

Aiken City Council MinutesREGULAR MEETINGNovember 24, 2003

Present: Mayor Cavanaugh, Councilmembers Clyburn, Cuning, Price, Smith, Sprawls and Vaughters.

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Richard Pearce, Anita Lilly, Ed Evans, Pete Frommer, Glenn Parker, Sara Ridout, Philip Lord of the Aiken Standard, Pete Gilchrist of the Augusta Chronicle and about 40 citizens.

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

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilwoman Clyburn stated she would like to add a request under Petitions and Requests to rename the park near Schofield Middle School in memory of the Perry family. Councilman Sprawls moved, seconded by Councilwoman Clyburn and unanimously approved, that the agenda be approved with the addition as requested.

MINUTES

The minutes of the work session and regular meeting of November 10, 2003, were considered for approval. Councilman Sprawls moved that the minutes be approved as written. The motion was seconded by Councilwoman Clyburn and unanimously approved.

ELECTION REPORTNovember, 2003General ElectionCity CouncilMayorCavanaugh, FredDistrict 1Clyburn, BeverlyDistrict 3Sprawls, Don

Mayor Cavanaugh stated the Election Commission would give a report on the election for Mayor and for Districts 1 and 3.

Mr. Richard Johnson, Chairman of the Election Commission, made the following report to Council.

The City of Aiken was scheduled to conduct a General Election on Tuesday, November 4, 2003, to fill three (3) expired seats on Aiken City Council. The election was scheduled to be conducted under the newly revised Redistricting 4-2-1 Single Member District Plan 2003.

Notification of the election was made public through newspaper advertising, as prescribed by law. The following persons qualified: On the Republican ticket, Frederick B. Cavanaugh for Mayor. On the Democratic ticket, Beverly D. Clyburn for Council District One (1), and on the Republican ticket Don Sprawls for Council District Three (3).

A recent state law was enacted by the South Carolina General Assembly. Section 2, Section 7-13-190 states if a municipality has an upcoming election for one (1) seat or multiple seats, and the same number of candidates file as the number of seats, and if no

one files as a write-in candidate or as a petition candidate within 14 calendar days after the filing period closes, a General Election on November 4, 2003 will not be necessary.

The closing date for filing as a write-in candidate was 12:00 noon Monday, August 25, 2003. The closing date for filing as a petition candidate was 12:00 noon Friday, October 3, 2003. Therefore, with only one candidate filing for each seat up for election and no one filing as a write-in candidate or as a petition candidate, the City of Aiken Municipal Election Commission, based upon the new state law, Section 2, Section 7-13-190, does hereby certify the election of Frederick B. Cavanaugh for the office of Mayor, Beverly D. Clyburn for City Council person for District One (1) and Don Sprawls for City Council person for District Three (3). The term of each office shall be for a period of four (4) years.

Respectfully submitted,

MUNICIPAL ELECTION COMMISSION  
s/Richard Johnson, Jr., Chairman  
s/H. A. McClearen  
s/Keith R. Wood

Councilman Price moved, seconded by Councilman Smith and unanimously approved, that Council accept the report from the Municipal Election Commission.

#### OATH OF OFFICE

Cavanaugh, Fred  
Clyburn, Beverly  
Sprawls, Don

Sara Ridout, City Clerk, administered the Oath of Office to Mayor Cavanaugh and Councilmembers Clyburn and Sprawls.

After the swearing in, Mayor Cavanaugh and Councilmembers Clyburn and Sprawls made comments thanking the citizens for their support and encouragement.

#### AIKEN CORPORATION – ORDINANCE 11242003

Babb House  
Blue House  
Chesterfield Street S.  
Loan  
Chesterfield Street N.  
Revolving Fund  
Northside Development  
Barnwell Avenue  
Hampton Avenue

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to loan funds to the Aiken Corporation.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE AIKEN CORPORATION TO BORROW \$67,500.00 FROM THE CITY OF AIKEN FOR THE PURPOSE OF FINANCING THE RENOVATIONS OF SEVERAL PROPERTIES IN THE CHESTERFIELD STREET AREA.

Mr. LeDuc stated that, at the meeting on November 10, 2003, Council approved on first reading a request by the Aiken Corporation to lend them \$67,500 to be used for a revolving loan plan. These funds are from the sale of the Blue House on Chesterfield Street. At the last meeting, Council decided to split the funds from the sale of the house between the Aiken Corporation and the Aiken Community Playhouse. Mr. LeDuc pointed out the funds to purchase the Blue House came from several sources, but mainly

from the Hospitality Tax, Accommodations Tax and the 1 cent sales tax. He said there were no City of Aiken tax dollars used in the purchase of the house. The Aiken Corporation intends to offer no-interest 80% loans to builders for two years or less, or whenever the house is sold or rented. The funds would be used to refurbish or build new houses in the Chesterfield Street area. Through a recent land planning study by John Burgess, they identified 17 lots in the Chesterfield Street area and several homes needing to be upgraded or totally rebuilt.

Aiken Corporation has used all their existing home funds, totaling \$128,000, for a no-interest 80% loan to Darrin Bryant to remodel two homes on Chesterfield Street and to move and remodel the house currently at Children's Place. The use of the city money would allow them to set up a revolving fund for renovation and construction with a maximum of \$75,000 per house and a minimum of 20% of the project cost being borne by the developer. This program will meet their objectives of increasing housing density and would provide a perpetual fund for loaning money to individual contractors. Through this agreement, Council could call for the return of these funds at any time, with Aiken Corporation paying them back within a two year period or less, depending on their loan obligations at the time.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council approve on second reading and public hearing an ordinance approving a loan totaling \$67,500 for Aiken Corporation's revolving fund loan program for the renewing of houses in the Chesterfield area.

#### ASHETON OAKS SUBDIVISION – ORDINANCE 11242003A

##### Covenants

##### Restrictive Covenants

##### Camellia Trailer Park

##### Hampton Avenue

##### Camellia Street

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve covenants for Asheton Oaks Subdivision.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE APPROVING THE SUBDIVISION RESTRICTIVE COVENANTS FOR ASHETON OAKS SUBDIVISION.

Mr. LeDuc stated a couple of years ago the City of Aiken purchased the property formerly known as the Camellia Trailer Park. At one time there were over 60 trailers in this park, and the city has removed the trailers and has since built a new single family residential subdivision.

This area has been subdivided into 25 lots, and H. G. Reynolds, at their expense, has built four new homes for sale within this development. We recently held a couple of Open Houses, and there are several individuals that have made an application to purchase some of these homes. All of them have carports and range from approximately 1300 square feet and above.

Before we finalize any sale within this development, we would like all of those purchasing properties to adhere to a set of restrictive covenants which we are asking Council to approve. Most of these are very similar to other covenants that you would find in any new development, and these will set up a homeowners association and an architectural review committee within this development. The City would head up the homeowners association until 80% of the lots are sold, and we would collect an annual fee of \$70 to help maintain some of the common right of way and a landscaped island at the entrance to the subdivision. A new sign will be added at this entrance and should be delivered within the next several weeks to complete this work. We also have installed a

berm around the outer edges of the subdivision which will be landscaped this winter by our Buildings and Grounds crews.

The public hearing was held and no one spoke.

Councilman Sprawls moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to approve subdivision restrictive covenants for the Asheton Oaks Subdivision with the ordinance to become effective immediately.

#### ACCOMMODATIONS TAX COMMITTEE

##### Recommendations

##### Accommodations Tax 2003

Mayor Cavanaugh stated Council needed to consider approval of the Accommodations Tax Committee recommendations.

Mr. LeDuc stated that yearly the City of Aiken receives funding from motels and hotels in Aiken which is used for projects that increase tourism and overnight stays. This year the City received \$156,332. Of this amount, \$25,000 goes to the General Fund, and of the balance, 65% is allocated to the special fund tourism related expenditures, 30% formerly went to the Chamber and now to the City for tourism, and 5% of the balance to the General Fund. This year the City has \$87,335.78 available for the projects which will be held during this next year. However, with the unspent funds from previous years in the Contingency Fund, there is \$134,963 available for the 27 requests which total over \$195,598.25.

Recently, the State of South Carolina set up a Tourism Expenditure Review Committee to make certain that the guidelines and procedures are followed by each of the communities. For this reason, the city's committee requested that the State first review all the itemized requests to be certain that they were all eligible. The State's primary focus is to make certain that the event will draw tourists from outside a 50 mile radius of Aiken. In addition, the Accommodations Tax money cannot be used to purchase food, pay for salaries, performance fees, operating materials for special events, dues or membership fees for professional organizations, instrumental rental, travel costs, or local advertising. Based on the new procedures the City of Aiken's Accommodations Tax Committee has to be careful as they review the funding submitted by these organizations. Their recommendations show the amount eligible or not eligible for funding and the suggested award in comparison to last year's awarded amount.

Based on comments received at the City Council meeting in October, the Accommodations Tax Committee has held two more meetings. At the first meeting they reviewed a funding request for the bicycle race, which is tentatively scheduled for the same day as the Lobster Race. At the second meeting they received a request from the Aiken Community Playhouse for funding their organization and the plays that they perform at the Washington Center for the Performing Arts.

At this meeting they invited all the applicants to discuss their funding needs in comparison to what was eligible based on the State criteria. Based on the discussions with the applicants, they have allocated \$129,862.15 for this year's projects, leaving a total of \$5,100.85 available in the Contingency Fund.

Council has stated in the past that they would like at least \$5,000 in the Contingency Fund to be available for any additional requests that may still occur in 2004.

## ACCOMMODATIONS TAX COMMITTEE RECOMMENDATIONS

<u>PROJECT</u>	<u>AMOUNT REQUESTED</u>	<u>AMOUNT ELIGIBLE</u>	<u>AMOUNT AWARDED</u>	<u>AWARDED LAST YEAR</u>
Battle of Aiken	\$16,100.00	\$16,100.00	\$14,500.00	\$12,029.00
S.C. Watercolor Annual Exhibition	10,000.00	10,000.00	9,500.00	.00
Aiken Center for the Arts- Antiques in the Heart of Aiken	9,062.15	9,062.15	9,062.15	7,100.20
Aiken Center for the Arts- Operations	25,000.00	25,000.00	13,800.00	9,724.80
Aiken County Museum- Quilt Show	800.00	350.00	350.00	.00
Aiken Symphony Guild	12,700.00	1,800.00	.00	.00
Master Gardeners-Horticulture, History & High Society	8,000.00	.00	.00	.00
Aiken Camellia Show	1,400.00	530.00	530.00	800.00
Aiken Civic Ballet- The Tempest	975.00	975.00	975.00	.00
Hitchcock Foundation- Aiken Horse Show	3,989.10	2,189.00	2,189.00	1,134.00
American Red Cross Sporting Days in Aiken	11,905.00	8,905.00	5,000.00	.00
Memorial Day Parade	7,000.00	.00	.00	5,000.00
Aiken Soccer Club Tournament	18,880.00	6,900.00	6,850.00	5,880.00
Aiken Downtown Assoc.	3,650.00	1,900.00	1,900.00	1,400.00
USC-Aiken Polo Round Robin Tournament	3,800.00	2,600.00	2,600.00	3,700.00
Aiken Highland Games/ Celtic Festival	3,000.00	3,000.00	3,000.00	.00
Aiken Area Council on Aging Equestrian Day	10,000.00	10,000.00	8,000.00	.00
Aiken Steeplechase- Spring Race	7,795.00	3,960.00	3,960.00	.00
Aiken Steeplechase- Fall Race	7,795.00	3,960.00	3,960.00	6,495.00
Aiken Choral Society	5,814.00	426.00	426.00	390.00

<u>PROJECT</u>	<u>AMOUNT REQUESTED</u>	<u>AMOUNT ELIGIBLE</u>	<u>AMOUNT AWARDED</u>	<u>AWARDED LAST YEAR</u>
Dixie Boys Baseball World Tournament	2,140.00	2,140.00	2,140.00	.00
Christmas in Hopelands	2,720.00	2,720.00	2,720.00	.00
Christmas Craft Show	1,500.00	1,500.00	1,500.00	.00
City of Aiken – Triple Crown Street Fair	3,000.00	3,000.00	3,000.00	.00
City of Aiken – Tournament Bid Fees	20,000.00	20,000.00	13,000.00	10,000.00
Aiken Downtown Dev. Assoc.-Operations	14,760.00	.00	.00	9,724.80
City of Aiken-Knights of Columbus State Basketball	1,000.00	900.00	900.00	.00
Aiken Downtown Dev. Assoc. Aiken Bicycle Grand Prix	6,000.00	6,000.00	5,000.00	.00
Aiken Community Playhouse	<u>25,000.00</u>	<u>25,000.00</u>	<u>15,000.00</u>	<u>5,000.00</u>
TOTALS	\$243,705.25	\$168,917.15	\$129,862.15	\$78,377.80

The public hearing was held.

Ms. Jan Cwalina, of the Accommodations Tax Committee, stated the most recent South Carolina Tourism Review Committee is very strict. She said the Accommodations Tax Committee looks in great detail to make sure their recommendations were within the guidelines. She pointed out the applicants don't just get handed this money. She said they spend it on their request and then they get reimbursed.

Mr. Ray Glinski, 164 Governors Lane, pointed out that Mr. LeDuc had stated earlier that the tax money which was being loaned to the Aiken Corporation and to the Playhouse was not really city tax money. He said a tax is a tax, and it is coming out of somebody's pocket.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the allocation of Accommodations Tax Funds as recommended by the Accommodations Tax Committee.

#### REZONING - ORDINANCE

Houndslake Corporation  
Houndslake Drive  
Hitchcock Parkway  
TPN 00-133.8-17-001

Mayor Cavanaugh stated an ordinance had been prepared for first reading to rezone property owned by Houndslake Corporation.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY HOUNDSLAKES CORPORATION FROM GENERAL BUSINESS (GB) TO RESIDENTIAL MULTIFAMILY LOW DENSITY (RML).

Mr. LeDuc stated the Houndslake Corporation would like to rezone a parcel of property off of Houndslake Drive consisting of 8.9 acres from General Business to Residential Multi-Family Low Density (RML). In August, 2000 the applicant was granted a special exception by the Board of Zoning Appeals (BZA) to allow multi-family housing on the property for a 50-unit apartment complex. The only condition the BZA placed on this property was for the project to be built by August, 2003. This was later extended to September 16, 2006. The applicant has requested the rezoning, so the property will not need the special exception if the project is delayed again beyond the three year extension. The Comprehensive Plan recommends that the subject property be Low Density Residential, and therefore the rezoning is consistent with this plan.

Mr. LeDuc pointed out that everything Houndslake Corporation is asking for has already been approved by the BZA through 2006. He said, however, it was his understanding that the financial backing would like to have the approval as a permanent rezoning and allow them to do certain things on the property and not just within a certain timeframe.

At the November Planning Commission meeting the Commissioners placed three conditions on the rezoning of this property.

1. That the Planning Department be provided proof that the plat has been recorded with the RMC creating Tract A.
2. That any conditions be shown within the RMC Office as proof of recording; and
3. That a 3.7 acre section to the northeast of the proposed bungalow village be protected by a conservation easement or donated as open space prior to rezoning.

Mr. LeDuc stated the owners are agreeable to the conditions, but they have concerns about condition 3. He said they are agreeable to the open space, but to get it done prior to rezoning causes them a problem. He said it takes a while because the property has to be surveyed and appraised, which takes time. He said they were willing to give a letter stating that the 3.7 acres would be set aside for open space, but to do it prior to rezoning is very difficult.

Mr. LeDuc pointed out another area of concern is that on December 16, 2003, the owner will be appealing to the BZA for a variance. He said in Multi-Family Residential Low Density, one of the requirements is that the height is restricted to 35 feet. Under General Business the height can be 50 feet. At this time they are not sure what the height of the buildings will be, except that they will be 50 feet or less. He said currently they are concerned that 35 feet might not be high enough. He said on December 16, the owner will be asking the BZA to grant a variance under Residential Multi-Family Low Density for a height up to 50 feet. He said they don't know what the height of the buildings will be at this time, but they would like some assurance that if the 50 foot variance is not granted by BZA that Council would not allow the request for rezoning to RML to go into effect. It was pointed out that Council's consideration for the rezoning for second reading would be on December 8, which is before the BZA meeting on December 16. He said they are willing to meet the other requirements under the RML zone, but the height restriction is a concern for them. He said for condition 3 the owner is willing to donate the 3.7 acres as open space or green space and willing to give a letter to that effect. He said, however, they could not do it before the rezoning. He said their second concern is the request to BZA for a variance in height for the buildings on the property.

City Attorney Gary Smith said if Council wished to work with the property owner he would suggest that the following language in the proposed ordinance be amended. He said in Condition 3 the language be amended as follows: "That the developer enter into an agreement to allow the 3.7 acre section to the northeast of Bungalow Village be protected by a conservation easement or donation as open space." He said he would suggest adding a new Condition 4 "That if the petitioners petition for a variance before

the Board of Zoning Appeals is not approved, the rezoning would not take place.” He said if the petitioner’s request before the BZA is not approved on December 16, 2003, then the rezoning would not take place. It was pointed out that BZA does not meet until a week after City Council’s next meeting.

Mr. Evans, Planning Director, pointed out that there is an open space requirement for RML which requires 40% to be open space.

Mr. LeDuc pointed out that, with the open space requirement, of the 5.2 acres remaining, 40% of the property has to be open space. He said there are 8.9 acres in the rezoning request and 3.9 acres would be set aside as a conservation easement or open space. Of the remaining property, 5.2 acres, 40% has to be open space.

Ms. Peggy Penland stated the investors were not sure at this time how high the buildings would be. She said she was hoping Council could just not make their ordinance effective until after the BZA meeting just in case the BZA did not grant the variance in the height limit. She said if BZA did not grant the variance, she did not want the rezoning to RML, but wanted the zoning to remain as General Business. She pointed out there was a lot of controversy about the project in 2000, and BZA did not grant their variance as requested. She said the project had been reworked and would not be five stories high, but would be three stories, but she was not sure if the height would be over 35 feet.

Council continued to discuss the request at length. It was pointed out that with the amendments proposed by Gary Smith, the requested rezoning to RML would not take place if BZA did not approve the variance requested for the height limit of 50 feet at their December 16, 2003, meeting.

Ms. Penland pointed out currently she has three years to do the project of 50 residential units. She said the problem is that the investor, who will be providing \$10 million in funding, wants security that in case something delays the start of the project, so that in three years they will not have to come back to the city after they have already put in a lot of time, money, etc. in the project. She said the investors want to have the security that the property is zoned for residential and that they still have the same height limitation of 50 feet.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the ordinance on first reading to rezone property owned by Houndslake Corporation from General Business to Residential Multi-Family Low Density (RML) with the amendment to Condition 3 regarding a letter regarding the open space donation and adding Condition 4 that the rezoning will not take place if the variance requested is not approved by BZA and that second reading and public hearing be set for the next regularly scheduled meeting of Council.

#### REZONING – ORDINANCE

Roddey, Joe  
Snipes, Wallace M.  
Pepper Hill Way  
Richland Avenue W.  
Medical Office Building  
Office Building  
TPN 20-094.0-01-015  
TPN 20-094.0-01-016  
TPN 20-094.0-01-017  
TPN 20-094.0-01-018  
Kalmia Professional Plaza  
Patheja, Nini

Mayor Cavanaugh stated an ordinance had been prepared for Council’s consideration to rezone property along Pepper Hill Way from Limited Professional to General Business.



Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE LOCATED ON PEPPER HILL WAY FROM LIMITED PROFESSIONAL TO GENERAL BUSINESS.

Mr. LeDuc stated Joe Roddey, of GMK Associates, who represents the owner of 4.57 acres located on Pepper Hill Way off Richland Avenue W. is requesting rezoning from Limited Professional to General Business. They would like to build a medical office on the front two lots, and the development of the rear two lots is unknown at this time. Several residents attended the Planning Commission meeting and objected to the General Business rezoning. They were concerned that if the property were rezoned to General Business and the medical building is not built, that the property could then be resold and used as business property which would negatively impact their neighborhood. After a lengthy hearing the motion was denied on a 3 to 3 vote.

Since that meeting, the Planning Department has spoken to the owners, and they are agreeable to rezone the property as Office/Institutional instead of General Business. It appeared from the Planning Commission meeting that there was support from the Commission members to rezone the property Office/Institutional if requested by the owner. For this reason Council may want to consider an Office/Institutional zone instead of General Business. The applicants have also agreed that the rear two lots could remain Limited Professional and would not have to be rezoned at this time. The proposed use of the property is for an office building for Dr. Nini Patheja. He said the general feeling of the citizens was that no one had a problem with a professional building in that location of the size requested. He said the concern was the fact that if this building ever became vacant, that the property could be used for a number of activities other than an office building. He pointed out under General Business zoning there could be a convenience store, a restaurant, a store selling alcoholic beverages, or a store open 24 hours a day.

Mr. LeDuc stated he had talked to Kay Shirley who represents the neighborhood. He pointed out there were a number of persons present from the neighborhood. He said the general feeling was that the proposed building would be okay, but it was the proposed zoning that the residents had a concern about. He said staff had talked with the owners, and they have submitted a letter stating that they are willing to drop the General Business request and request Office/Institutional Office zone. He said, however, there is no one zone which would be perfect for the property. He said there probably should be another zoning category to cover this proposed use. He said Office/Institutional is close to covering the proposed use, except that under Office/Institutional hotels, convenience stores, health clubs, etc. would be allowed. He said some of the uses require a special exception, however, some of the items could be located on the property.

Mr. LeDuc said he had three suggestions to make. He said some are short term and some long term that might provide a solution that will allow Dr. Patheja to build his office. He said some suggestions are consideration for changes to the Office/Institutional zone.

Mr. LeDuc stated Dr. Patheja does have a variance request to BZA on December 16, 2003. That request is asking that BZA allow under Limited Professional a larger size building. Currently a 5,000 square foot building is the maximum allowed under Limited Professional. If BZA allows Dr. Patheja to have the variance he will be able to increase the size of the building up to the 8,000 square feet that he desires. Therefore, there is no need to change the zoning. Option 2 is to look at the Office/Institutional Zone and make an exception by allowing Dr. Patheja to rezone, but he could only build an office building of 8,000 square feet or less. He said the difficulty of this by staff is that if a condition is placed on a rezoning, the staff cannot always remember special conditions for rezoning and years later this could cause problems. He said the reason Office/Institutional has these special exceptions such as hotels, restaurants or convenience stores is that if there is a large area developed as Office zoning it may be good to have a restaurant, hotel, or guest house. He said, however, these uses probably would not be wanted in an Office zone of 5, 10, or 15 acres. He said a suggestion would be to look at the Office/Institutional zone and where currently there are special exceptions that could go to BZA or even permitted, these may not be allowed unless there is an Office up to 10,000 square feet unless it is 10 acres or larger. Then these special exceptions could be

allowed. He said with this some of the cases the city has had recently in looking at larger office buildings that don't fit Limited Professional could then fit the Office/Institutional. However, this recommendation would take a couple of months to implement and Dr. Patheja would not be able to rezone his property until the end of January. He suggested that Council's two options at this time are—wait for the BZA variance or go ahead with first reading to change the zone to Office/Institutional and stating that the condition would be that only an office building could be built at this location up to a certain number of square feet with the idea that the City would be reworking the Office/Institution zone so that whatever is approved on this rezoning would fit the new changes made in the Office/Institution zone.

Mr. LeDuc stated the residents in the area really do not have any objections to Dr. Patheja's request as this would be a professional building open Monday thru Friday 8 a.m. to 5 p.m. They do have a problem with something being open 7 days a weeks well past 5 p.m. in the evening, and they do object to that type of situation.

Mr. LeDuc stated the matter is before Council for first reading to rezone property off of Pepper Hill Way from Limited Professional to General Business. He said Council could wait until after the BZA meeting on December 16, 2003, to see if a variance is granted and then consider the zoning for the area in January.

Mr. LeDuc stated the residents in the area have concerns about rezoning to Office/Institutional with the current regulations allowing special exceptions. They do not have a problem with Office/Institutional if it were limited to just an office under 10,000 square feet and the special exceptions not apply to this property.

Councilwoman Price stated the issue is a 5,000 square foot building versus an 8,000 square foot building. The regulations prohibit Dr. Patheja to build what he needs to operate his facility. She said it would not be practical to build two buildings to meet his needs, as he wants it all under one structure. She pointed out the city's ordinance is not perfect, and Council needs to consider changes to the ordinance. She stated according to the physician he would have gone to the BZA for a variance had he known that was the starting point. However, he came to the Planning Commission hoping that would get him what he wanted.

Councilman Cuning asked if Council could wait and let the BZA act on the variance rather than Council considering the matter at this time.

Mr. Joe Roddey, of GMK Architects from Columbia, stated he represented Dr. Patheja. He said his client could wait until the January meeting, but his indications from the Planning staff were that it would be very hard to get the variance.

Mr. LeDuc stated the Planning staff can't really say whether the Board of Zoning Appeals would approve the variance or not. He said obviously if the citizens stated to the BZA that extending the building to a larger size was not a problem for them or that they were in favor of the variance being granted this would help. He said, however, BZA has to have a reason why they should grant a variance. He said if Council and the neighbors are saying the variance would be good for the neighborhood and for the business community, that does not hurt.

Mr. Roddey stated Dr. Patheja wants to get his building built, but he could wait another month to see what BZA will do. He said he understands the concerns of the residents. He said the residents had expressed to Dr. Patheja that they wanted him to have his building, but a way had to be figured out that would also protect the neighborhood. He said the residents felt the variance would be the best route to get the matter accomplished.

Council discussed the matter and felt the best way at this time would be to wait for the BZA to act on the request. It was also pointed out that the City needs to go ahead and rework the Office/Institution zone to address some of these problems.

Councilwoman Vaughters stated she did not see what was wrong with the Limited Professional zone. She pointed out an instance recently with Dr. Gordon's office on

Trailridge Drive. She said it was a good thing he had to go to the BZA because if the area had been zoned for Office the neighbors would not have gotten the 100 foot buffer that the BZA required. The fact that the request went to BZA enabled the neighbors to have input and talk to Dr. Gordon about it and they reached a compromise. She said if a person wants to build a larger building than allowed she liked the fact that the developer has to convince the neighborhoods that are affected that it is a good thing for the area. She said Governors Lane area is a nice area, and it needs to be protected. She pointed out Dr. Patheja is buying two lots and is not trying to place an 8,000 square foot building on one lot. She said she felt there were other concerns about rezoning and how adjoining property might be requested to be rezoned if a rezoning is granted.

Dr. Gil Royal, a family physician, stated he had lived in Aiken his entire life. He said he lives in Kalmia Hill and the request affects where he lives. He said he did not have a problem with the request for a variance for the size of the building. He pointed out Dr. Patheja will be buying two lots. He said the restriction is 5,000 square feet per lot and his proposed building is 8,000 square feet. He said he felt the proposal would probably increase the value of the other lots. He pointed out the area is not a large area. He stated he would like to see the zone remain Limited Professional and let the BZA grant a variance. He said he felt the residents would speak favorably at the BZA meeting for the variance.

Mr. Ray Glinski, 164 Governors Lane, expressed concern about rezoning from Limited Professional to General Business. He pointed out that everything in the area is professional and he felt the zone should remain Limited Professional. He had no problem with the request to the BZA for a variance.

Ms. Kay Shirley, 172 Governors Lane, stated the neighbors had discussed the matter. She said the neighbors would prefer Dr. Patheja to go to the Board of Zoning Appeals to see if he can get a variance and leave all the property zoned Limited Professional. She said they have no problem with Dr. Patheja building the office that he has proposed on two lots. She said they are concerned about two lots being rezoned as it was felt that there may be a request later for rezoning the other lots. She said they would like for the zoning to remain Limited Professional and for Dr. Patheja to go to BZA to get a variance for his office. She stated the neighbors would be glad to get a petition to the BZA in favor of Dr. Patheja's variance request. She stated they would also be present at the BZA meeting to express their feelings in favor of Dr. Patheja's request.

Mr. LeDuc stated if Council tables the request and BZA does not grant a variance, then Council would consider the request at their January meeting. He said if Council denies the request at this meeting and BZA does not grant the variance Dr. Patheja will have to start over again with the Planning Commission.

Councilmembers pointed out they do not want to rezone the property General Business so they will see what the BZA does with the request.

Councilman Cuning moved, seconded by Councilwoman Price and unanimously approved, that Council continue the request for rezoning property on Pepper Hill Way from Limited Professional to General Business to the January meeting of Council to allow the BZA to act on the request for a variance at their December 16, 2003, meeting.

Mr. Roddy pointed out at the Planning meeting the developer made the change to just ask for rezoning for two lots, Lots 1 and 2, to General Business. The back two lots, Lots 3 and 4, would remain LP.

#### ANNEXATION – ORDINANCE

Northwest Development Co. Inc.  
University Parkway  
TPN 00-130.0-01-021

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex 70.36 acres off University Parkway.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 70.36 ACRES OF LAND, MORE OR LESS, OWNED BY NORTHWEST DEVELOPMENT CO., INC. AND TO ZONE THE SAME LIMITED BUSINESS (LB), MULTI-FAMILY RESIDENTIAL (RMH), SINGLE-FAMILY RESIDENTIAL (RS-6).

Mr. LeDuc stated Northwest Development Company, Inc. has requested the annexation of a 70.36 acre tract of land north of University Parkway which stretches northeasterly to S.C. 19. The property is contiguous to the city limits by the rights of way of University Parkway and both the Public Safety and Public Works Department do not object to serving this area with city services. Currently the property is zoned in the county as Urban Development and has the proposed zoning of Limited Business for 10.7 acres along University Parkway, 5.3 acres of Multi-family High Density and 54.36 acres of Single Family Residential (RS-6) which is more compatible than currently zoned. This property is currently not in our Comprehensive Plan.

Mr. LeDuc stated this is the first large scale complex on the northside for residential use. He said he felt all the discussions of Council and the work that Council has done for northside development has encouraged this developer to look at this area and to invest in the northside and build a first class residential development with limited professional along the front of the property.

The Planning Commission reviewed this project at their November meeting and unanimously approved this annexation with the following conditions:

1. There would only be one curb cut on University Parkway and one on S.C. 19.
2. No commercial property would face University Parkway.
3. A heavily planted landscaped buffer at a minimum of 25 feet deep would be adjacent to University Parkway.
4. Proof of recording at the RMC Office of the subdivision plat creating property lines to correspond with the proposed zoning boundaries would be submitted prior to the annexation becoming effective.
5. Any conditions of approval would also be recorded with the RMC Office prior to the annexation becoming effective.

Councilwoman Price asked about buffers on the property. She stated a buffer is proposed along University Parkway, but she wondered if more buffers were needed, especially adjacent to the Department of Transportation property. Councilwoman Price stated she felt this was a critical time to make sure that the area is developed in a good way. She said she just wanted to be sure it would be a development that the city could be proud of. Mr. Evans responded that a condition for annexation of the SCDOT property was that they would provide a buffer along this property once adjacent property is developed. He said it would also be to the advantage of this developer to install a buffer along this area also.

Councilwoman Clyburn stated if the developer plans to make a nice development, she would hope that the developer would screen traffic, commercial development, etc. from their development and place buffers around the property to protect their investment.

Mr. Todd Haas, of Haas and Hilderbrand, stated the development would be protected from other areas and would have a screening from other areas. They stated there would be a fence around the property, but the type fence had not been decided; however, it would not be wood. He stated the development would be a gated community except for the commercial area. The roads within the community would be private streets with a gate.

Councilwoman Vaughters expressed some concern about a gated community and connectivity to other areas of the community. She said she was not talking about a road through the development, but a road around the area so people from the community could get to other areas of the city.

Council discussed the proposed development and were concerned that the development be a nice development for the northside.

Councilwoman Clyburn moved, seconded by Councilman Cuning and unanimously approved, that the ordinance be passed on first reading to annex 70.36 acres consisting of 10.7 acres of Limited Business, 5.3 acres of Multi-Family RMH, and 54.36 acres of Single Family Residential RS-6 and that second reading and public hearing be held at the next regularly scheduled meeting.

#### AIKEN COMMUNITY PLAYHOUSE – ORDINANCE

Grant

Playhouse

Community Playhouse

Newberry Street

Blue House Funds

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to grant funds to the Aiken Community Playhouse.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AUTHORIZING THE AIKEN COMMUNITY PLAYHOUSE TO RECEIVE \$67,500.00 FROM THE CITY OF AIKEN FOR THE PURPOSE OF REDUCING ITS CONSTRUCTION LOAN OBLIGATION.

Mr. LeDuc stated that at the last Council meeting the Aiken Community Playhouse and Aiken Corporation jointly discussed the \$135,000 funds received from the sale of the Blue House on Chesterfield Street. Council decided at that meeting to loan \$67,500 to Aiken Corporation for the renewal and building of new homes in the Chesterfield area.

Further, based on the fact that the Aiken Community Playhouse owes the city approximately \$400,000 it was decided at the November 10 meeting to grant the remaining funds to the Community Playhouse to reduce their debt. They estimate that approximately \$60,000 remains on pledges from their capital campaign. The debt is also being reduced by about \$10,000 each month based on the loan differential we currently have with Aiken Corporation. It is the desire of both the City and the Playhouse to have this loan eliminated within the next three years. This objective should be met with the purchase of the current playhouse, the grant of \$67,500, the remaining pledges, and the reduction of about \$10,000 per month from the Aiken Corporation Loan.

Councilman Sprawls moved, seconded by Councilman Smith and unanimously approved, that Council pass on first reading an ordinance granting \$67,500 to the Aiken Community Playhouse to reduce their loan to the City of Aiken and that second reading and public hearing be set for the next regularly scheduled meeting.

Mr. Ray Glinski, 164 Governors Lane, expressed concern about the City giving money to the Playhouse for their debt. He said it was taxpayers money, and he did not approve of giving the money to the Playhouse. He said this was giving to a small percentage of the population.

Council expressed the feeling that the city has a great facility worth \$4 million and that it has helped the downtown and been a good investment for the city.

TOOLE HILLResolutionJackson, J.D.A-1 BondingFallow, MikeTPN 30-026.0-05-007TPN 30-026.0-11-008

Mayor Cavanaugh stated Council needed to consider approval of the purchase of two lots in Toole Hill.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN REAL ESTATE  
PROPERTY LOCATED IN THE CITY OF AIKEN.

Mr. LeDuc stated that over the last couple of months City Council has approved the purchase of 26 parcels of property in a two block area of Toole Hill. At this meeting staff would like Council's approval to purchase an additional two houses which will be evaluated for possible rehabilitation. With the purchase of these two properties only two additional houses remain to be purchased and three vacant lots, two of which we hope to purchase in the next two weeks. We have started the lot layout of this area and the cleanup of the lots for home construction early next year.

The City had set aside \$600,000 in the budget to purchase and rehabilitate the property within the two block area. The value of the 26 properties purchased to date total \$220,500. We are asking Council's authorization of \$32,000 for the two homes which we would like to purchase.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the resolution authorizing the purchase of two homes in the Toole Hill area for a total of \$32,000.

PERRY MEMORIAL PARKSchofield Middle SchoolWilliamsburg StreetAbbeville AvenuePerry, Freddie LeePerry, Inez

Mayor Cavanaugh stated Councilwoman Clyburn wanted to discuss a request regarding renaming a park with Council.

Councilwoman Clyburn stated that a group would be appearing before the Aiken County Board of Education to ask them to rename a park on Williamsburg Street at Abbeville Avenue in memory of the Perry family. She stated the park is now called the Schofield Park. She pointed out there is no official name marked on the property. She pointed out the City of Aiken spent money to renovate the park. She stated they would like to name the park Perry Memorial Park in memory of Mrs. Inez Perry, her son Freddie Lee and daughter Vivian Perry. She stated all three are deceased and died of natural causes at a young age. She stated the Perrys had contributed greatly to the athletic climate in the City of Aiken. She said they had worked for the Smith-Hazel Recreation Center and had been a visible part in the community. She said the group would like to erect a memorial sign with the approval of the School District. She said she was seeking Council's support in naming the park the Perry Memorial Park. She asked that a letter of support be prepared to the School Board for the naming of the park.

Mr. LeDuc pointed out the property is not owned by the City of Aiken. He said the city had put several ballfields, soccer field and lighting in the park. He said this was done with the permission of the School District which owns the property. He said the City and School District have a joint agreement for use of the property. He said when the City put the pond in the area for the storm drainage the agreement was that they would allow the

City to use it on nights and weekends and the school would use the facility during the day. He said the School Board owns the property and a letter would show that Council supports the naming of the park.

Councilman Sprawls moved, seconded by Councilman Cuning and unanimously approved, that Council ask the staff to prepare a letter of support for the renaming of the park at Schofield Middle School as the Perry Memorial Park.

#### COUNCIL MEETING

Meeting  
Schedule  
December, 2003

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

Mr. LeDuc stated the second meeting in December falls on Monday, December 22, 2003, and typically it's City Council's practice to cancel this meeting. With the extended holidays schedule we rarely have an issue that requires Council's immediate attention, but if one should arise then we would schedule a special meeting for City Council.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the December 2003 meeting schedule, canceling the second regular meeting of City Council for the month of December.

#### APPOINTMENTS

Poe, Lee  
Park Commission

Councilman Smith stated he would like to reappoint Lee Poe to the Park Commission and asked that it be placed on the next agenda for Council's action.

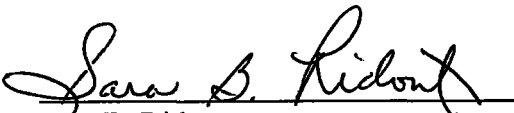
#### EXECUTIVE SESSION

Mayor Cavanaugh stated Council needed to go into executive session to talk about a legal and potential contractual matter.

Councilman Cuning moved, seconded by Councilwoman Clyburn and unanimously approved, that Council go into executive session to discuss a legal matter. Council went into executive session at 9:15 P.M. After discussion Councilman Sprawls moved, seconded by Councilwoman Price and unanimously approved, that the executive session end. The executive session ended at 10 P.M.

#### ADJOURNMENT

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

  
Sara B. Ridout  
City Clerk