

Aiken City Council MinutesREGULAR MEETING

November 25, 2013

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, George Grinton, Kim Abney, Ed Evans, Tim Coakley, Charles Barranco, Glenn Parker, Alicia Davis, Sara Ridout, Maayan Schechter of the Aiken Standard, and about 30 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:01 P.M. Councilwoman Diggs led in prayer, which was followed by the pledge of allegiance to the flag.

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. He pointed out that citizens could only speak on the items on the agenda.

MINUTES

The minutes of the regular meeting of November 11, 2013, were considered for approval. Councilman Dewar moved, seconded by Councilwoman Diggs, that Council approve the November 11, 2013, minutes as submitted. The motion was unanimously approved.

ELECTION COMMISSIONReport

Reggie Ebner

Steve Homoki

Philip Merry

Lessie Price

Mayor Cavanaugh stated the Election Commission would make a report on the 2013 election for City Councilmembers.

Mr. Richard Johnson, Chair of the Election Commission recognized the other members of the Election Commission, including Keith Wood who could not present, and Ray Visotski. He pointed out that earlier this year Mr. H. A. McClearen, a member of the Election Commission who had served for many years, passed away. He asked for a moment of silence in memory of Mr. McClearen.

Mr. Richard Johnson, Chair of the Election Commission gave the following report to Council.

The City of Aiken was scheduled to conduct a General Election on Tuesday, November 5, 2013, to fill four (4) expiring seats on City Council. The seats are District 2, District 4, District 5, and District 6.

The election was scheduled to be conducted under the new 2012 6-1 Single Member District Plan.

Notification of the election was made public through newspaper advertising as prescribed by law.

The following candidates filed:

District 2	Lessie B. Price
District 4	Reggie Ebner
District 5	Steve Homoki
District 6	Philip Merry, Jr.

South Carolina General Law Section 2, Section 7-13-190 states if a municipality has an upcoming election for one seat, or multiple seats, and the same number of candidates file as the number of seats, and no one files as a petition candidate or as a write-in candidate within 14 calendar days after the filing period closes, a General Election will not be necessary.

Closing date for petition candidate filing was 12:00 noon Friday, September 20, 2013.
Closing date for write-in candidate filing was 12:00 noon, Friday, October 4, 2013.

Therefore, with only one candidate filing for each seat up for election, and no one filing as a petition candidate or as a write-in candidate, the City of Aiken Municipal Election Commission, based upon state law Section 2, Section 7-13-190, does hereby certify the election of:

Lessie B. Price for District 2
Reggie Ebner for District 4
Steve Homoki for District 5
Philip Merry, Jr. for District 6.

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/R. Keith Wood
s/Ray Visotski

OATH OF OFFICE

Sara Ridout, City Clerk, administered the oaths for the constitution and state law to Councilmembers Reggie Ebner, Steve Homoki, Philip Merry, and Lessie Price.

Councilwoman Price recognized her husband, William Price, and her pastor Reverend Edwards of Friendship Baptist Church and Reverend Slaughter, Second Baptist Church, for their support.

Councilmember Ebner recognized his wife Gail, and Councilmember Homoki recognized his wife Zee, as their number one supporters.

MAYOR PRO TEM

Mayor Cavanaugh stated Council needed to elect the next Mayor Pro Tem. Mayor Cavanaugh stated many years ago Council changed the policy of the way they selected a Mayor Pro Tem to elect the Mayor Pro Tem by the number of years of service. He pointed out this year there are two Councilmembers with the same years of service as they were elected at the same time. He said before the Council meeting he flipped a coin to see who would be the next Mayor Pro Tem. He said when the coin was flipped Councilmember Homoki guessed the side of the coin. He said Council needs to vote to appoint Councilmember Homoki as the Mayor Pro Tem for the next two years.

Councilwoman Price moved, seconded by Councilman Merry, that Councilman Homoki be appointed as Mayor Pro Tem for 2014 and 2015. The motion was unanimously approved.

Councilman Dewar thanked Council for their designation of him as Mayor Pro Tem for the last two years. He said it was an honor and pleasure to serve.

BOARDS AND COMMISSIONS

Appointments

Carmen Roa

Leroy Myrick

Community Development Committee

James R. Findley

Building Board of Appeals

Butch Roberson

General Aviation Commission

Mayor Cavanaugh stated Council needed to consider appointments to the various boards, commissions, and committees.

Mr. Pearce stated Council has 21 pending appointments to fill vacancies on different City boards, commissions, and committees. Four appointments are presented for Council's consideration and vote.

Councilmember Diggs has recommended the reappointment of Carmen Roa to the Community Development Committee. If reappointed, this term would expire September 2, 2015.

Councilmember Merry has recommended the reappointment of James R. Findley to the Building Board of Appeals Committee. If reappointed, his term would expire May 12, 2015. He has also recommended the reappointment of Butch Roberson to the General Aviation Commission, and if reappointed his term would expire September 1, 2015.

Councilmember Price has recommended the reappointment of Leroy Myrick to the Community Development Committee. If reappointed, Mr. Myrick's term would expire September 2, 2015.

For City Council consideration is the reappointment of Carmen Roa and Leroy Myrick to the Community Development Committee, the reappointment of James R. Findley to the Building Board of Appeals Committee and Butch Roberson to the General Aviation Commission.

Councilman Dewar moved, seconded by Councilwoman Price, that Carmen Roa and Leroy Myrick be reappointed to the Community Development Committee with the terms to expire September 2, 2015, and that James R. Findley be reappointed to the Building Board of Appeals Committee with the term to expire May 12, 2015, and Butch Roberson be reappointed to the General Aviation Commission with the term to expire September 1, 2015. The motion was unanimously approved.

Councilman Homoki stated he would like to recommend that Robert Newburn be reappointed to the Environmental and Energy Committee.

Councilman Dewar recommended that Charles Herbst be reappointed to the Design Review Board and Mary Anne Archibald be reappointed to the Environmental and Energy Committee.

Councilwoman Diggs recommended that Susan DeBruhl be reappointed to the Planning Commission.

Mayor Cavanaugh stated the recommendations would be on the December 9, 2013, meeting for consideration.

CROSLAND PARK – ORDINANCE 11252013

1220 Alfred Street NE

Renita Prince

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to sell a house in Crosland Park.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO CONVEY CERTAIN REAL PROPERTY IN THE CROSLAND PARK SUBDIVISION AT 1220 ALFRED STREET NE TO RENITA PRINCE.

Mr. Pearce stated Renita Prince has made a cash offer to purchase 1220 Alfred Street in Crosland Park for \$73,000. We asked for several conditions as part of the agreement to purchase the property:

- The property must be owner-occupied;
- The property will be sold "as-is;"
- Earnest money must be paid in the amount of \$500;
- The buyer will pay for an appraisal of the property;
- The seller will pay normal seller closing costs;
- Aiken City Council must approve the sale.

Ms. Prince has agreed to these stipulations. Staff and I have reviewed this proposed purchase and recommend Council approval. He noted the original closing date was to have been November 20, 2013, but that has been rescheduled for December 5, 2013.

For Council approval is second reading and public hearing of an ordinance to sell 1220 Alfred Street to Renita Prince for \$73,000 upon the terms and conditions set forth in the Purchase and Sale Agreement.

The public hearing was held.

Councilwoman Diggs moved, seconded by Councilman Merry, that Council pass on second and final reading an ordinance to sell 1220 Alfred Street NE to Renita Prince for \$73,000 upon the terms and conditions set forth in the Purchase and Sale Agreement. The motion was unanimously approved.

AUDIT – ORDINANCE

Elliott Davis

FY 2012-13

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration of the audit adjusting the FY 2012-13 budget to show actual revenues and expenditures.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE ACCEPTING THE FISCAL YEAR 2012-2013 AUDITED FINANCIAL STATEMENTS AND AUTHORIZING VARIANCES TO THE FISCAL YEAR 2012-2013 BUDGET ORDINANCE.

Mr. Pearce stated our auditor, Elliott Davis, LLC has prepared the FY 2012-13 financial audit, required by state law and our city code, of our city finances. In this audit the line items from our FY 2012-13 budget are adjusted in the audit report to show actual revenues received as well as actual expenditures made. He said staff came to Council in August, and Council appropriated unspent funds from the budget year. The auditor has presented the full audit report to Council. He said typically an ordinance is passed by Council to approve the audit adjusting the figures since the budget is approved by the

ordinance process.

Elliott Davis Shareholder Tim Grow was with us at our October 28, 2013, meeting and reviewed the audit with Council. As you know he reported that the audit showed no material weaknesses [what has been referred to as a "clean report"] and no instances of noncompliance material to our financial statements.

Mr. Pearce stated at the November 11, 2013, meeting Council voted to continue this ordinance until additional information regarding interior loans between city accounts was received by City Council. For City Council consideration is first reading of an ordinance to accept our FY 2012-13 audited financial statements.

Councilman Ebner moved, seconded by Councilwoman Price, that Council pass on first reading the ordinance to accept the FY 2012-13 audited financial statements.

Councilman Ebner stated at the last meeting he had asked for continuance of the ordinance to accept the audit. He said it was a way to alert Council that there are a couple of loans outstanding that need to be addressed. He pointed out that in the past, and he had voted on it, we charge ourselves interest when we make an internal loan. He said that may be a way to force ourselves to pay the loans off. He presented a spreadsheet that Ms. Abney, Finance Director, had prepared. He said if we do the interest amount on the loans, it approaches one-half million dollars by the time it is paid off. He felt those numbers are something Council needs to look at. He said in the future he would be opposed to paying ourselves interest, as it takes money out of one account and puts it in another. He pointed out the schedule. He said he would like to put the matter on the agenda that the city will concentrate on paying the loans off. Another thing to note is that in the budget this year there is \$1.2 million for depreciation. He said really depreciation pays for repairs. He said here we have \$1 million so we would be making a change to the budget.

Councilman Ebner stated the other part that gets critical is that to get \$1 million for depreciation, we almost have to raise the water rates every year for three reasons. One, is obviously the price of chemicals goes up. The price of electricity goes up. The other part is whether we get rain or not. He pointed out last year we were short because of rain plus inflation. He felt that was something Council needed to think about. He pointed out that already this year, using the numbers that the Finance Department puts together we are about 4% short on selling water, which makes us 4% short on revenue. If you put those numbers in gear, we have to sell a lot of water this coming spring to meet budget. He said Mr. Pearce, Ms. Abney and he had met and they talked about Horizons for the Finance Department to make their best guess where we are in February as far as revenues. He said he would like to get some feedback from the rest of Councilmembers. He said literally this keeps us raising the rates to account for the cost of chemicals and electricity. He said we had been opposed to that in the past, and he had been one of them, but he felt Council really needed to look at taking care of business which is paying off the loans to keep the system viable. He asked if others have comments.

Councilwoman Diggs asked how much he was talking about as far as raising the water rates. Councilman Ebner said using his numbers we would have to raise the rate at least 4% or 5% in February assuming the water sales don't go up to meet this year's depreciation of \$1 million.

Mr. Pearce stated that is why staff would have a presentation for Council at the end of January because we would have the figures for the first two quarters of revenue as well as a projection of what we expect to collect over the rest of the year, based on the usage patterns that we see. Obviously people tend to not water as much over the winter months, but that will show what happened as we had a dryer fall and whether there is any increase. So far we have not. He pointed out that we bill the water bill accounts in arrears, so the actual revenue collected is about 30 to 45 days behind because of our billing cycle.

Councilman Ebner stated last year we actually booked depreciation of about \$385,000, which is roughly about \$800,000 short on depreciation. He said \$800,000 comes out at

about 4.5% or 5%. He said we would have had to raise the water rates last year to meet the amount of money needed to pay down the loan and other repairs to the system. He said if you go back in history, it pretty well comes out somewhere between 3% and 5% increase a year.

Mr. Pearce pointed out we had actually booked about \$585,000 for depreciation.

Councilman Ebner stated this is something that Council needs to look at. He pointed out the numbers. He said we need to keep the system viable and the depreciation is what does that. He said we call it depreciation, but it is really a fund to build a water tank, fix everything, including water meters and leaks.

Mr. Pearce stated in the budget it is shown as the Water and Sewer System Depreciation.

Councilman Ebner stated he wanted to put the matter on the agenda for the next meeting. He said the figures are the facts of life, and we have enough history to say it's not going to change very much.

Mayor Cavanaugh stated he felt Councilman Ebner was right, and he appreciated his looking deeply at some things like this. He said he was sure others agree too because we need to be on top all the time. He pointed out Council never likes to raise anything—property taxes or water and sewer rates. He said the last time he looked at a comparison of water rates, out of 30 cities that we compare with, Aiken was number 2 at the bottom, meaning Aiken has the second lowest of those cities which is nice to know. He said, however, we have to do better. He said we have to do some of these things at the right time.

Councilman Ebner stated it is not a good situation. He said they say the economy is improving, but it sure is a slow improvement, and we still have to provide the services. He said he, Mr. Pearce and Ms. Abney would work up some words for the next Council meeting and formalize it in a better discussion than he was giving and go from there.

Councilman Homoki asked if we adjusted the interest rate that we are supposed to be paying back for the money that we are giving them, would that ameliorate the problem or reduce the shortfall.

Councilman Ebner stated that becomes a problem, and he has pounded on the table with Mr. Pearce and Ms. Abney asking why can't we do that. He said he had also asked the auditors about this and asked if we could keep doing what we are doing. They said two things. One, we have to be careful eliminating or taking the interest rate out, because this information goes to the state. Anything we do with a grant or whatever we get from the state or federal government, they look at your debt service. If we have on the record that we eliminated the interest rate, they will get suspicious. When we talk about the next one, which is a bond, it is even worse. It can hurt our credit rating. He said he verified that with the auditors. Not that he did not trust the city, but he wondered if that was the right thing to do. He said it becomes a problem when you eliminate the interest. It may not be this year, but may be five years from now. The first thing the state and federal government and county do, if you get a grant, is look at your credit rating.

Councilman Dewar stated it is a problem for every taxpayer. If we did not use that money, it would be collecting interest. We are trying to get the interest we would collect if we were not using it.

Mr. Pearce stated we were trying to get the interest that it would collect in the Local Government Investment Pool, and we add 1% to it to do a little bit better. In the money exchange we wind up a little bit better than if it just sat in the Columbia accounts. He said we may be confusing a couple of things. The loan for the Crosland Park houses actually came out of the Water and Sewer System Depreciation. That is actually where the issue comes in. There was some discussion about writing that loan off. We have a bond that we have to pay off the end of next year. As long as that bond is pending, if Council were to write off debt, that would be seen by the bonding firms as not meeting an obligation that we had entered into.

Councilman Ebner stated there are two issues, but even just a plain loan gets a little black mark if you change the interest rate. On the second item he provided Council with a handout. He said this matter goes back to 2009. It was voted on by Council as a \$1.5 million loan to kick start the Crosland Park renovations. It had an interest rate attached to it. He said this is the bond that Mr. Pearce had referred to. Mr. Pearce stated this is a loan and not a bond. Councilman Ebner stated it is a loan but it comes under the bond, where you have to pay the interest. He asked if that was right. Mr. Pearce stated there is a separate Utility System bond, and that is what he was referring to that will pay out the end of next year. Mr. Pearce stated the bond was for the utility system work that we refinanced a few years ago. That bond is still pending, so with this loan that Council approved, which is what he was referring to earlier, if the loan for the Crosland Park Project were written off for the interest or the interest not collected any more, that would endanger the city's bond rating because that bond is pending at this time. He said we are still under scrutiny by the bonding firms in New York.

Councilman Dewar asked, what are our plans for dealing with that.

Councilman Ebner stated he had a plan for it. He said it is for discussion tonight, and will be on the agenda for the next meeting. He said we have been paying the interest on the \$1.5 million loan from Water and Sewer Fund to the Crosland Park Renovations. He pointed out on the handout at the bottom of the page, Timeline Actions. He said he had discussed these with Mr. Pearce, and we will clean them up to have a vote on at the next meeting as to what we want to do. The loan for the \$1.5 million is due in April, 2014. He said the reason he says to change it is item (c) on the handout--dedicate funds from CPST III \$1,750,000 to pay off the loan. The loan now is about \$1.4 million. Mr. Pearce stated it is a little more than \$1.4 million. Councilman Ebner stated he had Mr. Smith check this to be sure we could do this. He said the reason you can use CPST III money to pay off this loan is that it is one and the same money. You can't use CPST III money to pay off a non-equal loan or a different phase of it. He said he did that for December, 2014, for a reason that he would get to in a minute. He pointed out item (d), which Council would need to vote on to make this happen. The funds that are coming from all the house sales, between the two houses we have now as well as any we sell between now and the end of next year, would go to buy down the loan. He pointed out item Timeline (c). He thought we will get approximately \$120,000 net from the two houses, if they both sell, that would pay down the loan. The reason he said December, 2014, to use the CPST III money is in the first paragraph. By the end of next year, we will have paid off roughly \$3.5 million of advance money from CPST III. We can have money to do the Hopelands Gardens, the Citizens fencing and parking, the canopy. He said we know we are not going to spend any money on the Senior Center next year, at least for the building. That way by the end of the year, we actually have cash in CPST III, and we would not have to borrow the money to pay this loan. He felt that was an important point. What would happen is that Council would have to act on the due date in April, 2014, for the loan. Then we would have to act next time to agree to take the money from the \$1.75 million CPST III to pay this debt off at the end of next year. That does two things. It gets us back on a cash basis, and we can put the rest of the money to building houses. Then, also, the interest stops. He said that is a type of proposal that he would like Council to comment now. He said once it is sent out as an agenda item for next time, they would see it in a much better form than it is now.

Mr. Pearce stated to follow Councilman Ebner's line of thought, we had the summer worksession on Crosland Park. The sentiment in the room was that we continue to work in Crosland Park. We have had discussions with the Executive Committee of the Aiken Corporation. After we close the sale on Aldrich Street, the Aiken Corporation will probably have about \$300,000 to spend towards the Northside Revitalization Project. We were looking in a certain area of Crosland Park, as we discussed at that worksession. That gives us operation money until we sell more houses and until the CPST III money comes in. That is one source of money, which is the Aiken Corporation Housing money, that is sitting in their bank in a money market. This would put it into the local economy and create jobs and upgrade houses in a cluster approach as we talked about at the summer meeting. If we then collect the money, as Councilman Ebner was saying, that would be the end of calendar year 2014, at the same time we are paying the bond, we

would have money to pay off the loan, but no money is being lost because we have the assets to sell and to develop in Crosland Park. It just satisfies the obligation of a loan that Council approved. It also gives money in the Water and Sewer System Depreciation Fund that now has an IOU in it. There is money, and we know the money is coming in. We are thinking it will be about \$5.2 million a year in CPST III money that comes in. Delaying the due date from April to December, 2014, gives us some breathing room to see if we sell houses. By the time of the next Council meeting on December 9, 2013, we will know whether Aiken Corporation will commit funds to invest in Crosland Park. He said we can have a good organized approach in how we go. That would make the Utility System whole. The money will come in on the CPST III sales tax funds. Once the money is spent from Aiken Corporation in building patio homes or renovating homes, and we think new construction is the way to go, that is the discussion we will be having after the Thanksgiving holiday.

Councilwoman Diggs asked if we could still focus on the area that they looked at and talked about. Mr. Pearce responded yes. He said there were three houses the city owned in that area. We are doing the asbestos abatement, and will do the demolition within the next couple of weeks. We are already doing the asbestos removal from the houses.

Councilman Ebner stated what Mr. Pearce said is 100% right. He said once we get to December, 2014, we will be swapping money. We will be paying off the loan, and then we have that money. If we sell houses, all that money goes back into the houses. The whole deal is to pay the initial seed money off, but technically we would not be losing \$1.5 million. The money is still there. It just moves a little bit.

Mr. Pearce stated, in fact, it improves our position because the Utility bond will be paid off. Then the IOU on the Crosland Park Project would be paid off in the Utility Fund. That makes the Utility Fund completely liquid and debt free as of December, 2014.

Councilman Dewar stated we would still have a lot of houses in Crosland Park that need to be worked on. Mr. Pearce responded that the city has another 10 houses.

Councilman Ebner stated this will be on the agenda for December 9, 2013. He said Council needs to vote on some of the items to give the City Manager approval to do it. He said someone with expertise should write it up.

Mr. Pearce stated we have a legal person to do that. He said he understands it would be an ordinance to modify the terms of the Crosland Park loan to extend it through December, 2014.

Councilman Dewar stated then we are not interested in eliminating interest.

Councilman Ebner stated we could not eliminate interest. Mr. Pearce stated we can't eliminate the interest. Since we have the outstanding bond, we continue the terms and just move the payment date. Then we will have sufficient funds to pay it in full.

Councilman Ebner stated the other part is that we need to dedicate the funds from house sales to pay down the loan as we get the money. He said we had already discussed this with Aiken Corporation. He said that was what the Aiken Corporation money was for—to rehabilitate houses.

Mr. Pearce stated the hope would be that we would continue to sell homes so the money advanced from CPST III is not the full amount of the loan that is due now. It would not be the \$1.4 million, but a number less than that.

Councilman Dewar stated he thought they were being carried a little bit higher than we are going to be able to sell them for.

Mr. Pearce stated Council had already determined that. We will sell the houses in the \$70,000's.

Councilman Ebner stated that was his proposal. He asked if there were any comments. It is a matter of paying off the loan. Then you still have the money, and that money will start coming back in directly in December as you sell a house. That money could roll back over with no interest and no strings attached to it other than being spent on the Northside Revitalization.

Councilman Dewar asked where is the end line to Crosland Park. He asked if we were going to do 10 houses ad infinitum.

Mr. Pearce stated we can do what we have money to do. He said we would have to take a look to see how the sales go through the spring.

Councilman Dewar asked if we spent money on options that were not exercised. Mr. Pearce responded actually Aiken Corporation spent money on options, not the city. He said Aiken Corporation spent around \$143,000, and that was written off.

Councilman Dewar asked if the only houses in play are the ones that the city owns. Mr. Pearce stated the City of Aiken owns all the real estate in Crosland Park that was purchased.

Councilman Dewar stated he wanted to say, getting back to the audit, that he had handed out a piece of paper that covers the items over \$50,000 that were in the audit. He said the handout showed all the items that come out of the audit. It is the final budget and variances. He said there are a lot of variances, with a lot in Depreciation. He said if anyone wanted to discuss it or get more details, that could be done at the next meeting as this is first reading of the ordinance. He said he did not want to spring anything on everybody and ask that they make a decision.

Mr. Pearce stated we do have two readings. He did note that the city has to file the audit by the end of 2013 or we will be in danger of the State freezing our state funds.

Councilman Dewar asked that Council talk about it at the December 9 meeting. He said he thought there were a lot of items on the page that were way off in our budget estimate. He said that is semi-normal, but he thought Council might want to take a look at the information and discuss it at the next meeting.

Mr. Pearce stated we ended the year with unspent funds when you look at the whole budget. He said we have variances every year in the individual line items, but the end result was that we had unspent funds that Council voted to designate in August.

Councilman Dewar stated individual line items in and around themselves don't make a case for anything except that he only chose those individual line items that were \$50,000 higher or \$50,000 lower. These are the significant items in the budget. It does not mean there is anything wrong necessarily. It just means these are the variances. He said one can see we have a lot of depreciation that we thought we were going to charge at the beginning of the year, and there is close to \$1 million that we have not charged.

Councilman Merry pointed out what he thought might be a typing error under Residential Recycling Depreciation of \$626,695 budgeted. Councilman Dewar agreed it was an error.

Councilman Ebner thanked Council for letting him discuss the matter. He said we need to keep our finances in good shape and keep our credit rating. Mr. Pearce responded that Moody's rating is Aaa. It is a three a rating.

Mayor Cavanaugh called for a vote on the motion by Councilman Ebner, seconded by Councilwoman Price, that Council pass on first reading the ordinance to accept the FY 2012-13 audited financial statements. The motion was unanimously approved.

DUPONT LANDING – ORDINANCEDupont PointeTPN 120-14-15-002

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to modify the Development Agreement for Dupont Landing/Dupont Pointe.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO AMEND THE 2006 ORDINANCE TO MODIFY A
DEVELOPMENT AGREEMENT FOR CERTAIN PROPERTY LOCATED ON THE
SOUTH SIDE OF DUPONT DRIVE.

Mr. Pearce stated Second Baptist Church owns property North of Columbia Avenue and South of Dupont Drive that has been developed for residential use. That is also where a new Health Clinic is being constructed. We have been contacted by the principles of Dupont Landing, LLC. As part of the next phase for developing Dupont Landing, an investor has been located from Auburn, Alabama, the Bennett Group. Their construction contractor is Carter and Carter. There is a cooperative effort between Second Baptist, the Bennett Group, and another group to invest a total of \$8 million in residential housing. It is a little unusual because this was approved and received approval for tax credits. That is the incentive for the development over a 15 year period. It will be individual residences that are located on a single tract. The housing will be rental housing. As we understand the concept, if the tenants of the housing meet certain guidelines, maintain the property, don't have citations for violations of the restrictive covenants to the property, they will have an opportunity to purchase their home after the 15 year period and will have accumulated equity in the process. Council will recall that when the principles for the Dupont development first came to Council, which goes back 2007, there were certain terms that were agreed to by Council, which included covering the impact fees for sewer service and water service as well as a total sum of \$100,000 for a pond and storm drainage system. This new development will have 44 units rather than 40 units, with a total investment of \$8 million.

For Council consideration is first reading of an ordinance to approve an amended development agreement. He said a marked up version of the proposed changes was provided to Council for information.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the ordinance on first reading to modify the development agreement for Dupont Landing/Dupont Pointe.

Councilman Dewar asked who is Dupont Landing.

Mr. Pearce stated Harvey Ramseur is present and could answer questions.

Mr. Ramseur stated he was Executive Director of the Second Baptist Community Development Corporation and Managing Member of the Dupont Landing, LLC. He said Dupont Landing, LLC is a separate corporation with three partners—Second Baptist CDC; the Nehemiah Corporation, with Tom Faulkner, Vice President of the Nehemiah Corporation and Managing Member of the Dupont Landing, LLC; and Fred Bennett who is Director of the Bennett Group and a Managing Member of the Dupont Landing, LLC. He said there are three partners that represent the Dupont Landing, LLC.

Councilman Dewar asked who owned the land. Mr. Ramseur responded that Second Baptist Church owns the land, and Dupont Landing, LLC will own the land once they purchase it.

Councilman Dewar stated then the plans are to purchase the land from the church before construction begins. Mr. Ramseur responded that was correct.

Councilman Dewar stated the city has agreed in the past to provide the subsidy of \$100,000 for stormwater and the money for \$1,150 for the impact fees for sewer and

water. He asked the City Attorney if he were satisfied that this is a private organization and can do this.

Mr. Smith stated this was the investigation that was made years ago when this first came to City Council.

Councilman Dewar stated he just wanted to know if anything had changed because the players are changing.

Mr. Ramseur stated the significant change is that there is a new partner, which is the Bennett Group of Auburn, Alabama, and that they are moving from 40 houses to 44 houses, plus a community building and a play lot.

Councilwoman Diggs asked if his group owned the houses or developed the houses that are in the area now behind Aiken High School. Mr. Ramseur stated they did, and they are owned by the Second Baptist Community Development Corporation. Councilwoman Diggs stated she was a little concerned before hearing that they can build up equity for 15 years.

Mr. Ramseur stated the tax credit is a very difficult process and very competitive. The tax credits are available to the investors for a period of 15 years, a 15 year performance period. With this particular development there is a twist in the package so after year 13 the individuals who have been in those units will begin to receive training to make them ready for homeownership at the end of the 15th year. He said they have also built into the project and working with the investor group now to finalize the numbers. He said they are looking at a significant sum of money for a down payment assistance and a soft second. He said this will give them an opportunity to own the home later.

Councilman Dewar asked what the impact would be if someone went in with the best of intentions and in year 6 or 7 was not able to continue to make the payments. He asked if that would transfer to another owner.

Mr. Ramseur pointed out the units are rental units. He said however many years they have been in the unit, they will calculate how much they have available for a down payment.

Councilman Dewar stated then it is prorated depending on how many years they have been in the unit.

Mr. Pearce pointed out a person would have to have been in the unit for 15 years to accrue the equity.

Councilman Dewar stated a total of 15 years. So if someone comes out after 5 years, then whoever replaces them has to stay 15 years.

Councilman Homoki asked if a person leaves before 15 years do they lose their equity.

Mr. Ramseur stated at the end of the 15 year period the investors are out of this. So if a person is only in a unit for five years, at the end of the 15th year, if he or she is finishing 5 years, then whatever equity they have allowed for that individual to build up is what will transfer over to the homeownership.

Mr. Pearce stated the 15 year period is paid to the developer. The person would need to be in the house at the end of the 15 year tax credit period.

Councilman Dewar asked if a person lived in a unit for 5 years and left that would be it.

Mr. Pearce stated the developers would still have 10 years to go on their tax credit.

Councilman Dewar asked what happens to the house, as that is what he was getting at.

Mr. Pearce and Mr. Ramseur stated someone else would move in.

Councilman Dewar stated if someone else goes in and pays for 10 years, would they have equity.

Mr. Ramseur stated that would be 10 years of credit.

Councilman Dewar asked where the city gets the money for the \$1,150 subsidy and the \$100,000.

Mr. Peace stated the city has money designated in the city accounts for the Capital Project Sales Tax. He said the impact fees are set aside for Northside development.

Councilman Dewar asked if that was the same pot that we are taking money out for Crosland Park. Mr. Pearce stated that was right, and there should be enough for both projects. He said the total is \$150,600.

Councilman Ebner stated for clarification there was a resolution of City Council on December 9, 2009, and an ordinance in January, 2010, that changed some zoning. He asked if that had been reviewed to be sure this incorporates the proposed changes. He asked if they had been taken care of, as there was an issue that changed the zoning from RS-8 to PR. He asked if this had all been incorporated.

Mr. Pearce stated that had been run through the Planning Department, and it was his understanding that the zoning had been coordinated. Mr. Evans, Planning Director, confirmed it had been through the Planning Department.

Councilman Ebner pointed out the ordinance states that all ordinances or parts in conflict would be repealed so that would mean that these two would be overridden. He said he wanted to be sure, because the things that we did before are a help for what is being done now. He said he wanted to be sure they were covered. He said he thinks the project would be good, and if it works out we might get them 44 lots in Crosland Park.

Councilman Dewar asked when they would start building. Mr. Ramseur responded they would start as soon as they are able to close. He said there are some issues now related to easements, and utility easements that the legal staff is now working out. Once that is completed and the modifications approved by Council at the December 9, 2013, meeting they should be able to close. The builder says if they are in before the end of the year, we are looking at 11 months to completion.

Councilman Dewar asked what they expect the houses to sell for. Mr. Ramseur pointed out the houses are not for sale, as they are rentals. He said they don't know. At the end of the 15th year, they will talk about what they will sell for. Councilman Dewar stated he was concerned about the conflict with Crosland Park because we are serving the same community.

Councilwoman Price stated there is a tremendous need in the community for residential rental units in a clean, safe community. She said when you look at what Second Baptist has already done, clearly they have demonstrated that they can build homes safely and they still maintain their value over a long period of time. She said she wanted to thank a faith-based institution for looking at the needs of the community and doing something about it. She said they are providing affordable rental property to those families that need detached homes.

Councilman Merry asked what the rental rate would be for the homes. He asked if they would be available to all income levels. Mr. Ramseur responded the number had been set. They are affordable. A percentage of the units will be available for low income individuals. They are targeting a working class of city employees, middle class individuals who are in need of homes. At the upper end there will be a smaller group which would be at market rate. He said they are looking at a mixed income development that will serve everyone's needs.

Mr. Pearce stated it should not compete with the Crosland Park effort because Crosland Park is homeownership. He said this project will be more rental to be able to own at some point.

Councilman Dewar stated the project will compete if the rentals are much cheaper than the homeownership and people will have a new house. He felt it might compete in that regards.

Mr. Pearce stated he hoped not because if you purchase a house instead of making rental payment, you are actually building equity and owning immediately, not 15 years later.

Councilman Merry stated the project would be building equity immediately, the person just would not initiate a purchase for 15 years.

Mr. Pearce stated if a person buys a Crosland Park house they would have equity.

Councilman Merry stated a person would have equity in the units in this project too in 15 years. He said the credit starts accumulating from day one. They just don't get vested in it until the 15th year.

Mayor Cavanaugh called for a vote on the motion by Councilwoman Price, seconded by Councilwoman Diggs, that Council approve the ordinance on first reading to modify the development agreement for Dupont Landing/Dupont Pointe. The motion was unanimously approved.

BUDGET AMENDMENT – ORDINANCE

Accommodations Tax Funds

Soccer Field Lights

Weeks Center

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Fiscal Year 2013-14 budget to allow for the use of Accommodations Tax Revenue funds to pay for soccer field lights at the H. O. Weeks Center.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2013 AND ENDING JUNE 30, 2014.

Mr. Pearce stated our current city budget in the Athletics Division includes \$45,000 to replace lights at our H. O. Weeks Center Soccer Field on Whiskey Road. This amount was based on an estimate we had obtained from a professional electrical contracting firm.

We conducted a sealed bid opening on October 1, 2013. We received sealed bids from three vendors. The apparent lowest responsible bid was \$79,400 from G & G Electrical Services of North Augusta. We went back to the consulting engineers, West Electrical Contractors, to determine the reason for the difference in the price. It appears that they thought the soccer field was a standard sized soccer field. Our field is larger.

We have identified \$34,400 in Local Accommodations Tax Revenue reserve funds to offset the balance needed to fully fund this project. He said Council is aware that the city hosts many soccer tournaments throughout the year, which bring hundreds of people to the tournaments over the course of a year. He said we are asking for Council's approval for the additional money needed to complete the project in the amount of \$34,400.

For Council consideration is first reading of an ordinance to amend the Fiscal Year 2013-14 budget to allow for expenditure of Accommodations Tax Reserve Funds in order to fully fund soccer field lights at the H. O. Weeks Center.

Mayor Cavanaugh pointed out the difference in the projected amount and the bid is a big difference.

Councilman Dewar moved, seconded by Councilman Ebner, that Council pass on first reading an ordinance to amend the 2013-14 budget to allow for the expenditure of Accommodations Tax reserve funds in the amount of \$34,400 to fully fund the soccer field lights at the Weeks Center.

ANNEXATION – ORDINANCE

H. Douglas Atkins
601 Douglas Drive
TPN 122-06-05-015

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex 601 Douglas Drive 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 0.38 ACRES OF LAND OWNED BY DOUGLAS ATKINS AND LOCATED AT 601 DOUGLAS DRIVE AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. Pearce stated Mr. Douglas Atkins, the owner of property at 601 Douglas Drive, consisting of .38-acre, would like to annex his home into the city. The property is currently zoned RC, and we are recommending an RS-10 zone. The property is contiguous to the city by means of the homes on the opposite side of Douglas Drive. The applicant is interested in receiving city services. The Planning Commission considered this request at their November 12, 2013, meeting and unanimously recommended this annexation.

For City Council consideration is first reading of an ordinance to annex property at 601 Douglas Drive under the RS-10 zone.

Councilman Dewar moved, seconded by Councilwoman Price, that Council approve on first reading an ordinance to annex 601 Douglas Drive and zone it RS-10 and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

BUSINESS LICENSE - ORDINANCE

Amendment
Mobile Vendors
Debt to City

Mayor Cavanaugh stated ordinances had been prepared for Council's consideration to amend the Business License Code.

Mr. Pearce stated our Business License Official and Finance Department Director have recently determined that our Business License Code would benefit from two minor modifications in order to better enforce it.

Mr. Pearce read the title of the ordinances.

AN ORDINANCE REVISING CHAPTER 12 BUSINESSES ARTICLE II BUSINESS LICENSE REGARDING REGISTRATION OF MOBILE VENDORS.

Mr. Pearce stated this is an ordinance to better define the business operations our code covers. Specifically, it would more clearly state that mobile vendors serving food must have a business license, in addition to other permits, in order to sell food from carts or other types of mobile food service vehicles.

AN ORDINANCE REVISING CHAPTER 12 BUSINESSES ARTICLE II BUSINESS LICENSE BY REVISING SECTION 12-44 REGARDING FEES OWED TO THE CITY BY BUSINESS LICENSE APPLICANTS.

Mr. Pearce stated this ordinance proposes an amendment that will require applicants who apply for business licenses to have cleared all debts with the City of Aiken before any business license could be issued and do not owe the city any past fees or taxes.

Our City Solicitor, who will be prosecuting any violations under this revised code, has prepared these ordinances for Council review and a vote.

For Council consideration is first reading of ordinances to amend our City Business License Code.

Councilman Dewar stated he was confused about owing money to the city. He asked if we had had a problem that causes this matter to be an issue.

Mr. Pearce stated there had been problems with people applying for a business license, and there were outstanding bills owed to the city. It does not happen often, but happens enough that staff would like to have this enforcement mechanism added to the business license.

Councilman Dewar asked what kind of bills we are talking about. Mr. Pearce stated staff could get the numbers on that. He said it could be taxes, water bill, or city court bill. Mr. Pearce stated before the city would issue a business license, we would ask that the person have a paid up slate with the city.

Councilwoman Diggs moved, seconded by Councilman Ebner, that Council approve on first reading two ordinances amending the Business License Ordinance regarding mobile vendors serving food and business license applicants clearing up all debts owed to the city before a business license can be issued. The motion was unanimously approved.

GEM LAKES ESTATES EXTENSION ROADS

Huron

Moultrie

Mayor Cavanaugh stated there had been a request and proposed resolution from Councilmember Ebner regarding Huron and Moultrie Streets in Gem Lakes Estates Extension.

Councilman Ebner stated the request was a combination resolution, discussion items, and path forward.

Councilman Ebner stated Mr. Rich Decker sent an email out to Councilmembers, and he was asking that it be included in the minutes. He said he thought it meets the criteria for him to add that in the minutes. He said he wanted that clarified so it could be in the minutes of the November 25, 2013, meeting.

Councilman Ebner stated the intent is not to get in a wild discussion at this meeting. He said this goes back a number of years. He said it kind of came to a head with the Gem Lakes Extension streets. He said he started out working on the Woodside roads in 2006 when there were some issues there. He appeared before Council in 2007 and 2008 about some potential issues with the road installations. He asked for test reports. Our specifications incorporated as an ordinance in 1987 specifically require test reports that are typically done with federal, state, county, and city roads across the country. He said these specifications were adopted in 1987, but they go back to at least the turn of the 20th century. The Gem Lakes Extension is no different from the others. We have had W. E. Toole Engineering do an analysis of the roads. He gave us four methods to fix the roads. He recommended the method to dig the roads up and repair the backfill underneath and then overlay it. Item 3 was a little less. He said there were a number of meetings. The developer has proposed to do more patches. Mr. Pearce's memorandum in the agenda package follows that path of patching the roads to see if they hold. The issue still comes to meet the specifications that City Council has to vote on. He said he had presented it to City Council before. It specifically says you have to have the DHEC permits. You have to have all the permits in order. One thing it says is that you must have the test reports. It specifically says the test reports as per the specifications. He said Mr. Pearce, Mr. Grinton and Mr. Morris have requested these test reports. They have not been made

available, if they were ever made. Mr. Toole made a list of tests to be made and the city sent a letter to the developer asking for those tests to be made. If they were made, and he felt they had not been made, they have not been made available for people to see.

Councilman Ebner stated if we go down the path we are on, the developers will repair the roads, have a year's warranty, and then the city will see if they are still cracking. If they are, then we go on forward. There are all kinds of ASTM standards that apply to test that. He thought there was one that tests the surface cracks. It tells you how to look at a crack. He thought it was ASTM 6233. He said there are all kinds of things. He said in his working career he has had to deal with this with a number of plant managers. He said he was somewhat familiar with it. He said his concern is that if we go down the path we are on, and he will use the path the city has chosen to do, when it comes to Council, how Council will pass it because they don't have the test reports. He said he thought that was the key issue. This goes back to at least 1998 or 1999 when we stopped requesting the developers to take compaction tests on the roads. We have the results of that, as we have roads in different areas of the city failing. They are not all failing. Some places are good and other places are not so good. However, we have a number of miles of roads that are enough to be representative of about 20 to 22 miles that we can say we have a problem. He said what he is asking tonight is how do we move forward. This is a test case. What we do here is what will happen to some of the other roads that we have that are failing. He said from his Professional Engineer's point of view and from what he felt they had just taken the Oath of Office tonight, we have a city specification to meet. He said right now he does not see the things that would happen with the patches that are being done that will make them meet the specifications so City Council can approve the roads. He said Council has approved roads in the past up to 20 miles of roads where we did not have the test reports. He said he was looking for discussion from Council as to how we will get to the point of saying we know we have not tested the roads, but how are we going to certify the roads we have. They are already accepted, and we have them failing. There are certain procedures you can do to fix roads. We have a case here where we are at the cross roads literally to say we don't have the test reports. This developer was in the meetings in 2007 and 2008 that he attended, both Mr. Kisner and Mr. Gaul. They were well aware that we were having roads caving in because of other people who lived on his street and also in Stratford Hall and Spring Stone. Their roads were caving in, and there are others in the city that is suffering the same fault. He said this is really the test case. He asked what are we going to do. The path we have gone down is the chosen path we have been doing for 10 to 12 years.

Councilman Ebner stated he sees three ways. First we enforce the city specifications as they are today. We have to have the test reports to prove it. That is in writing so there is no question. Second, does it take a resolution or some action from Council to say we must do it or do it in good faith. Third, if we don't have the reports, they have to say they have them or don't have them. He did not know if this would be a Freedom of Information case. He asked if the developer for Gem Lakes Extension had ever written a letter to say that he does not have the reports. He said he did not think he had.

Mr. Pearce stated he did not have a letter from the developer. He said they had met with the developer and requested the reports repeatedly. Other than the reports that we have previously provided in other packets, we don't have test reports.

Councilman Ebner stated he felt we were down to the choice. We can go down the path that the developer suggested and the city said they could do, but when it comes to Council for approval of the roads, we will hit a road block. He said he would push the road block to say we have a problem with these roads which is the same as we had before. He said the discussion tonight is what are we going to do with this set of roads. He pointed out Council had postponed the acceptance of the road in South Park because they did not have test reports. He pointed out that Councilman Merry had stated there was the test of time. There are roads that will meet the test of time and there are roads that won't meet it. He said he felt Gem Lakes was the test case. He said he was looking for what do we do.

Councilwoman Price asked if we were discussing the resolution in terms of Gem Lakes or are we talking about all the roads in the City of Aiken.

Councilman Ebner stated once Council approves Gem Lakes he was going to leverage that across the city.

Councilwoman Price asked if we have the funds to do that. Mr. Pearce responded no.

Councilwoman Price stated she understood that Steve Kisner and Todd Gaul still own the roads in Gem Lakes Extension, and that the city had not accepted those roads in the city system. She said there is a report from W. R. Toole regarding the roads in terms of recommendations. She asked if the community is not satisfied with that. She asked if the citizens want the city to dig the roads up that the city does not own and put new roads in.

Councilman Ebner stated that is what Mr. Toole said also. Councilwoman Price pointed out the city does not own the roads. Mr. Pearce responded the city does not own the roads.

Councilman Ebner stated everything Councilwoman Price said is true. To go further our specifications as well as our Land Development Regulations say that the roads have to be built by specifications. If there is a private road in the city, it has to be a part of a POA. That section of Gem Lakes is not a POA. Even if it is a private road, it has to meet the specifications of the city, i.e. Woodside and Kalmia Landing.

Councilwoman Price pointed out Council has been discussing this for some time and all have been out in the community and seen the cracks in the roads. She said this subject is not going to go away. She felt it is time for Council to move off the dime and come together in a room and make a decision so Gem Lakes folks can understand what they are working with, and Council can move on from this subject. Otherwise it keeps coming up over and over again. After dealing with Gem Lakes we are dealing with other roads throughout the City of Aiken, and that is where we need to be going. She said there needs to be a full discussion. Some of the decisions that may come out of the meeting may be unpopular decisions that the residents may not be happy with or the City may have to move and pay some funds to bring these roads up to standard. She said there needs to be a meeting regarding the road repairs in Gem Lakes and a decision made.

Councilman Dewar stated it seemed to him that when we give the contractor permission to build a house that we somehow need to have the wherewithal to make sure the street is okay. What we have done is allow the houses to be built before the streets were finished. He said that may be the way it is always done because of the financial issue with the construction industry.

Councilwoman Price pointed out that we are talking about \$1.2 million to redo the roads. Mr. Pearce stated that was Mr. Toole's estimate.

Councilman Ebner made a statement to back up what Councilwoman Price said. This has been discussed with the Attorney General. He said he went to the Licensing and Labor Board about the quality of the roads. He said the next point for him is to go back to the Attorney General and LLR and ask how he goes about solving this question. He said they had already given him a path to go down. He said that was his item number 3. He said you have to meet the specifications, and we don't do that.

Mr. Pearce stated staff does have some information that may be beneficial to Council and hopefully address Councilwoman Price's concerns.

Mayor Cavanaugh stated he did not think Council would answer the question tonight. He said we have to be certain that their test reports in some way were not taken or not received. He said he did not know if that was the case yet. He said we are not sure or positive that the tests were not made.

Councilman Ebner stated Council takes an oath. He said he was a Professional Engineer and dealing with Professional Engineers on this job. He said that gets to be a real problem because they hold a South Carolina license for PEs. If they are withholding information, they could lose their license because the reports have been requested by a

governmental body. He said he was a PE in Texas and not South Carolina, but there is reciprocity between them. If a PE, which the testing company is and the designer has to be, withholds information that becomes a serious offense. He said that is a route he can go down, but he does not want to do that. He said the roads have to be fixed.

Mayor Cavanaugh stated we need to go back to step one. He felt all would agree that we want to do the right thing. There is no doubt about wanting to do the right thing. However, we have to be sure we have all the information—whether the tests were made or not made, whether they have not been delivered to the city, and if not why not, what do we do to get them, if some are being held for whatever reason. He felt once we get that information Council can make a decision.

Councilman Ebner stated that was number 1 and 2 on the list.

Councilman Homoki stated Councilwoman Price had said to fix the Gem Lakes Extension roads would be about \$1.2 million. Mr. Pearce stated that was one estimate by Mr. Toole and is not the only estimate. Councilman Homoki stated what really concerns him is that the city has probably accepted roads and he assumes that Woodside is already accepted. Mr. Pearce pointed out the Woodside roads have not been accepted, as they are owned by the Property Owners Association in Woodside and not owned by the City of Aiken. Councilman Homoki asked if there are other places where the city has accepted roads that we don't have test results. He asked what is the city's exposure. He pointed out we are talking about \$1.2 million. He said the cost could go up to \$6 to \$10 million for other roads.

Mr. Pearce stated he was not aware of any exposure at this time that the city has for any roadways.

Mayor Cavanaugh stated we have to look at each case as it comes. Councilman Ebner has some thoughts.

Councilman Ebner stated he started out in Woodside. He said you have to remember who was responsible for putting the roads in and inspecting all the roads and that was the city. He said he had looked at Ascot. He said we know there are no inspection reports for the road at South Park behind Fresh Market. He said there are no reports for several other areas. They are all within the 2000 time era. He said he was not suggesting that the city go rebuild every road, but he felt we need to do some simple testing of areas. He said that Councilman Merry had pointed out the test of time means a lot. However, the test of time in some places is not good. He said Gem Lakes is the test case and asked what is Council going to do.

Councilman Merry stated failures of a developer should not obligate the city to commit taxpayers' money. If there is a lack of records to testing, or if there are mistakes in construction or negligence on the part of the developer, that does not obligate Council to commit taxpayers money to improving the roads in his opinion. He said why would any developer ever take full responsibility for the roads if he knew the city would step in and redo them.

Mr. Pearce stated that is exactly what the Development Regulations state.

Councilman Homoki stated Mr. Pearce stated the city has no exposure. He asked about Ascot, and if Ascot had been accepted.

Mr. Pearce stated Ascot has some road cave ins because of water leaks that occurred there. It is true there is some question about whether compaction was properly done out there, but the reason the roads collapsed is that we had water leaks and the water scoured out the dirt so the asphalt did not have anything to sit on. We have worked with Mr. Toole on Ascot and determined the patching protocol. What we have run into with the way we were patching roads and the way we have seen patches done on roads, is that we have a water leak. We go out and dig a square and fix that leak and fill it up and go. Then there would be another problem. It was the method of patching. What we are doing now when we dig down we take a probe and probe into the sides to see if that leak

has actually spread. We are fixing the whole area, not just the square where we know the leak is. He said that is Ascot.

Mr. Pearce said let's go back to Gem Lakes Estates Extension. We had a meeting in Room 204 this past summer and talked about Gem Lakes Estates Extension. The developer was in the room. We made the developer aware that the meeting was going to be tonight and that discussion was going to take place on the Gem Lakes roads. He said the point is well taken that they still own the roads. When we experienced the failures in Gem Lakes and Mr. Grinton came on board with the Engineering and Utilities Department, he went out with our City Engineer and recommended a patching method for the roads in Gem Lakes on Huron and Moultrie. The majority of those patches are holding. He said that does not mean 100%. He said we are seeing what we have seen in Ascot—where the area that was patched was not the total area that needed to be patched. In other words, they did not probe into the side to see if that soft area extended. Mr. Grinton has met with the developers. The take away that staff had from our August worksession was that the developers were going to finish developing the lots they had which were approximately four. He said he thought construction had started on three lots, and an additional foundation has been put on the fourth lot. They are getting ready to build the fourth house. Staff is not aware of any of the house sales out there that have shown a downward trend in the sales price. They are either holding their own or increasing in price. He said the minutes of the August meeting were included in the agenda packet. He said what was stated in the August meeting is that the developer would have the opportunity to develop the lots and then begin the work on the roadways. He said Mr. Grinton had met with the developers. He has talked with Mr. Grinton, and they feel that this patching method that the city is using for our utilities has worked in places. There are areas on Moultrie that no patch work has been done--down by the detention area and very close to where the canopy was set up and the meeting held in the subdivision--no repair work has been done there because they wanted to finish developing the lots. The developers are finishing that up. They are meeting with the paving contractor. By the time of the next meeting on December 9, 2013, we should have a timeline in hand from the developers as far as the repairs they are going to do. There were at least four different approaches that Mr. Toole described. Each approach has a certain amount of risk to it. He pointed out as stated by Councilman Merry, you can use the test of time to tell whether the roads are going to fail or not. In South Park the city has no test reports. The developer died so we have no access to any materials and do not have the test reports. The other thing Mr. Grinton is working on with Mr. Toole is a protocol for accepting roads and the extent that testing will be done. He pointed out the roads in South Park are nine years old and with the exception of one area in the cul de sac that needed to be repaired, as it had sunken somewhat, the roads are in decent shape and very drivable. The roads in Gem Lakes Estates Extension have had problems, and we have all looked at them. The majority of the repairs that have been done continue to hold. The point with Gem Lakes is the take away from the summer and what the developer had done. He said the Mayor made the comment at the end of the meeting that now we know what we need to do. The take away that staff understands from the developer was that they were going to be able to finish developing the lots. They could repair the roads with the method that they have recommended. Then we would have a one year warranty period to see what happens to the roads over the course of that year.

Councilman Homoki stated his question goes back to what Councilman Ebner said that the developer is going "to do the best he can to repair the roads in Gem Lakes." However, that still does not provide us the test that we are looking for.

Mr. Pearce stated what we will have is the repair work done as the repair work has been done, with the exception that they will take the additional step and probe into the sides so we do not have the reoccurrence of a patch and then some months later the spider cracking continuing to go down the street. He said that is what the city is doing with our own utility repair. The other part of the solution to this is that for the older roads, we will have the protocol that will come to Council for approval before accepting roads that we have appropriate testing. Council was very clear when we met in the Council Chambers that, while Council would fund Mr. Toole conducting an investigation, that Council would not fund testing. He pointed out that testing was estimated at about \$30,000.

Council was very clear that they did not want to pay for testing. It was pointed out by Mayor Cavanaugh that that cost was up to the developer who owns the roads.

Councilman Merry pointed out that if any Councilmember feels that the roads don't meet city standards, or their own individual expectations, they don't have to vote to accept them. He said it is his understanding that the city is not obligated to accept the roads if they can't produce every piece of the existing protocol, that being the testing documents and other requirements we have. We don't have a recommendation for accepting the Gem Lakes Extension roads from the city's Engineering & Utilities Department. At present there is no obligation to accept the roads. Even after the patching process and doing the best they can, if a Councilmember feels in the absence of the testing documents, you can't accept the road, then you have the individual choice as a Councilmember not to vote for acceptance. He said he did not think there was an obligation of the city to accept the roads if they don't meet requirements. The deal the city makes with the developer is that if they meet our standards, the city will accept the roads. If they don't meet city standards, then they have not kept up their end of the deal.

Mr. Pearce stated we can have a discussion about the testing protocol. If we feel it is appropriate in certain cases, there is nothing to prevent the city from testing what is proposed to be dedicated.

Councilman Ebner stated we can't go down that path.

Councilman Homoki asked if the Engineering Department would recommend acceptance when they know there is no test performed. He said that does not make any sense.

Mr. Pearce stated that goes back to Councilman Merry's point. They are not going to make that recommendation. They are going to look at the condition of the roads. They are going to see whether there is any apparent problem with the roads after the warranty period. Again, in the South Park situation where the developer has died and the documents are gone, if we have the authority to do testing if that is what Council wants us to do, we can so we don't accept something that is not going to hold up over time.

Councilman Dewar stated he was not so worried about South Park as the road has passed the test of time in his mind. If it was going to be a problem, it would have been a problem a long time ago. He said we could use that as a test case for it. He said he appreciated what is being said about the contractor doing the repairs, but we also have all these people who have bought houses on these roads. It is really disconcerting for someone to come into our community and buy a house and not get a road that meets minimum. He felt that was a fault of the city. He said he felt we are trying to work with the developer in saying build the houses and then repair the roads. In this particular case it is sort of backfiring. He said it is not fair to people who have spent a lot of money for their houses and not have a smooth road.

Councilman Merry stated he agreed, but he felt to some degree we have addressed this. He said he thought it was Councilman Ebner's original idea with the Engineer of Record requirement so we are both requiring a third party inspection, but through that enforcing these standards a little better than what evidently was not going on before.

Councilman Ebner stated to remember the standards are the same whether you have an Engineer of Record or not.

Councilman Merry stated he knew the standards are no different, but with the Engineer of Record he is putting his name on the line and putting his self at risk and therefore, he would be verifying those documents that we previously were hoping our Engineering Department would be verifying. The Engineer of Record would be putting his neck on the line where he could be held liable in the case of a failure where homeowners have a bad road and new residences. He will not put himself at risk unless he knows they have passed the test and the documents exist. We may have already come up with a partial solution, and it may not be the only solution to this problem. He said he agrees that the Gem Lakes roads is a terrible situation, and he was very sympathetic with the people who live there. He said it may not always sound that way, but he is. He said he knows they

are in an untenable situation. The roads are bad. At the same time there are other taxpayers in the city that we have to think about as well. Just because a developer had problems with the roads doesn't obligate the city.

Councilman Dewar stated he understands. As far as the roads are concerned it will be a contest between the City of Aiken and the developer because he is required to build roads that meet our standards. He said he guesses the developer has an option of not asking the city to accept the roads, and he can just stay with what they have. He said it is a shame that we allow him to build and not have good roads.

Councilman Merry stated there are about four remediation options recommended by Toole in his report. The most extreme and probably the best one is the \$1.2 million resurfacing where everything is milled up, subgraded and reworked and repaved. However, there were other options as well that range from the most minimal repatching up to reworking. He said on the roads that the city has accepted and deeded to the City, the City holds itself to the patching standards. He said he has roads in his neighborhood that were paved this summer and have already been patched since then at city standards. They are kind of crummy now as you bounce around on them, but the city itself simply patches roads, may be brand new, but now they are patched. He said that the \$1.2 million solution may be more extreme than what the city itself does for roads that have already been deeded to the city.

Mayor Cavanaugh asked about the road he was referring to as a city road that has already been patched. Councilman Merry stated there are city roads that were repaved in his neighborhood. Mayor Cavanaugh stated he felt this was an important side issue. He said if that is the case then the city is not abiding by our specs.

Councilman Merry stated when there is a reason to cut into the road, our specs are that they can be patched without having to resurface everything. That is the city's process for road repair when you have to cut into the road. He said there was a problem on his street with a water or sewer line under the road that had to be cut into and the line repaired or replaced and then a patch. It is actually a long patch that runs the length of the road along with some cross patches and individual patches. He said it is his understanding that city specs, when there is a repair due to something under the road, is to patch not to mill it up, rework the subgrade and repave it which is what the \$1.2 million estimate was for on Mr. Toole's report for the Gem Lakes roads.

Mr. Pearce stated we would dig a hole. He said what we are finding helpful after our conversations with Mr. Toole is that you dig the hole, but you don't just fill the hole back, you probe and test to make sure that did not spread.

Councilman Ebner stated that is in city specifications on how to patch a hole in the road, and it specifically says how to do it and refers to the original specs about compaction. It also allows you to use 57 stone or granite dust, because usually there is muck in the hole anyway. That is there, but that is a cause effect mechanism. There was a water leak or some cave in from an old stump hole and you fix that part. However, we are talking about roads that have never gotten to that stage yet. Councilman Ebner stated he was not going to back off. He would do whatever it takes.

Councilwoman Price stated there were people who invested in new homes and thought they were investing in a new road that did not have any problems. Instead they have had many problems with the roads. She pointed out the city approved this development. She said the city does not own the roads, but the developer still owns the roads. They are caught in a catch 22 not knowing what to do. Because of all the patches they have to them the whole appearance looks unpleasant to them besides seeing more cracks appear. It is not a good situation.

Councilman Ebner stated the city is number 23 in line. He said we can go down the path that has been talked about. He said obviously he objected to the path when we had all the meetings just like he is doing now. He asked how will you get it past City Council when it comes up that the City Engineer can't say that he has all the documentation for City Council to approve the roads.

Councilman Homoki stated he should not come to Council in that case.

Mayor Cavanaugh stated it goes back to what he said—that we need to make sure that we do our research and try to find again where the test reports are, if they are somewhere.

Councilman Ebner stated when we write a 14 or 30 day letter, and they don't answer is that okay. Mayor Cavanaugh responded that is not okay. Councilman Ebner stated if we write a 30 day letter to a citizen that has a violation, it says we will take care of you if you don't fix it.

Mayor Cavanaugh stated there should be something that can be done if they don't respond properly and on time.

Councilman Merry stated he wanted to echo what the Mayor said in that this is not something Council can solve at this meeting. He said he would remind Council that at the worksession with the developer and the developer's contractor, that they explicitly asked if we do these patches per these specifications, specifications they asked if they were compliant with Mr. Grinton's expectations, will the city accept the roads. He said that was a worksession and no vote could be taken, but the implication from Council was that if they did those patches, and he did not tend to agree with it, compliant with Mr. Grinton's specifications for patches that the city would ultimately accept the deeding of the roads. He asked if he was wrong in his understanding.

Councilman Dewar stated he would like to see the minutes. Mr. Pearce responded they were attached to the agenda.

Councilman Ebner stated he was not wrong about their statement, but they did not agree to it. There were several of us who expressed against it, and they could not vote on it.

Councilman Merry stated he could be wrong about the agreement, but his impression was that there was an agreement.

Mr. Pearce stated when we left the worksession there was no vote, and there could not be a vote. The impression staff was under is that we were going to work with the developer and would monitor the patching and see what method they used. There was nothing that said at the end of the year that we would automatically recommend dedication of the roads into the city system. He said that is something we discussed with the developers. Councilman Merry stated he was glad to hear that, because he felt the developer has that expectation. Mr. Pearce stated that was not staff's position, and he wanted to be clear on that. There is patching that has been done according to the approach that Mr. Grinton recommended and the patches have held. What we want to do is for the patches that have not held is to find out if they actually probed into the sides to find out if they addressed the whole problem. He said he hears Council's concerns. We will keep Council's concerns in mind as we march forward with the project. All the roads are drivable. Those roads are cracking. Council had a presentation from Mr. Toole saying that he suspects kaolin, and if kaolin is involved there is a certain method that he would recommend, which is the most expensive method. He said Council has heard from the developers that there is an acceptable patching method and that is their intent to go forward and try which is a method that can be used, but it has risks involved. Mr. Toole has been clear about that in his presentations. All of that is something that staff will keep in mind as we go forward in trying to get these roads repaired so they don't continue to have problems.

Councilman Ebner stated it was made explicitly clear at every meeting that he and others were looking for the test reports. He said the sad part is that he saw test wells put in the road, and he had asked for those test well reports, and they did not come forward. He said somebody had to drill them in and put white pipe in them and label them with a label to go back and measure the water levels. He said we are getting into an area that we are not getting information that exists. He said that is not a good position for anybody to be in, whether it is the city or the developer.

Mr. Pearce stated the city does not have any test reports and do not have any more than what has already been presented to Council.

Mayor Cavanaugh stated we need to make every effort possible to go back again to whoever we can and try to get those test reports if they have been made. Mr. Pearce stated staff has gone to the testing firm's offices and requested them. Council has what staff received from them.

Mayor Cavanaugh stated they had given us something, but is that all there is. He said if we don't have all the tests, where are they. He said that gets to the question as to whether they were made or if they are withholding them for some reason and why would they do that.

Councilman Ebner stated we need to set a deadline to do this because the next step is we have to solve this. If they are not being forthcoming, that is a real problem. He said we need to set a date to get all this done.

Mayor Cavanaugh stated we have a plan that we agreed to. Councilman Ebner stated we don't have an agreement to that plan, at least not from him. He said we would have to vote on it in a Council meeting, if you have an agreement for a plan. That is the path we are going down, but there is not an agreement to accept the roads.

Mr. Pearce stated there is not an agreement to accept the roads. Mayor Cavanaugh stated he did not say that there was an agreement to accept the roads. He asked Councilman Ebner if he thought he meant that. Councilman Ebner stated this leads into that because that is going down a path.

Mayor Cavanaugh stated he did not like these things that lead into things. He said Council never said they would accept the roads. Councilman Ebner stated the developer sat in the room and he watched him, and he thinks he has a solution that the city is going to accept.

Mayor Cavanaugh stated that may be the case, but he does not have a comment from the city that we said we would accept them. Mr. Pearce responded no. Councilman Ebner stated he does not have that. Mayor Cavanaugh stated it stands to be proven whether or not that concept is such that we could approve the roads.

Councilman Ebner asked what kind of date we could set to bring this to a solution.

Mr. Pearce stated we will have a timeline from the developer at the December 9, 2013, meeting.

Councilman Homoki stated he wanted to review it one more time. He said Mr. Pearce seems to feel that we have a new way of actually testing roads that we are responsible for already such as Ascot. He asked who would be doing testing on Gem Lakes Extension roads. He asked if they would do the testing for the patching. He felt they should because if they don't do the testing, would we ever accept the Gem Lakes Extension roads. He asked are we saying that if we don't have the testing that we are not going to accept the roads.

Mr. Pearce stated Council would have to have a recommendation from staff before it would come before Council for a vote. Councilman Homoki said staff can't go against the rules. Mr. Pearce stated he was not proposing that. He said he had tried to say at tonight's meeting what was said at the worksession that the developer had an approach to the roads. We are aware of the problems out there. We are also aware of patching that has been done that has held. It has not cracked again. The question becomes where we have seen the cracking how that method was done, what method will be done, and what the road condition will be like a year after the work has been done. He said that is why there can't be an answer tonight. He said we can have a timeline from the developer to hold them to at the December 9, 2013, meeting.

Councilman Ebner said hold them to the specifications. If staff sends Council a recommendation to take the roads without test reports, he finds that hard to believe that they would go against our own rules.

Mr. Pearce stated he was not proposing that we do that. He said he just wanted to be clear for the record so everybody understands where staff is coming from.

See memo from Rich Decker attached to the minutes as requested by Councilman Ebner.

PROCUREMENT POLICY

Professional Services

Sitec, LLC

Splash Pad Bid Protest

Mayor Cavanaugh stated a petition had been received from SITEC, LLC regarding city procurement of professional services and splash pad bid protest.

City Manager Richard Pearce stated that the November 17, 2013, letter from Mr. McGhee and Councilman Dewar asked that it be placed on the agenda. Mr. Pearce stated he provided Council with a memo and some background materials, but he feels City Council needs to hear from Mr. McGhee first, since it is his petition.

Mr. William McGhee, 217 Fairfield Street NE, stated he was born in Aiken over 70 years ago at his parents' home at the corner of Richland Avenue and Fairfield Street. He stated he prepared eight handouts for the Councilmembers. He stated his grandmother purchased his mother's home in early 1934, and at the age of 102 his mother is still living at 221 Fairfield Street. He spent many early years in Aiken before his parents relocated to Philadelphia, but they maintained ownership of their home. He spent many happy summer months in Aiken, having been sent down south to his grandparents. He and his parents returned permanently to Aiken in 1985. He purchased the property at 217 Fairfield Street from a distant relative and restored a rundown, abandoned house that had been empty for 10 years. He offered this as a background as an indication of how much Aiken has been a part of his life and in his blood. He loves Aiken and his neighborhood.

He stated he feels he should be treated fairly and honorably in dealing with the City Procurement Office. He stated he has concluded, and feels it is essential, that he bring these current issues before City Council, because he does not think his company is being treated properly by the Procurement Department, and the processes have not been business-like and fair. He does not expect any more. He would have missed the Council meeting this evening if it had not been for his friend that notified him that the item was on the agenda for tonight. He was not notified by anybody in the City Administration Office of this item being on the agenda.

Mr. McGhee stated the contract award for the splash pad installation is an example of this treatment. He filed a protest of this award. He said he had included a copy of the timeline of activities, starting with his email of June 25 in the information handed out to Council. The Assistant City Manager responded, upholding the award decision and directed him to the City Manager as part of the appeal process. Having no response to his appeal letter, he wrote the City Manager on July 29 requesting a reply. The City Manager replied on the 31st of July saying there had been some delays, but action would be taken the first week in August. After having no reply, Mr. McGhee said he filed a Freedom of Information Request on August 8 – still nothing. He requested a meeting to discuss the issue on the 24th of September with the City Manager. The City Manager's Office provided him electronic links to get the information he had requested on the 24th of September. He was told this information had been forwarded before, but Mr. McGhee stated he had no record of receiving the first response. Mr. McGhee stated they met on November 4 and the letter that was sent to Mayor Cavanaugh was a follow-up to what transpired at that meeting.

Mr. McGhee stated he feels there are three reasons that the award denial had no basis.

1. The denial request states that there was a lack of capacity as evidence of his email that he sent requesting clarification of specifications of the two associated projects – the splash pad installation and the restrooms – and requested the bid opening delay. The bid documents clearly invite all and any inquiries concerning the understanding of product specifications. An indication there may have been other misinterpretations of the specifications is the spread of the bids from a low of \$47,000 up to \$126,000 from five bidders. Additionally, the award recommendation from the Contract Project Manager stated in his recommendation letter that he was satisfied that “SITEC demonstrated a good working knowledge of the engineering drawings. He understands the importance of building the slab and walkway as engineered.” He stated a copy of this letter is in the packet he provided to City Council.
2. The bid price was nowhere near the estimated cost. He stated he requested that he be provided those estimated costs and to date, they have not been able to find this estimation in the documents provided by the City. He stated in the letter from the Project Manager recommendation for the award, it states “While SITEC’s bid was some \$12,000 less than the next nearest bid, Mr. McGhee demonstrated line by line the cost work covered.” On June 19, the City Engineer supported that recommendation and stated that, “After review of the bids, I recommend we accept the low bid from SITEC.”
3. Past work performance with SITEC has difficulties we prefer to avoid on this work. He stated he understands there was some question about the paint at the Railroad Depot. He said he had asked for an explanation of difficulties in his appeal letter, and expected to find this situation in response to the Freedom of Information request, which he did not. He stated it was not until his meeting on November 4 that these difficulties were identified. He had never been warned or notified, nor had any progress payment been delayed or refused because of any quality issues. He stated when they were working on the project the City, the architect, and the paint supplier identified the process that was called for, an oil base primer coat and two latex finishing coats. The group decided that specification was not acceptable, and they recommended that they change the specs and provide only one base coat of paint stain and, because of that change, the Engineering Department reduced that line item by approximately \$3,000 because they said there was less labor, even though the material costs were much higher.

Councilwoman Price asked what Mr. McGhee’s bid was for the project. He responded his overall bid was \$98,000. She asked if it was reduced. Mr. McGhee stated it was a line item bid. One line item was paint. The paint bid was \$7,000. She asked if he was told to use one coat. Mr. McGhee stated he was told to use one coat of stain paint. She asked if the documentation was in the information given to City Council.

Councilwoman Diggs asked if Mr. McGhee did as he was instructed. Mr. McGhee responded that absolutely he did. He said there was some discussion about using the oil based paint for the outside, and they said it would be better to use the stain versus the paint.

Councilwoman Price asked about the quality of the lumber.

Mr. McGhee stated he did not have time to research that, but he used what was required and specified. He said he could provide Council with the document showing what was requested. One of the things that they requested, but was denied, was that they use the engineered lumber for the supports, the rafters.

Councilwoman Price asked if the City denied it. Mr. McGhee replied yes.

Councilwoman Gail Diggs stated that one of the documents says that “On June 13, five bids were received on the referenced project and after review of the bids I recommend we accept the low bid of SITEC in the amount of \$47,427.” She asked if his bid was actually accepted for the project for the splash pad.

Mr. McGhee stated yes, that was the low bid, and he was the low bid.

Councilwoman Diggs asked Mr. McGhee if his bid was accepted and recommended, but awarded to someone else. She asked if he was given an explanation.

Mr. McGhee stated that was correct. He said he was given the three reasons he previously stated. Those were that they did not have the capacity, they did not understand the specs, and they had poor work issues.

Councilwoman Price asked Mr. McGhee when he did the Depot project, did anyone call him back to let him know there was a problem with the work, and that he needed to come look at his work because it was not to perfection.

Mr. McGhee stated there was never any discussion about quality issues. He was never asked to make any corrections. They were paid on time with progress payments, and it was inspected and accepted by the Engineering Department. He stated it was a big surprise when he asked in June what the difficulties were, and he found out in November that the difficulties were the paint and the possible use of some improper lumber. He stated that can be investigated, but he has proof of what was purchased and that it was to specifications.

Councilwoman Price stated she did not know how to accept the information based on what they witnessed this past week.

Mayor Fred Cavanaugh stated if you look at it now, you can see some things about it. He said the paint looks like dirty spots in a lot of places. He stated he is not saying it was not a good job to start with, and he does not know what happened. He stated it appears it was recommended to Mr. McGhee that it was okay to use what he used.

Councilwoman Price added that Mr. McGhee has documentation to cover that.

Mr. McGhee stated the price was reduced because of the reduced labor. Instead of putting three coats of paint, they put one so they were reduced in the price because of that--putting one coat versus two.

Councilwoman Price asked City Manager Pearce if \$3,000 was taken away from Mr. McGhee because he did not use a primer.

Mr. Pearce stated the information he had from Mr. Morris was that this proposal was made to go to a one coat system. A primer and two coats were specified, and the application did not work. There is mold and lumber splitting. He stated in his conversation with Mr. Morris, he is not aware of the City specifying wood that would split and crack to the degree that this wood has cracked in just two years time. The City's concern is the longevity of the structure. He stated he has photographs for the benefit of Council if Council would like to see them. It is interesting because on the shed project, SITEC was a lower bid than Stewart Contractors. The recommendation was the apparent low bidder, but the Procurement Agent is the one that looked at the full record to see how the bid should be awarded, and there is a basis for the Purchasing Agent for the City to make the recommendation that he did. He stated on the Railroad Depot Roof Project, on the first bid amount, SITEC bid \$98,000, as Mr. McGhee said, and the next lower bidder was actually MSI Construction. They bid about \$116,000. He stated on the Splash Pad Project, Stewart Builders bid about \$59,000 and SITEC bid \$47,400. The City does not look at just the dollar amount of the bid. The Procurement Code is used to determine the lowest responsible bidder. There are ten different criteria that are used. The Assistant City Manager, as the Purchasing Agent, would use these criteria. It is the capacity to do the project, the past experience of working on projects, and the quality of the work done. It is spelled out and is on Page 153 and 154 of the agenda packet. He stated as the Purchasing Agent looked at this, and with the pre-construction estimate at \$60,000, when there is a bid that is so much lower, and particularly there was a bid that was so much lower than other bidders on the shed roof, that was a natural comparison to determine

capacity and to determine how to ultimately make the award because it is not just price; it is quality of work.

Councilwoman Price stated her concern for this situation with Mr. McGhee is that there were obviously some things the City saw that were obvious, and she wondered why the city did not ask him to come back and show him some of the things the City was not pleased with.

Mr. Pearce stated that is what they looked at their meeting a few weeks ago. He said that is why they met at the Depot a couple of weeks ago. They met onsite to look at the shed. They walked around and looked at the condition of that project.

Mayor Cavanaugh stated he was bothered by the letter stating the award was approved. He said the letter was from Larry Morris. He said McDonald Law, however, was the one that said it would be okay.

Mr. Pearce stated when the request came in, what was specified was not done. There was a single-coat system, and since there was not as much material purchased, Mr. Morris recommended the adjustment in price. Mr. Pearce stated he has not had the opportunity to sit with Mr. McGhee and discuss the email with him. He stated he would have been happy to discuss that when they met a few weeks ago and could have followed up with Mr. Morris. He stated the City's impression they had after there was a request from SITEC that they delay the bid opening, which the City was not interested in doing, there was also a comment that the City received that this would be the first splash park that SITEC had ever done. There was a serious question about the capacity to do the project, and there were certainly questions about the quality of the project that could be done and that is why the award was made as it was, still within budget. He stated this was after the Purchasing Agent had applied the criteria for determining the lowest responsible bidder, not just the lowest price. Mr. Pearce stated this was discussed at the meeting at the Railroad Depot.

Councilwoman Diggs asked if it would have made a difference with the railroad project if Mr. McGhee had been able to use the wood that he recommended.

Mr. Pearce stated he did not have an answer for that, but he could certainly find out.

Councilman Ebner stated normally when he votes on a project to be done, he goes and looks at it. At the time that this paint system was changed, he talked to Mr. Wells and to Mr. Morris and asked why they were going away from a three coat system to a one coat system. The specification was a three coat system, and it was going on treated wood. He stated to his knowledge, Mr. McGhee bought the wood per the specifications. It is on the paper. He asked Mr. McGhee how soon he painted the wood after it was standing. Councilman Ebner stated it was probably only about two or three months. He stated it should have not been painted for about six to eight months. The oil base would probably not have peeled up because the oil would have absorbed more of the water, where the water base does not. Mr. Wells is a certified industrial coating specialist. He said the question is whether he should have been allowed to change, and he did not know. He stated if water based paint is put on treated wood that is not dry, it will peel off and even oil, to a certain extent.

Mr. Pearce stated it has not peeled as much as it has discolored and faded.

Councilman Ebner stated that is the sap coming through. The reason for the primer behind the oil is a sealer. He stated he is doing the same thing at the Gaston Livery Stable with treated wood. Let it dry for three to six months, seal it, and then paint it. Otherwise it will not stay on. He stated he did not think it is a quality job of the installation. It may be the specifications to put it on, and Mr. Wells may need to be talked to about that. There was the same problem with the railroad cars. He stated he has used the same paint on the sheds for Crosland Park, and where the students spilled it on the treated wood, which is underneath, it peels right off. It was only a couple of weeks old. He stated to his knowledge, he bought the right wood. He asked Council to look at

the sketch that was handed out about the truss supports. When the design first came out, that was a piece of wood. This was before Mr. McGhee was involved. Councilman Ebner said he went to Mr. Morris and told him the roof had a lift load on it. They forgot to calculate the lift. The roof is an airplane wing. It went from a small foundation to one 5' square 18" thick and a steel support to hold the roof down. He stated the other thing on the drawings is to use nails. He stated he went to Mr. Morris and told him he could use all the nails in the world and the wood will peel off, so he went to screws. Mr. McGhee stated he thought they learned a lot on that project. Councilman Ebner stated Mr. Morris should not have learned a lot because he has used a lot of treated wood. He said there are some things behind this. He stated he knew the history because he drove by and looked at it every couple of weeks. The design has some things to be improved. Part of the drip strip that was done around the top, we had to go back with another contractor and put a drip strip on that was not on the design. In his professional opinion and per specifications, the wood Mr. McGhee bought was by specifications. He asked where the wood was purchased.

Mr. McGhee stated he thought it was purchased from Maner.

Councilman Ebner stated that Maner was a reputable company in town. He stated this was his position, and he thought we could go back and ask some of these questions and you could substantiate his and Mr. McGhee's story. He said the paint peeled off. He said in his opinion the paint was going to peel off. He said it probably peeled off where there are knots, as knots will bleed. He said they will bleed even on oil based paint, but just won't bleed as bad. He said that is one opinion on the matter, and he could substantiate it. Mayor Cavanaugh asked Councilman Ebner if it should have been six months before doing the painting. Councilman Ebner said it should have been six months, but it was only about three months. He said there are some things here, and he feels the City needs to be careful saying it was Mr. McGhee's quality of work that is the reason for the paint peeling off. He suggested that Mr. Wells look at the situation. He said he had Mr. Wells look at the railroad cars for which he furnished the paint. He said what happened is that they did not sand blast it enough, and it peeled off in about six months.

Mayor Cavanaugh asked if there were any specifications on the railroad shed that might say to wait an X number of months before painting on certain wood.

Mr. Pearce stated there were specifications, and they could be pulled.

Councilman Ebner stated an industrial expert recommended the painting, so he feels the City needs to talk to him. He is well aware of treated wood, and how it has to be painted. He stated the instructions on the paint can will tell you how long to wait to paint.

Mayor Cavanaugh asked Mr. McGhee if he was aware that a certain amount of time had to pass before painting, and did he follow the correct instructions.

Mr. McGhee stated he did not wait six months to paint. He stated he was not told to wait six months.

Mr. Pearce stated for Council's benefit, the City has not barred SITEC from bidding on other jobs, and they have participated, sat in on bid meetings, and made bids on other projects. It was this particular project, that after City review, there were serious questions about the ability of SITEC to execute this particular project. There is no bias or prejudice on any other bids they want to make.

Councilwoman Price stated Mr. McGhee confronted her regarding his concern based on the quality that was expressed in terms of the workmanship and whether this would have an impact on future bidding based on comments that have been made possibly with other folks, regarding our concerns with this project.

Mr. Pearce stated he has not made any comments to anyone. He spoke with Mr. McGhee and had an email exchange, and at the time he made this protest, it was also the time he broke his shoulder. That is why there is the July letter saying he would be glad to sit

down with him. He did send the requested information to him under his Freedom of Information Request, which was hundreds of pages of documents, and was very clear in the email transmissions that he was happy to sit down and discuss them, once he had a chance to look at them. Mr. Pearce stated when he was aware that Mr. McGhee did not have the links, he made sure he received them and they sat down and discussed them when he was ready to do so. He stated he has tried to meet Mr. McGhee's schedule. He stated, as far as the meeting tonight, he takes personal responsibility that Mr. McGhee did not know about the meeting. Mr. Pearce said his understanding was that Mr. McGhee was notified. He said if that was not the case, he would take responsibility for that. He said if Mr. McGhee had not attended the meeting, it would have been carried over to the December 9 meeting so he could present his concerns. He stated he would look into the other issues and address all of Council's concerns.

Councilmember Dewar left the meeting ill, at 9:20 p.m.

Mr. McGhee stated, to follow up on Councilwoman Price's point, there was another bid that seemed unusual too. He was the low bidder on the parking lot surfacing at the repurposed building. The specifications and sealed bid called for a three inch layer, and he was the low bidder for three inches. The City Engineer called back and asked what the price would be if they went to two inches. He wanted a verbal quote. Mr. McGhee said he gave them a verbal quote. It turned out that his verbal quote was higher than the other verbal quote, so they did not get that award.

Mr. Pearce stated that was in August of 2012. It did not have anything to do with the thickness, but it was the method for the pervious pavement. The City was not happy with the proposed method by SITEC, and that is why the other bidder was recommended. He stated it is not guaranteed the lowest bidder will get the bid, but all of the factors are considered in determining the award.

Mr. McGhee asked when specifications are changed, is it normal that the project is not rebid.

Mr. Pearce stated he did not have an answer for that question.

Councilwoman Diggs asked Mr. McGhee how long his company had been in existence. Mr. McGhee stated over six years.

Councilwoman Diggs asked Mr. McGhee how many projects he has been awarded with the city of Aiken. Mr. McGhee stated one project, which was the railroad project.

Mayor Cavanaugh stated Mr. McGhee asked a question, and he felt we need to see if we have an answer for it. He said Mr. McGhee's question was that when the city changes specs, do we go back out and ask for a rebid. He said he worked in purchasing for Dupont for a long time, and they went out for rebids. He stated it seems the proper thing to do.

Assistant City Manager Stuart Bedenbaugh stated in this particular case we did not go out for a rebid for the pervious paving parking lot.

Mayor Cavanaugh asked Mr. Bedenbaugh to explain why they did not rebid.

Mr. Bedenbaugh stated he did not review the file in this case, but as he recalls, the bids exceeded the budget allowed for the parking lot, so Engineering went back and examined the specifications and looked at negotiating with the contractors and altering the specs.

Mr. Pearce stated it was his understanding that both contractors were spoken to, and that it was not the thickness, but the method on how they proposed to actually install the pervious pavement. He stated if we cannot answer that tonight, we can get the answer for him.

Mayor Cavanaugh stated he feels there are a few holes in the policy. He is not sure the right thing is being done all the time.

Mr. Pearce stated he wants to make sure the right thing is done all the time and that is why there is a competitive bidding process. He said Council has been given information today that Mr. McGhee has presented to him for the first time. Mr. Pearce requested that he have time to review the information with staff and bring a response back to Mr. McGhee and certainly we are willing to discuss it some more.

Mayor Cavanaugh stated he is not convicting anyone; he just wanted to understand it all. He asked Mr. McGhee if he looked at the specifications for the shed. He stated the instructions were on the can for the painting, from what he understood.

Mr. McGhee stated he would have to go back and look.

Councilmember Ebner stated Mr. McGhee was directed to do what he did. He stated he followed the job, and he put it on at the recommendation of the City and the supplier.

Mr. Pearce stated he was not sure about that, and would like an opportunity to look into it. He stated he was hearing about things for the first time tonight.

Councilmember Ebner stated he knows that government procedures are more strict than commercial, but if this was done over the telephone, we need to examine ourselves because anytime specifications are changed, there will be a complaint about it, if it is not in writing. He stated it is different from saying you bid 1,000 square feet, and I want to do 1,100 square feet. There is a price per square foot to do it. He said to check into that, and he felt it would be advisable to take a look at that.

Mr. Pearce stated if he had known about it before tonight, it would have been discussed, and he assured Council the discussion would be had in the morning.

Councilman Steve Homoki asked how many bidders were involved in the bidding for the parking lot. He also asked if both of them were verbally contacted. He thought there were more than two bidders, and he wanted to know if the City talked to the top two bidders to come up with a new bid.

Mr. Pearce stated there were two bidders. He stated he would have to look into the matter to see if both were contacted verbally and let him know.

Councilwoman Price stated the process is very important to everyone. No matter who gets the bid, it is important that everyone feel they had a fair chance to get the job. If Mr. McGhee did not follow the process, then he should understand that there were requirements there that he did not follow, and he screwed up the job. If the City told him what to do, then there are some concerns with us. She feels the City needs to look at what they are doing and ensure transparency, and that every bidder should feel they were treated fairly in bidding for the job.

Mr. McGhee stated he followed the recommendation from the City Engineer as far as changing the paint system specification. In that change it did not say to wait six months to paint the wood. There was nothing in the letter that was sent to them approving the change saying to delay the painting for six months because you are using the stain on treated wood. There was a deadline of 75 to 90 days to finish the project.

Mayor Cavanaugh stated if the deadline was 75 to 90 days, then they could not have waited six months to paint.

Councilman Ebner stated that is why we are sitting here talking about it today. He said Mr. Wells is the expert.

Mr. Pearce assured Mayor Cavanaugh that he would follow up on these issues.

Mr. McGhee stated the next issue deals with the competitive process. He came before Council about a year ago, questioning the awarding of construction contracts under the professional services clause in the City Code. It is his feeling that there should be no exemption to going out and getting competitive proposals on construction type projects. He thinks it is an impropriety to use this process as it does not allow fair and equal competition on construction projects that do not qualify or have any special uniqueness about them. It is his recommendation that the current Professional Service construction contracts the City has be ended and rescind this and change the code to be similar to what North Augusta and Charleston have and that the City receive competitive proposals and award contracts based on competitive evaluation of those proposals. He is speaking primarily with the contracts the City has in Crosland Park for the renovation of those homes and also the contract agreement for the new building downtown on Laurens Street.

Mayor Cavanaugh stated there is a City policy on this.

Mr. Pearce stated the City policy on Professional Services is on Page 157 of the agenda packet. He stated there is nothing in the Code that prevents the City from asking for a request for proposal or request for qualifications, which the City does from time to time. He stated that was done for the Audit.

Mayor Cavanaugh stated this process is out there for a lot of companies and other cities. It is not that something was done wrong. He asked why the City does it as we do. He stated he would like to take a look at North Augusta's policy. He asked Mr. Pearce to get some information on it and provide it to Council.

Mr. Pearce stated North Augusta has a similar exemption that Aiken has.

Mr. McGhee stated in reviewing some of the documentation he was provided under the two agreements, it does not seem like the taxpayers are getting the best benefit of the cost breaks that might be incurred if some of those projects were put out on a competitive type deal.

Mr. Pearce stated there was a construction manager for the Administration and Finance Building but the sub-contractors and the work that was done were bid out according to the procurement policy. The construction manager was hired as a licensed professional to do the work and also had the licensure in the asbestos abatement that had to be done for the building. As he went through the different items that needed to be done in the building, he did competitively bid those, as the construction manager for that project.

Councilwoman Price asked if the construction manager hired the sub-contractors, and if that was Mr. Walker. Mr. Pearce stated that was correct.

Councilwoman Price asked who is being used for Crosland Park. Mr. Pearce stated Mr. Walker renovated the houses in Crosland Park. In Edgewood, there was Merritus Homes, and there were different contractors in Toole Hill as well.

Mr. Pearce stated he would provide Council with a report on Professional Services for other cities at the Horizons Retreat or the Council meeting in December or January.

Mayor Cavanaugh asked about the subject of looking over the Procurement Policies. He stated it bothers him that if specs are changed that we would not go back to everyone to be fair.

Mr. Pearce stated that would be an appropriate subject for the Horizons Retreat so he will have a chance to thoroughly research it.

Mr. McGhee thanked City Council for their attention.

MEETING SCHEDULEDecember, 2013

Mayor Cavanaugh stated Council needed to consider the meeting schedule for December, 2013.

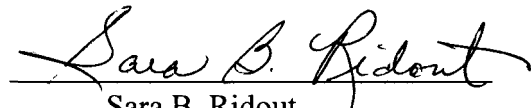
Mr. Pearce stated typically each December City Council holds only one meeting to allow staff to spend time with their families during the holiday season. We are requesting that City Council again consider having one Council meeting on Monday, December 9, 2013. If a second meeting becomes necessary, we could organize a special called meeting. If the meeting was held it would be December 23, which would be the Monday before Christmas.

For City Council consideration, is cancellation of the second City Council meeting which would be December 23, 2013.

Councilman Ebner moved, seconded by Councilwoman Diggs that Council cancel the second meeting for December 23, 2013. The motion was unanimously approved.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:36 P.M.


Sara B. Ridout
City Clerk

Reggie Ebner

From: "Rich" <wolfiejunk@gmail.com>
Date: Monday, November 25, 2013 2:23 PM
To: "Richard Pearce" <RPearce@CityofAikenSC.gov>; <aedlund@wfxg.com>; "Bridges, Ashley E." <ABridges@wjbf.com>; <ddewar@cityofaikensc.gov>; <gaildiggs@yahoo.com>; <shomoki@cityofaikensc.gov>; <pmerry@cityofaikensc.gov>; <lprice@cityofaikensc.gov>; <fcavanaugh@cityofaikensc.gov>; <rtoole@wrtoole.com>
Attach: Road Issue Letter to Mr. Pearce 20131125.doc
Subject: Letter to Mr. Richard Pearce Aiken City Manager re: Gem Lakes Roads

Please see the attached Word document regarding Gem Lakes Roads.

Thank you, Rich

11/25/2013

Dear Mr. Pearce,

Regarding the Gem Lakes Extension, please find below a list of City of Aiken Regulations that have not been followed along with notes made by myself and others.

This is followed by a list of statements made by yourself and other which were obtained from City of Aiken Council Minutes and Audio Recordings.

Finally you will find my letter to you regarding the road conditions as the Gem Lakes Extension.

City of Aiken Regulations	Violation	Notes For Future Action
Section 3.2.2 of the City of Aiken Subdivision Regulations state: "Final plat approval may only be requested after 1) all improvements have been completed or 2) a performance bond has been posted in conformance with the requirements set forth in Article VI."	The City of Aiken failed to require that there be a performance bond in place for the Gem Lakes Extension Development. There is nothing in the regulations that would allow for final plat approval without it. The City of Aiken was in violation of City of Aiken regulations when it issued final plat approval without requiring a performance guarantee. In addition, the City of Aiken may be in violation of state law.	February 25, 2013, Mr. Pearce wrote, "A performance bond was not provided in this development since no lot sales were proposed prior to the installation of infrastructure." Nowhere in the code as shown at the left does a requirement of "lot sales" exist. In the council meeting request for annexation of the land into the City of Aiken, it was stated that 64 lots with homes may be built, one can safely assume that these were to be offered for sale.
Section 6.1 of the City of Aiken Subdivision Regulations specify: "Final plat approval shall not be granted until a performance guarantee conforming to the requirements set forth below guaranteeing the completion of the required improvements is accepted by the Secretary of the Planning Commission."		<i>At its regular meeting on May 15, the Planning Commission (Aiken) considered a request for annexation of several lots totaling 29.7 acres located south of Gem Lakes with RS-15 zoning. <u>The contract purchaser, Steve Kisner, who is authorized to represent the owner in this application, has plans to build a subdivision with detached single-family dwellings and is interested in the benefits of being in the City, especially water and sanitary sewer. A theoretical maximum of 64 lots could be created assuming that 25% of the land is used for streets and utilities; however, the actual number would almost certainly be less because of the shape of the tract, and the applicant has indicated that he intends to develop 30-40 lots.</u></i>
Section 5.1.11 of the City of Aiken Subdivision Regulations specify: "Performance bonds or other surety shall include an amount sufficient to guarantee completion of all improvements required in Article V."		South Carolina Code on surety guarantees follows: <i>South Carolina Code of Laws Unannotated SECTION 6-29-1180.</i> <i>Surety bond for completion of site improvements.</i> <i>In circumstances where the land development regulations adopted pursuant to this chapter require the installation and approval of site improvements prior to</i>

		<i>approval of the land development plan or subdivision plat for recording in the office of the county official whose duty it is to accept and record the instruments, the developer may be permitted to post a surety bond, certified check, or other instrument readily convertible to cash. The surety must be in an amount equal to at least one hundred twenty-five percent of the cost of the improvement. This surety must be in favor of the local government to ensure that, in the event of default by the developer, funds will be used to install the required improvements at the expense of the developer.</i>
Section 5.2.3 of the City of Aiken Subdivision Regulations state: "Private roads shall not be permitted except as set forth in Section 5.6.8 or in a planned unit development as set forth in the Zoning Ordinance. Otherwise each lot shall front on an approved public road."	The roads in the Gem Lakes Extension do not, and did not, qualify as being allowed to be private. Nor were they submitted to City Council as being intended to be private. The City of Aiken failed to enforce City of Aiken regulations that specify that no private roads are allowed in the City of Aiken and has failed to incorporate Gem Lakes Extension roads into the city road inventory.	The roads were not contemplated to be private or exempted to be so. However, even had they been the roads would still have had to been constructed to City of Aiken specifications, per Section 5.6.9 of the City of Aiken Subdivision Regulations which state: "A private road shall be built in conformance with the construction standards and specifications of the City.
Section 6.2.3 of the City of Aiken Subdivision Regulations state, "If the improvements are not completed within two years of the acceptance of the guarantee, the applicant will be considered in default with the fund insured through the performance guarantee made available to the City for completion of improvements."	Since the City of Aiken failed to enforce sections 5.1.11 and 6.1 of the City of Aiken Subdivision Regulations there was no performance bond that could be made available to City of Aiken. None the less, that date of the Final Plat approval should have been the date when the clock began and the improvements are still not complete. The City of Aiken is in violation of City of Aiken regulations for not finding the developer in default and for not taking over the roads, albeit with no performance bond to collect on.	
Section 6.2.6 of the City of Aiken Subdivision Regulations state that, "Upon completion and approval by the City Engineer of all required improvements and their connections to public systems, the applicant may request release of the performance guarantee by sending a letter to the Secretary."	The roads were never approved by the City Engineer, therefore no release of the performance bond could have, or should have, been contemplated. Once again, as the City of Aiken failed to enforce sections 5.1.11 and 6.1 of the City of Aiken Subdivision Regulations there was no performance bond that could be made available to City of	

	Aiken. None the less, the City of Aiken is in violation of City of Aiken regulations for not enforcing sections 5.1.11 and 6.1 of the City of Aiken Subdivision Regulations that make it mandatory to have a performance bond in place and for not collecting the proceeds from it.	
Section 6.3.4 of the City of Aiken Subdivision Regulations state that, "The maintenance guarantee shall be released one year after posting unless the City Engineer determines that there is work to be corrected in which case the applicant shall be given 90 days to complete the work. If the work is not completed, the proceeds from the guarantee shall be used by the City for such work."	City of Aiken employees failed, in clear violation of section 6.3.4 of the City of Aiken Subdivision Regulations, in their obligation to capture the maintenance guarantee. The maintenance letter of credit was released without the City Engineer determining that the work was complete and to specifications. The City of Aiken is in violation of City of Aiken regulations.	In an April 22, 2013 email, Mr. Pearce wrote, "While there is no formal, written policy regarding determining a reputable developer, our Engineering and Utilities Director has worked for the City for over two and a half decades and has become quite familiar with the developers who will do what they say they will do." And so, the bond was released!

Please find listed below public conversations regarding the Moultrie and Huron Roads within the Gem Lakes development.

- I have arranged what was said based on the dates they were said and unless in quotations have in the interest of brevity paraphrased.
- The full texts of the minutes are available from City of Aiken Council minutes and/or audio recordings.
- All underlining was done by me to highlight essential points.
- No texts are from memory alone.

February 25, 2013 Council Meeting Minutes	<ol style="list-style-type: none"> 1) Mr. Pearce states that <u>CSRA Engineering is looking into ways to keep the water out of the roadway.</u> 2) Mr. Pearce states that <u>an engineering firm will have to look at this occurrence of water in the roadway and that water is the common enemy.</u> 3) Mr. Steve Kisner states that <u>they have continued to try to determine the cause of the road failures</u> and that <u>French drains which were installed do not seem effective.</u> <ol style="list-style-type: none"> a) <i>In an email dated April 22, 2013, Mr. Pearce states, "We have not found any documents in our files related to French drain installations along these roads."</i> 4) Mr. Kisner states that <u>the solution would not be to stop the water but to install a product, road base or structure that can stand up to the situation.</u> 5) <u>Mayor Cavanaugh states that unless a way is found to stop the water then how can we be sure there will not be failures in the future?</u> Mr. Kisner agrees and says that <u>since there were failures from the beginning that he would not ever be able to give a guarantee that there will not be future failures.</u>
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	<p>6) Mr. Pearce states that there was time for a punch list to be completed but that <u>the water problem is something that an engineering firm will look at.</u></p> <p>7) Mayor Cavanaugh stated <u>it had to be determined what is wrong before it can be fixed and he wanted an independent, comprehensive engineering study to be done.</u></p> <p>8) Mr. Larry Morris the City of Aiken Engineer stated that <u>at the August, 2012, meeting with residents that he did not know what the real problem was.</u> They knew there was <u>water coming out of the pavement in several areas, but did not know why.</u></p> <p>9) Mr. Larry Morris stated that water was found in borings that were 3 feet deep. That <u>a methodology to solve the problem needed to be found based on the root cause.</u> That they (CSRA) needed to do whatever testing is needed.</p> <p>10) Mr. Larry Morris stated that <u>when some clays get wet they swell and then when traffic goes over them the soil will go down and then it will rebound which will cause cracking on roads.</u> (Comment: This area is known to have an abundance of a clay called kaolin. Longtime residents recall kaolite mining that went on in the area.)</p> <p>11) Mr. Larry Morris stated he was <u>not sure how far down we would have to go to solve the problem, and that is a reason why testing of the soil is important.</u> That he was interested in the transmissivity (<i>the rate which groundwater flows horizontally through an aquifer</i>) of the soil and <u>whether it will take water and move it through to other places, will it act like a wick in an oil lamp and actually pull water up underneath the pavement so no matter what you do there is a problem. He said we need to know that and what type soil is there. It takes different testing.</u></p> <p>12) Mr. Morris stated the sonar testing had <u>definitely identified ground water throughout the area.</u></p> <p>13) Mr. Morris stated that in Gem Lakes <u>there is a road base and paving problem.</u></p> <p>14) Mr. Larry Morris stated that <u>if the bonds are used for repairs that the city would then be the owner of the road or whatever the bond covers.</u></p> <p>15) Mr. Pearce pointed out that <u>the City had an independent engineering firm on a city retainer.</u></p> <p>16) Mr. Pearce stated that <u>the testing would be done in the spring so that the work could be done in the summer.</u></p> <p>17) Councilman Dewar asked if they could not test until the rainy season was over and <u>Mr. Pearce stated they are already testing.</u></p>
April 22, 2013 Council Meeting minutes	<p>1) Mr. Pearce states that in his initial remarks that he thought <u>everybody in the room knows there is a water problem in Gem Lakes Estates Extension.</u></p> <p>2) Mr. Tilden Hilderbrand states that the <u>failure of the pavement in the subdivision appear to be water.</u> That water appears to have migrated into the base material and subgrade.</p>

- 3) Mr. Hilderbrand states that installed French drains when observed on the discharge end inside the storm structures don't appear to be carrying a lot of water.
- 4) Mr. Hilderbrand states that the plan of attack is to extend a section of the gravel in the French drain system up to the surface so we can see if any surface water might be coming over the top of the existing French drains and getting out to the edge of the pavement and under the pavement.
- 5) Mr. Reggie Ebner stated that he had watched the roads since 2007 and had seen pumping or squeezing of the water was seen when they were getting ready to pave.
- 6) Mr. Reggie Ebner stated that as soon as you leave the 25 year old sections that the issues start. Mr. Hilderbrand agreed that he saw no patching in the old section and that this is worth observation.
- 7) Mr. Toole, from W. R. Toole Engineering, states, that the origin of the moisture and the future impact of the moisture on the road has not been determined and to evaluate this he would propose fairly comprehensive testing to determine what materials was under the roads to include areas on the older roads. He said he is proposing 10 feet as the depth to be tested.
- 8) Mr. Toole states that testing beyond what was normal was being proposed and that this was prudent because of the large number of existing patches.
- 9) Mr. Toole stated that full depth asphalt patches may work or may fail five years down the road depending on the soil profile under them.
- 10) Mayor Cavanaugh asked Mr. Toole if he already had his plan organized and on paper with step by step of what they would do. Mr. Toole answered, "Yes sir, yes sir."
- 11) Mr. Toole stated that his area of expertise is in failures of bituminous road materials (asphalt).
- 12) Mayor Cavanaugh stated that we know that Mr. Toole is going to do a certain amount of testing, boring, etc.
- 13) Mayor Cavanaugh states that Mr. Toole would be making his own data, but he will also be looking at what the developer has proposed. He asked Mr. Toole if that was his understanding and Mr. Toole responded yes.
- 14) Mr. Williams asked Mr. Toole if he would expect the roads (Moultrie and Huron) to deteriorate so quickly based on the traffic incurred. Mr. Toole stated that he would not.
- 15) Mr. Toole stated once authorization is received for the subsurface investigation that it would take 5-6 weeks to complete, soil borings, asphalt coring and the lab work needed to exam these.
- 16) Mayor Cavanaugh pointed out that the city's independent investigator Mr. Toole has a plan and stated that he should have a report in about six weeks from the date the contract is signed. He said the contract still has to be signed, but as far as he is concerned the study will go forward.

	<p>17) Mr. Pearce states that <u>the question is what is the water that is causing the problem and what is the best method to fix that. He further stated that residents had a legitimate concern to have the methods independently verified and that the city is pursuing that.</u></p> <p>18) Councilwoman Price stated <u>the city does not want to see continuous patch work. We want to see a new road. She also stated that the roads are about 50% patched in less than four years and she feels that is unacceptable in her opinion.</u></p> <p>19) Mr. Pearce asked Mr. Toole if he had a cost for the proposal for his work and an estimate for the testing. Mr. Toole gave out figures totaling \$38,621 as noted by Mr. Pearce.</p> <p>20) Councilman Dewar stated he thought the developer was going to do the core samples and boring and the city was going to hire Mr. Toole to evaluate the results of the testing to make sure Council agrees with the course of action to fix the roads. Mr. Pearce stated he thought that was fair.</p> <p>21) Councilman Ebner pointed out that as stated in earlier discussion, the professional services being requested are for the city. <u>The specifications which had been discussed earlier do say that the city can require the developer to do more tests.</u> He said that would be up to the city to enforce that. He said that is in the specifications, and the city has the right to enforce that. He said the city can require other tests if there are issues, and that was discussed at the beginning of the meeting.</p> <p>22) Councilman Dewar asked if there was a date for Mr. Toole's report. <u>Mr. Pearce stated Mr. Toole had stated the report would be ready in about six weeks after the contract is signed.</u> Mr. Pearce pointed out that the matter regarding the payment issue has to be settled before the contract is signed. <u>Mr. Pearce stated he would like to have a conversation with the developer regarding payment to Mr. Toole for the core and boring services before setting a date for the next meeting.</u></p>
August 27, 2013 Aiken City Council Working Session	<p>1) Mr. Pearce states that, Since the February meeting, staff had a meeting in Gem Lakes Extension on Moultrie Drive. At that meeting a report was received from Rick Toole of W. R. Toole Engineers on their study and findings and recommendations about a path forward as far as <u>taking the existing conditions in Gem Lakes Estate Extension and testing to see what the situation with the roads would be and then determine a path forward.</u></p> <p>2) Mr. Kisner said they are getting the last four lots cleared ahead of time so the excessive road traffic with the excavation equipment and dump trucks would be out of the area before they do the final repairs.</p> <p>3) Mr. Gaul stated the builder said <u>it would take him about two weeks for clearing and grading the remaining lots,</u> including lots 34, 1, 2, and 3, leaving only lot 21, which will be a basement house.</p> <p>4) Mr. Pearce said staff, Council and residents had met with Mr. Toole at the Moultrie site. <u>Mr. Toole talked about testing methods.</u></p> <p>5) Mr. Brittan, the paving contractor, stated the plan is that they have to finish moving the dirt, then make patches with full depth placement, which is above and beyond the city requirements to make the patches. <i>(Comment: Full depth</i></p>

patches, some of which are failing, do not exceed requirements since less than that have not meet city requirements and repeatedly failed.)

- 6) Mr. Brittian pointed out nobody had any idea there was water there. He stated that may have been the reason the property was not developed in the beginning. He said many years ago they might have known that was a wet area and did not develop the area. *(Comment: "That nobody had any idea that there was water present, followed by the statement that the original developers may have known, is telling. If the original developers knew then it was not the case that nobody had any idea about. But in any case, it is incumbent on the developer to ascertain site conditions and have in place a design that addresses those conditions. Ignorance of the conditions is no excuse to address them. Expensive remediation is the responsibility of the developer and not to be borne by the City or its residents.)*
- 7) Mr. Brittian pointed out the roads are better than they were a year ago. *(Comment: please see accompanying pictures."*
- 8) Mr. Brittain said they are by no means saying everything they have done is right. He said they realize they had some water issues. He said they are trying to get to the point where if they do all the patching and do the crack filling the roads can be accepted.
- 9) Mr. Brittian stated he did not think it was necessarily the city, but the subdivision itself has had a lot of unwanted attention and it is getting a lot of influence from the neighbors. *(Comment: I would respectfully suggest to Mr. Brittain that might wish to limit his comments to his area of expertise. (A signed petition by all but two of the homeowners, all citizens of Aiken, is a bit more than the "influence" of the neighbors).)*
- 10) Mr. Ebner said to date the testing as required in the specifications has not been produced, at least through the official channels to Council.
- 11) Councilman Dewar said the problem is basic; the city staff is supposed to have these inspection records. They are the ones in charge of the process to make sure the road is built properly. He said he guesses where we find ourselves is that city staff can't prove that they inspected roads; they can't produce the inspection records. He said that is a quandary for the city. He said the issue for Council and the reason it is important is that if Council accepts a bad road, we are assuming that the city will be responsible for maintaining the roads.
- 12) Mayor Cavanaugh asked why there would be another punch list unless there is a failure during the year. Councilman Dewar responded there has been nothing but a history of failure on the roads.
- 13) Councilman Dewar stated even if we do that, and we accept the roads we would be violating city procedures because the City Engineer does not have the inspection records to look at.
- 14) Councilman Dewar stated he felt all Council has a right to expect that when staff asks Council to accept roads that we have followed our procedures and that we are doing what is in the best interest of the taxpayers. That is to insure that we are accepting roads that have been built according to standards and that, as best as we can determine, we will take them and we will be responsible for maintaining them beyond that. He said we have not gotten to that point with these roads. He said he did not know what is wrong with the roads.

	<p>15) Mr. Gaul stated there could be a different engineer and a different opinion. He said 12 months after the punch list is completed there could be another list because there is another set of eyes. They might have walked down the left side one time and down the right side the next time. <i>(Comment: No matter which side of the road is walked down, both sides must meet City of Aiken specifications both now and in 12 months.)</i></p> <p>16) Mr. Kisner stated he wished neither the cracks nor the patches were there, but the city standards do not address aesthetics. <u>He said they might be willing to address that if we have assurance that the city will accept the roads based on city standards.</u></p> <p>17) Councilwoman Price asked when Mr. Kisner would begin to do the 56 items on the punch list. Mr. Kisner responded probably in September.</p> <p>18) Mr. Brittian stated when they start they want to move in one time which will be after the dirt mover clears the lots. <u>If the dirt mover gets his work done in two weeks, then he will be there in two weeks to proceed with his work</u> if he is given permission by the owners.</p> <p>19) Councilwoman Price pointed out that Mr. Kisner had stated in good faith that he will look at that (aesthetics) at the time. At this time his concern is to get rid of the cracks and eliminate that concern. <u>She said Mr. Kisner had said it was not off the table that he would address the aesthetics. Mr. Kisner stated it was not off the table,</u> but he had heard in one of the many City Council meetings that he attended that it was discussed among Council that they might put some seal coat or provide some assistance financially to address the aesthetics to satisfy the homeowners. He said maybe it is something they could do together.</p> <p>20) He said he, Mr. Gaul and Mr. Brittian have to discuss the matter, but <u>he felt it was safe to say that they will go forward with the punch list in good faith.</u></p> <p>21) Mr. Brittian said he thought the only way they would know the issues with water before starting would have been to perform boring tests or something like that when the development was started. He said no developer does that. <i>(Comment: The developer and his engineer are responsible to insure that the planned infrastructure development will not fail and will meet City of Aiken specifications. Not conducting bore testing is a business decision.)</i></p>
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Mr. Pearce, at the August 27th City Council Working Session, citizens and the council were informed by the developers that repairs to the roads in the Gem Lakes Extension development would occur as soon as site work had been completed on the remaining lots. Mr. Gaul stated, "The builder had said that it would take about two weeks to clear and grade the remaining lots." Seven weeks later, on October 14th, I informed you via email that the site work had long since been completed and that construction of homes on the lots was well underway, but that no repairs had been made to the roads as had been agreed upon. I included pictures to show that this was in fact the case and asked when the repair work would proceed. The response provided by you in your October 16th email was that you were following up with the developers. Some six weeks later there has been no word from you on your follow up, and it has been sixteen weeks since we were told that work would proceed in two weeks. There are still no repairs being made to the roads.

The delays in finding the cause of the road's failures, implementation of repairs that will remedy said causes, as well as the resurfacing of the road to a standard that will insure that homeowners investments are not depreciated are interminable and unacceptable, but will be addressable in the future I am sure.

Petitions by citizens presented in good faith have essentially not been honored nor acted upon by the City of Aiken as regards finding the causes of the road's failures; even later requests by citizens, the City Council and the Mayor for testing, to determine a cause have gone unfulfilled. At the April 22nd City of Aiken Council Meeting, citizens and elected officials were presented with a plan forward that would be based on testing and evaluation being performed by Mr. Toole of Toole Engineering. Citizens, the Mayor, and Council Members voiced their approval of the plan; yet, in August we were told that patching and crack filling are the proposed solution, with testing for causality missing entirely.

In your memo for the upcoming November 25th council meeting you state, "The current method proposed by the developers to repair these roads is included in the Toole Report as an acceptable method to repair these roads." That is not correct! Mr. Toole's report states, "Without the results of the subsurface investigation and testing program, remediation methodologies associated with the second alternative can only be assumed." Mr. Tool, further states, "The approach for remediation proposed by the developer is a traditional and accepted method for asphalt pavement repair; however, the extent of problems experienced in the subdivision creates a complex situation that may warrant additional considerations. It should also be noted that some of the recently completed asphalt patches by the developer have subsequently failed." More failures are present now and I would gladly walk the roads with Mr. Toole if he so desires, this, so that he could see that the roads and patches are degraded from when he last saw them, proving his words correct.

Mr. Tool is on record as stating that without testing we do not know what the problem is and he shows concern whether the developer proposed methods will suffice, noting that some patches have already failed. This is a far cry from Mr. Tool saying that more patching is an acceptable remedial action as you alleged.

You also fail in your memo to note that at the citizen's street meeting where Mr. Toole presented his findings, which presided over by you, that it was you who stood up and declared that the developers had found a firm to do the testing that was less expensive than the one Mr. Toole had recommended. So at that time we were assured that testing was in the works. None to my knowledge was ever done.

From the date of the council meeting where Mr. Toole was engaged and charged by the Mayor and Council with doing testing, until the street meeting in August, there was an understanding that there would be testing. Magically, at the August Council Working Session, testing was missing from the discussions and no clear explanations given as to why. Testing gone, the rush was on to go forward with additional patching, without knowledge of what is causing the failures and how to prevent additional failures, and with further patching noted by the consultant engineer as a methodology that can only be "assumed."

Mr. Pearce, the City of Aiken had an obligation to its citizens to insure that acceptable financial infrastructure guarantees were in place and that the City would follow code and call in those guarantees if the infrastructure could not pass muster. The proceeds to be used to repair deficient roads that the City would first need to take over. No less than the City Engineer, who you stated had been with the City for two and a half decades and who you held up as an authority, is on record as stating that this is way it works. Yet, it was not done. And, by municipal regulation there can be no private roads as now exist in Gem Lakes, thus it was the city's obligation to insure that this situation was not allowed to happen, but years after the roads were first paved this scenario has happened and the citizens grow weary, but not cowed by the delays.

There have been numerous discussions on what has been termed "aesthetics". The City of Aiken code is rife with the mention of aesthetics. In fact "aesthetics" is mentioned no less than 632 times in the municipal record, while "beauty" is mentioned 681 times and "pleasing" over 1800 times. Clearly, the City of Aiken is concerned on the record about appearances and for good reason. For aesthetics is not an abstract concept when it comes to city designs or implementation for a number of reasons, one of them being the financial wellbeing of the City and its

inhabitants. Attempts to buttonhole the appearance of Gem Lakes Extension roads as simply an aesthetic issue, which is not to be considered when accepting roads into the City system, are not credible.

Just as a neighborhood filled with abandoned cars or one with homes that are not maintained detracts from investment in the city and from the values of properties in those areas, so too do unsightly roads diminish the investments both current and future within the City of Aiken. Worse, if how roads appear are not part of the inspection process then one must suppose that contractors are free to produce roads that are universally ugly, which the City will accept, no matter how bad the appearance. That, contractors are on notice that anything they produce will be accepted by the City with open arms. Is that not what is being foisted upon the citizens of Gem Lakes, and why? And is that City of Aiken policy?

While one can, and should, expect an occasional repair to a road surface that is decades old, a road that is brand new yet now over 50% in patches, with more being contemplated without so much as an explanation as to why there are already so many patches, is what we are talking about. How about 60% or 80% or 90% in patches, is that acceptable? Because, since the causes of the deterioration have neither been identified nor corrected, and based on the continuing breaking up of Moultrie and Huron drives, this may be exactly what occurs in the future.

Mr. Kisner has stated that he wished neither the cracks nor the patches were there, but the city standards do not address aesthetics. He said they might be willing to address that if we have assurance that the city will accept the roads based on city standards. Later in the same meeting, Councilwoman Price stated, "I think Steve (Kisner) uttered early on in good faith that we'll look at that (aesthetics) at the time that this happens. Right now your concern is let's get rid of the cracks, let's make sure that we eliminate that concern. And, based on what's there it's not off the table, that you would not address that (aesthetics). Mr. Kisner said, "No, it's not off the table. And, I also heard in one of the many City Council meetings that I attended that it was discussed by Council that they may would put a seal coat or something or an assistance financially to make, to address the esthetics, to satisfy the homeowners."

Since Mr. Kisner has on multiple occasions, in multiple venues, been asked to address the aesthetics of the road and in each and every case has publicly stated that this was not an option or that it was not on the table, I am far from relieved that now he, "... might be willing to address that...." Not, "he will, "he would" or "he is willing to put that in writing," but rather, he "might" be willing to do something in that regard. Nor is it comforting that the City Council and Mayor "may" at some point look at this issue in the future. What needs stating are concrete, actionable statements of intent, not amorphous, ambivalent statements that afterwards can be referred back to as, "Well, I never exactly did say that I would take care of it, I only said that I might be willing to, and now I am not willing to do anything."

I have attached a document to this letter which clarifies the issues with the roads. It makes several conclusions that are relevant to the situation at hand. Hopefully you and your staff will have the time to look it over. Should you need, then I have more technical documents available. The bottom line in all documents is always that one must first identify the problem before one can fix anything and that in cases of severe alligator or crocodile pavement distress that more than patching will be needed to insure the integrity of the road.

You will also note that there are clearly issues with the roads and that the one thing which can answer why those issues exist might be the testing prior to the application of a macadam surface that were allegedly done when the road was first constructed. However, since there are no tests on file as required by code we can only speculate as to whether they were done, if they were done properly or what they could tell us about the current conditions. Again, where are those reports?

The path forward is now, as it always has been:

1. To perform proper testing to determine the causes of the road's failures;
2. To have evaluations and recommendations made by an independent engineer as to how to remediate the causes, whether they be from moisture, soil types, construction failings, or other causes;
3. To repair the road based on the recommendations in order to solve the continuing problems once and for all;

4. To resurface the roads to insure that roads in a ten million dollar development do not detract from citizen's investments. Aesthetically displeasing excessive patching on new roads in a new development cannot be detached from financial considerations, the latter a function of the former.
5. To have the City, if the contractor is unwilling to effect proper remedies, take over the roads and properly repair them, since, having failed to enforce City of Aiken Regulations, it is the City's obligation to properly address the concerns of the citizenry in order to redress its past failings.

One final question regarding council discussions on these roads. At least one councilmember recused himself from prior voting on the road issues. It is my understanding that not only must someone recuse themselves from voting but also from the discussion and arguments for and against an issue. Please correct me if I am incorrect in that.

Thank you for your continued assistance in finding a resolution to these issues

Very truly yours,

Richard Decker

Attachments:

Wikipedia Article on Crocodile cracking

From Wikipedia, the free encyclopedia
Jump to: [navigation](#), [search](#)

Crocodile cracking, also called fatigue cracking or alligator cracking, is a common type of distress in asphalt pavement. It is usually studied under the transportation section of civil engineering. Crocodile cracking is characterized by interconnecting or interlaced cracking in the asphalt layer resembling the hide of a crocodile.^[1] Cell sizes can vary in size up to 300 millimetres (12 in) across, but are typically less than 150 millimetres (5.9 in) across. Crocodile cracking is generally a loading failure,^[1] but numerous factors can contribute to it. It is often a sign of sub-base failure, poor drainage, or repeated over-loadings. It is important to prevent crocodile cracking, and repair as soon as possible, as advanced cases can be very costly to repair and can lead to formation of potholes or premature pavement failure.

Moderate to severe *crocodile cracking*.

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Causes

Crocodile cracking is an asphalt pavement distress most often instigated by failure of the surface due to traffic loading. However, crocodile cracking can be greatly influenced by environmental and other effects while traffic loading remains the direct cause. Frequently, overloading happens because the base or subbase inadequately support the surface layer and subsequently cannot handle loads that it would normally endure.^[2] There are many ways that the subbase or base can be weakened.

Poor drainage in the road bed is a frequent cause of this degradation of the base or subgrade.^[1] A heavy spring thaw, similarly to poor drainage, can weaken the base course, leading to crocodile cracking.^[1]

Stripping or raveling is another possible cause of crocodile cracking. Stripping occurs when poor adhesion between asphalt and aggregate allows the aggregate at the surface to dislodge. If left uncorrected, this reduces the thickness of the pavement, reducing the affected portion's ability to carry its designed loading.^[1] This can cause crocodile cracking to develop rapidly, as overloading will happen with loads of less magnitude or frequency.

Edge cracking is the formation of crescent-shaped cracks near the edge of a road.^[2] It is caused by lack of support of the road edge, sometimes due to poorly drained or weak shoulders. If left untreated, additional cracks will form until it resembles crocodile cracking.^[4] Like wheel-path crocodile cracking, poor drainage is a main cause of edge cracking, as it weakens the base, which hastens the deterioration of the pavement.^[2] Water ponding (a build up of water which can also be called puddling) happens more frequently near the edge than in the center of the road path, as roads are usually sloped to prevent in-lane ponding. This leads to excess moisture in the shoulders and subbase at the road edge. Edge cracking differs from crocodile cracking in that the cracks form from the top down, where crocodile cracks usually start at the bottom and propagate to the surface.

Development

Crocodile cracking manifests itself initially as longitudinal cracking (cracks along the direction of the flow of traffic) in the top layer of the asphalt.^[6] These cracks are initially thin and sparsely distributed. If further deterioration is allowed, these longitudinal cracks are connected by transverse cracks to form sharp sided, prismatic pieces. This interlaced cracking pattern resembles the scales on the back of a crocodile or alligator, hence the name, alligator cracking.

More severe cases involve pumping of fines, spalling, and loose pieces of pavement. The most severe cases of crocodile cracking often occur with other pavement distresses, but are exemplified by: potholes,^[1] large cracks (3/8" or larger), and severely spalled edges.^[5]

Measurement and quantification

There are many different ways to measure crocodile cracking, but in general a pavement distress manual or index will be used. For example, the Pavement Condition Index is widely used to quantify the overall level of distress and condition of a section of road. Measurement of crocodile cracking specifically (and pavement distress in general) is necessary to determine the overall condition of a road, and for determination of a time-line for rehabilitation and/or repair. There are many other rating systems, and many rating systems currently in use are based on the AASHTO Road Test.

There are two important criteria to take into account when measuring crocodile cracking. The first is the extent of the cracking. This is the amount of road surface area which is affected by this pavement distress. The second criterion is the severity of the cracking.^[2] Severity, which has been discussed above, refers to how far the cracking has progressed, and is often directly a function of crack width.^[2] Severity may be rated numerically, or given a rating from "low" to "severe". The rating may be entered into a pavement management system, which will suggest a priority and method for the repair.

Systems have been developed that detect crocodile and other types of pavement distress automatically.^[8] They measure the severity and frequency of alligator cracking on the road-path. One such machine is the road surface profilometer, which is mounted on a vehicle and measures the profile of the road surface while it is moving down the roadway.

Prevention and repair

Preventing crocodile cracking can be as simple as preventing the common causes. For example, reducing overloading on an asphalt pavement or improving drainage^[2] can prevent crocodile cracking in many cases. Prevention primarily depends on designing and constructing the pavement and subbase to support the expected traffic loads, and providing good drainage to keep water out of the subbase.

A good strategy to prevent overloading, which is a main cause of crocodile cracking, is to increase the depth of the asphalt layer. According to certain researchers, pavements that exceed a certain minimum strength or thickness can hypothetically handle infinitely many loads without showing structural defects, including crocodile (fatigue) cracking.^[1] These pavements are called perpetual pavements or long term performance pavements (LTPP).

When repairing pavement affected by crocodile cracking, the main cause of the distress should be determined. However, often the specific cause is fairly difficult to determine, and prevention is therefore correspondingly difficult. Any investigation should involve digging a pit or coring the pavement and subbase to determine the pavement's structural makeup as well as determining whether or not subsurface moisture is a contributing factor.^[1] The repair needed also differs based on the severity and extent of the cracking.

In the early stages, sealing cracks with crack sealant limits further deterioration of the subgrade due to moisture penetration. Small areas may be repaired by removal of the affected area, and replacement with new base and asphalt surface.^[2] Once the damage has progressed or the affected area is large and extensive, a structural asphalt overlay or complete reconstruction is necessary to ensure structural integrity. Proper repair may include first sealing cracks with crack sealant, installing paving fabric over a tack coat, or milling the damaged asphalt. An overlay of hot mix asphalt is then placed over the completed repair.^[2]

See also

- Bleeding (roads)
- Rut (roads)

Notes

1. ^{^ a b c d e f g h} 7 Flexible Pavement Distresses, University of Washington, date accessed: November 21, 2010
2. ^{^ a b c d} PASER Asphalt Pavement Manual, Brevard County Government, date accessed: November 20, 2010
3. [^] Distress Identification Manual for the Long-Term Pavement Performance (LTPP) program, FHWA, JUNE 2003, <http://www.fhwa.dot.gov/publications/research/infrastructure/pavements/ltp/reports/03031/03031.pdf>
4. [^] Pavement Maintenance, Cornell Local Roads Program, p. 4, March 2006, http://www.clrp.cornell.edu/workshops/pdf/pavement_maintenance-web.pdf
5. ^{^ a b} Alligator Cracking, North Carolina Department of Transportation Pavement Management Unit, date accessed: November 21, 2010
6. [^] Alligator Cracking, Advanced Transportation Technology West Valley College, date accessed: November 9, 2010
7. ^{^ a b} Crocodile Cracking, Local Government & Municipal Knowledge Base, accessed December 2, 2010
8. [^] Automated detection and classification of cracking in road pavements, Australian Road Research Board LLT, date accessed: December 4, 2010
- 9.

Photographs:

These were taken on 11/23/2013. Clearly the road is neither better nor getting better. Clearly patches are failing and the degradation of the road outside the patches continues:

