewer line repair projects that require immediate attention as follows, and at the following estimated costs:

Water Systems

1. Parsons Circle, Water Main	\$ 98,048 replacement
2. Mohawk Drive, Water Line	40,000 soil boring
3. Gator Lane, Force Main	<u>15,000</u> soil boring

Subtotal \$153,048

Sewer Systems

1. Ray Lane	\$ 99,964 replacement
2. Barnwell Avenue	57,800 soil boring/reroute
3. Horry Street	105,700 soil boring/replacement
4. Linden Street	<u>20,000</u> replace main

Subtotal \$283,464

Grand Total \$436,512

These expenditures were not anticipated in our original budget preparations, and these costs were not identified until after the budget had been approved. We will have over \$8 million in our third One Cent Capital Projects Sales Tax Funds account dedicated to water and sewer system work. It will begin to be collected for our projects next fall.

In order to go ahead with repairs, we are requesting approval of these projects and an Ordinance to authorize borrowing these funds from our reserve accounts to be repaid when we collect the third round CPST funds.

For Council consideration is first reading of an ordinance to authorize this borrowing to complete these pressing projects.

Councilman Dewar stated he understood these funds are being requested to be able to move ahead with the projects in advance of receiving Capital Project Sales Tax funds. He called attention to a sentence in the proposed ordinance which states “The funds shall be repaid by the conclusion of the CPST effective period, but in no event later than 7 years from reimposition of a capital projects sales and use tax in Aiken County.” He said

he was under the assumption that when we borrowed money, that we have to pay back the borrowed money first before we do other projects. He thought it was the law to pay it back first. He also asked if there was a requirement that the projects be done in the priority order that they were listed on the referendum.

Mr. Pearce stated paying the borrowed funds first would save on interest payments. Regarding the priority order of the projects, he said the referendum was not worded that the projects had to be done in the order listed on the referendum. He said that was an issue in the first Capital Projects Sales Tax, but subsequent CPST votes have allowed discretion in pursuing the list of projects.

Mr. Gary Smith stated he was not aware of a law that the borrowed funds have to be paid back first. The Capital Projects Sales Tax does mention bonds. If bonds were issued as part of the referendum, it does talk about repaying the bonds, but not about borrowing.

Councilman Homoki pointed out that if we have \$8 million in the Capital Projects Sales Tax and borrow against it, and some of the money is used for interest, we will have less money available for the capital projects because we are using some for interest.

Mr. Pearce stated that is true in the sense that the Capital Project Sales Tax money will be used to pay the interest on the loan, but that money goes into the General Fund because we are borrowing from ourselves.

Councilman Dewar pointed out we have already borrowed \$3.5 million in advance, and with this additional loan we will be up to \$4 million that we have borrowed in advance. He pointed out the funds have to be paid back before the 7 years expires so whatever we do in considering projects we have to remember that \$4 million is booked. Councilman Dewar also asked the meaning of this sentence: "The City Manager, with the advice of the Director of the Department of Finance, is hereby authorized to establish any additional terms or details related to the transfer, borrowing, lending, or repayment of these funds."

Mr. Smith stated that sentence is to make sure you have whatever documents you need to make sure that the City complies with the ordinance.

Mr. Pearce stated this is the same thing we did with the data terminals in the police cars and the purchase of the bank building and its repurposing. He pointed out the language in this ordinance is identical to the language used before for the other loans.

Mr. Ron Wade stated he lives on York Street and gets water off Ray Lane and the sewer line is on York Street. He said they do need improvement in the water line. He said also the sewer line in the area needs to be improved. He said he has to call the city regarding the sewer line about once a month. He wondered if there were any plans to do work on the York Street sewer line.

Mr. Pearce stated it is hoped that the work on Ray Lane will fix the problem. Mr. Morris, Engineering and Utilities Director, stated the project will address the line work on Ray Lane and connects to a section on Walker over to York. He said what they had found on Ray Lane is that the pipe had been top crushed. He said the pipe in this neighborhood is very old and has disintegrated on the top. He felt this is part of the problem on York Street where the material is getting in the line and plugging it up. He said the top cracking in the old clay pipe has been the case in many of the lines in the downtown area and causing a lot of problems. In the Ray Lane area it was found that tree roots had started coming into the joints of the pipe, and this causes pressure and causes cracks in the pipe. These pipes were probably installed in the 1950's. He said the pipe is probably at least 60 years old.

In response to a question from Councilmember Price, Mr. Morris stated city crews were doing a lot of the work on replacing the lines. However, bids were received on the boring work.

Mayor Cavanaugh asked how the new line replacement crews were doing. Mr. Morris stated the information was contained in the Utilities monthly report. He said they did well in October, but had slowed down some this month as they are working under a lot of driveways and having trouble locating corporation stops.

Councilman Dewar asked about the installation of replacement meters. Mr. Morris stated the crews have not started putting in new meters. Currently he is working with Badger to set up an ordering system for the meters. What the crews are currently doing is the actual meter services from the main to the meter. The replacement meters were approved in the budget. Mr. Morris stated they were working with Badger to try to get a certain number of meters on a regular basis. He said he did not want to get 2,000 meters at one time as we don't have a place to store them and can't install that many at a time.

Councilman Ebner stated where the roads are caving in he noticed the crews were putting a sleeve and then pipe inside. He wondered how that was being treated where we have settling of the roads. Mr. Morris responded that they are sleeving the services across the roads. He said then if we have a problem under the road, they will be able to pull that pipe out and slide another pipe in. He felt this may solve the road and cave issue where services are leaking in the middle of the roads. Mr. Morris stated currently the crews are putting the sleeves on every long service which goes across the road.

Councilman Ebner stated from a meeting with Mr. Pearce and the City Attorney last week, it was his impression that we have to do the Capital Sales Tax projects in the order that the voters voted on them.

Mr. Pearce stated that was the issue with the first Capital Projects Sales Tax project. He stated the referendum now allows some discretion where you don't have to do the projects in order. He pointed out with the second round of the One Cent Sales Tax the city did the Carolina Bay Project. On the list that project was after redeveloping the landfill and site work at Eustis Park. He pointed out those projects were not ready to go forward, so it did not make sense to hold the Carolina Bay Project up while we were trying to get the paper work done on the other projects.

Councilman Dewar said what Mr. Pearce said makes sense as it does not make sense to hold up all the other projects on the list when a project is not ready to move forward. He asked though if it was the spirit of the referendum that the projects be done in order.

Mr. Smith stated the statute actually says the priority set forth in the referendum. Mr. Pearce stated then the referendum tells you Council can determine the priority to use.

Mr. Smith stated when the first Capital Project Sales tax was passed the State required the County to disburse the money in the order in which each county agency was listed. This caused some real issues as whoever was listed last on the list got the last money. That is why the money for the second round of tax was modified to make it clear there could be some room in the priority use of the money.

Councilman Ebner pointed out Council spent many hours putting the projects in order which might have been a waste of time.

Mr. Smith pointed out the wiggle room that the referendum gives is to make sense so some projects can proceed. He said it does not make sense to hold all projects up when the first projects requires right of way and you can't get the right of way. That would hold everything up and no other projects could be done. It is not to completely avoid a list of priorities, but to make it so some projects can move forward while some projects are not ready.

Councilman Ebner asked if we were clear yet on the overspending and the projects which we can't do. He said he was still going to the Attorney General and ask his opinion. He said he thinks if we don't have the money we don't do the project.



Mr. Pearce stated that was not what was discussed last week. What was discussed last week was that the city was going to see what projects we could do and how much of the projects we could do. He said he would discuss this matter in the information to Council later in the meeting.

Councilman Ebner stated that on page 234 of the agenda, the last sentence on the page says "Any excess funds will be used in the water service replacement program." He felt we could not do that as that would be putting Capital Project Sales Tax into an enterprise fund.

Mr. Pearce responded that we would not use the funds on the water services that Mr. Morris was talking about. That is a separately budgeted item. It would be for infrastructure. He said that was Mr. Morris' memo and that could be clarified. He pointed out that is not in the ordinance. He said he had limited the funds for up to \$436,512 which is what is listed for the items. Capital Project Sales Tax money will be used for those listed items only.

Mayor Cavanaugh called for a motion.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that Council pass on first reading an ordinance to authorize the borrowing of funds from reserve funds to be able to go ahead with these pressing water and sewer projects with the funds to be reimbursed when Capital Projects Sales Tax funds are received. The motion was unanimously approved.

#### ELECTION – ORDINANCE

Special Election  
Councilman Wells  
At-Large Election  
4-2-1 Plan

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to schedule a special City Council election to fill the unexpired term of Councilman Wells who has been elected to the South Carolina House of Representatives.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE ADOPTING THE MANDATORY DEADLINES FOR FILING FOR A SPECIAL ELECTION TO FILL THE UNEXPIRED TERM OF COUNCIL MEMBER DON WELLS.

Mr. Pearce stated Councilmember Don Wells had informed him that he expects to be sworn in on Monday, November 12, 2012, as one of our newest members of the South Carolina House of Representatives after the results of the November 6, 2012 elections. He said Councilmember Wells had submitted his resignation as of November 12, 2012.

In anticipation of this occurring, we have prepared the ordinance to set a Special Election schedule in order to comply with Section 7-13-190, et al., as we informed we would do in our preclearance filing with U.S. Department of Justice.

While this Ordinance is pending, and to be sure we meet all state and federal requirements, we will be advertising the opening on City Council.

Mr. Pearce noted that this special election to fill Councilmember Wells' unexpired term will be under our existing 4-2-1 plan as an at-large seat. This term expires in the fall of 2013, so the General Election next fall will be under the USDOJ pre-cleared 6-1 single member district plan, and the candidate for the Council seat at that time would have to reside in that newly-created district. The election schedule is as follows:

Opening of filing for nomination by petitions and entry of candidates for primaries:	12 noon, Friday, November 30, 2012
Closing of entry of candidates for primaries:	12 noon, Monday, December 10, 2012
Municipal Party Primaries or Conventions:	Tuesday, January 22, 2013
Closing of entries for nomination by petition:	12 noon, Friday January 11, 2013
Verification of petitions by County Voter Registration Office	12 noon, Saturday January 26, 2013
Municipal Party Primary run offs, if necessary:	Tuesday February 5, 2013
Last day for certifying candidates to Municipal Election Commission:	12 noon, Monday February 8, 2013
Special Election Day:	Tuesday March 12, 2013

Mr. Pearce stated for first reading is an ordinance to set the filing dates for the special election to fill the unexpired term of Councilmember Wells.

Councilman Homoki asked why the special election was in March, 2013. He asked if we had to go to the Department of Justice.

Mr. Pearce responded that we do not have to go back to DOJ for clearance because of what we filed with them earlier. This is just following the requirements for a partisan election to comply with state law in setting the dates.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to set the filing dates for the special election to fill the unexpired term of Councilmember Wells. The motion was unanimously approved.

MEETING SCHEDULE

December, 2012

Mayor Cavanaugh stated Council needed to consider the meeting schedule for December, 2012.

Mr. Pearce stated typically each December City Council holds only one meeting to allow staff to spend time with their families during the holiday season. We are requesting that City Council again consider having one Council meeting on Monday, December 10, 2012. If a second meeting becomes necessary, we could organize a special called meeting.

For City Council consideration, is cancellation of the second City Council meeting which would be December 24, 2012, to allow for holiday celebrations.

Councilwoman Diggs moved, seconded by Councilwoman Price, that Council cancel the second City Council meeting in December which would be December 24, 2012, because of the holidays. The motion was unanimously approved.

## INFORMATION

### Water Leak/Service Replacement Report

Mr. Pearce stated the water leak and service replacement report had been discussed earlier in the meeting.

### Capital Projects Timeline Update

Mr. Pearce stated he would give copies of the referendum that have been requested to Council. He said staff is getting ready to go to bid on the parking lot at Citizens Park as well as the pad for the splash park. As far as the landfill, Eustis Park and the Hitchcock Woods erosion remediation, we have two issues with the landfill and Eustis Park that involve state and federal agencies and do not have a final determination at this point. Once a decision is made staff will be reporting to Council. On the Hitchcock Woods capital money that we will spend, we have been in conversation with the Trustees of Hitchcock Woods. They are going through a period of transition, and they have asked to meet in December or January to have a discussion with their new board members. We feel there will be some final data from Clemson that will help us better identify which next phases of the stormwater runoff abatement would be prudent, and we want to present that to the Trustees to make sure they are on board with that. We have a meeting with the Clemson officials next week, and then staff will be meeting with the Trustees of Hitchcock.

Councilman Ebner stated in a letter which was written saying he called the program the Local Option Sales Tax is not right. He said he had not been around since 1995.

Mr. Gary Smith stated his letter was just to clarify that it should be called the Capital Projects Sales Tax. He said he was not picking out anyone, but just making sure for future purposes that it is clear that it is called the Capital Projects Sales Tax.

Councilman Ebner stated when the schedules were distributed in September, 2012, on Capital Projects Sales Tax 3 the projects were rearranged and by chance all of the \$8 million for the water and sewer projects got at the bottom of the list. He felt the water and sewer projects were more important than a number of the other projects. He pointed out we know we can spend \$8 million. In fact Mr. Morris already has a schedule and could spend \$20 to \$25 million. He said he had a problem with putting the Railroad Depot building and some of the other projects which can wait higher on the list when the water and sewer projects were number 9 on the priority list and now the water and sewer projects became number 25 and 26 on the list.

### Employee Incentive Update

Mr. Pearce stated he had discussed with Council the Employee Incentive and Council had approved it. Staff has gone back and looked at the information. We did evaluations on 387 employees which included our temporary and seasonal employees as well as employees that were currently on probation. The end result is that we have 331 employees that will qualify for the incentive that Council approved by vote. We only had 5 employees who received a "needs improvement" or "unsatisfactory" evaluation. These employees would still get a \$25 gift card. We would also give 36 probationary employees a \$25 gift card as well as 38 seasonal and temporary employees. By doing this, we will stay within the budget that Council established. We will spend about \$2,000 less in the General Fund than the total amount that was approved. He said this was the one week pay incentive that he had talked to Council about at the last meeting.

Councilman Dewar stated Council approved the appropriation, but Mr. Pearce was to come back to Council with information. He said he had suggested using a system where the incentive was higher at the lower wages and lower at the higher wages. He said Mr. Pearce was to come back to Council.

Mr. Pearce stated staff had looked at the information and the recommendation is that we go with the one week pay incentive for employees. It is felt by taking that approach it is the salary adjustment for which Council had appropriated money. The sense is that it is fair to all the employees based on the responsibilities they have with the city and also based on the impact of the family budget.

Councilman Ebner stated he thought Council approved a 1% increase in the budget. Mr. Pearce stated that had already been put into effect.

Councilman Ebner stated he misunderstood the incentive recommendation. Mr. Pearce stated staff figured a budget for incentive pay. The recommendation was to pay the employees one week's salary. In effect that amounts to an additional 1.9%. There was discussion about looking at the different salary levels. Staff did have a discussion about that in the review, but felt that the one week pay would have a positive impact on all the employees. Council approved a 1% increase in salary in the budget. In effect there was money for an additional 1.9% incentive pay.

#### City Taxes

Councilman Dewar stated the County tax bills had been mailed out. He said he has received questions as to when the City will be mailing out the City tax bills.

Mr. Pearce responded that the City has the tax information and has been going through the information. The schedule is that the taxes would be due January 15, 2012. The bills should be mailed out on Monday after Thanksgiving.

#### Crosland Park Home Sales Prices.

Mr. Pearce stated there had been considerable discussion both in the Aiken Corporation Executive Committee and with Council about the future of the Crosland Park project. He said Pat Cunning had someone look at several houses in Crosland Park. We have also had discussions with the real estate company that had listed a couple of the houses in Crosland Park. All the information that has come back is that the houses need to be priced in the \$80,000 range. We have a smaller home, and based on the square footage and what other houses are selling for, what we sold our houses for, and what houses are selling for in subdivisions that have similarly sized houses, the houses should be in the \$80,000 range. The spread of the 12 houses that the City has with 2 of them belonging to the Aiken Corporation, we would have one house at \$82,500, three houses at \$84,900, and 8 houses at \$89,900. We have taken that list and gone back to the listing agent we were using. He said he had discussed this with Mr. Cunning and everybody agrees that this is an appropriate price schedule for these houses.

Councilman Ebner pointed out that on some of the houses the City would be taking a loss. He asked about the 5 houses that are being rented, and asked how the City could dispose of those. He wondered if they could be donated or get CDIC to rent them.

Mr. Pearce stated CDIC and the Aiken Housing Authority are helping the City collect the rent for the rental houses. He said the price schedule he mentioned includes the rental houses, and we will use more than one real estate firm to list the houses.

Councilman Ebner stated there were two houses that were leased to potential owners. Mr. Pearce pointed out that one of the leased houses is the \$82,500 house. He said there are some issues that are being discussed with the tenants at this time. The goal is to find a buyer for the houses.

Councilman Ebner stated the goal is to sell the current renovated houses and then start on the next group of houses in Crosland Park.

Mr. Pearce stated that is the way the program was set up. The city needs to take a good look at the purchase price of the house and appropriate budget for the renovation of the house, knowing what the end point is as far as selling the house.

Councilwoman Price stated she felt the houses were priced too high, given the area and they were not going to move, considering one could move into Trolley Run or the Sage area with a new home. People were looking at this and were not going to buy in Crosland Park.

Councilman Ebner pointed out that the city will take some losses on these houses and some others. He wondered if Council needed to take any action or is it part of the program.

Mr. Pearce stated the ordinance that Council has in effect is that as long as the houses in Crosland Park sell for their appraised value an ordinance would not be required. As a practical matter he said he would keep Council informed of the sales in Crosland Park.

Councilman Ebner stated we just have to keep in mind that when we get to the 35<sup>th</sup> house there is a lot of money involved. He said he felt we need to go ahead with the project. He said we have to look at what we are doing. We are putting in between \$40,000 and \$50,000 in a house in renovation. We can't continue to do that or we will be in a \$20,000 to \$30,000 loss for each house.

Mr. Pearce pointed out the market is not supporting a \$100,000 house in that neighborhood.

Councilman Dewar asked if the City was out of the leasing business. Mr. Pearce responded that the City is not out of the leasing business, but will be selling the current houses that are leased.

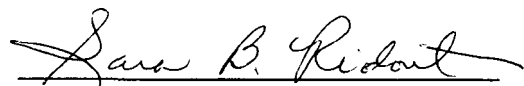
Councilman Ebner pointed out that Habitat and some other organizations pre-qualify the tenants. With the economy like it is and the tenants being on the lower end of the scale, the City might start looking at pre-qualifying the tenants.

#### Public Safety Officers Award

Mayor Cavanaugh stated we are very pleased with the fact that three Public Safety Officers received the South Carolina Law Enforcement Officers Association's Medal of Honor Award.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 10:35 P.M.

  
Sara B. Ridout  
City Clerk