

Aiken City Council MinutesREGULAR MEETING

September 9, 2013

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

Others Present: Richard Pearce, Stuart Bedenbaugh, George Grinton, Kim Abney, Ed Evans, Tim Coakley, Charles Barranco, Glenn Parker, Sara Ridout, Maayan Schechter, of the Aiken Standard, and about 75 citizens.

CALL TO ORDER

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

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.

RECOGNITION

Mayor Cavanaugh recognized Brandon Rogers, Boy Scout from South Aiken Presbyterian Church, who was present and working on his communications badge.

MINUTES

The minutes of the regular meeting of August 12, 2013, and the work sessions of August 13 and 27, 2013, were considered for approval. Councilman Ebner moved, seconded by Councilman Homoki, that Council approve the August 12, 13 and 27, 2013, minutes as submitted.

Councilman Ebner stated he had a number of comments which go back a couple of years dealing with the Water and Sewer Funds. He said he had amended the minutes from the last meeting to be sure Council got some of the financial data. He said Mr. Pearce is working on some of these items. He said he wanted to mention some of the items. There is a lot of information when the city did the close out for the 2012-2013 budget. He said he felt they should have access to that data now. One of the things asked for at the last meeting was to be sure we get a Pawnee-Neilson cash in and cash out. He felt that was important for Council to see. The most important part is how it fits in the Capital Projects Sales Tax II. The information that Mr. Pearce distributed at the last meeting on Capital Projects II and III was the cost accounting coming out of the Engineering Department, which really did not account for the transfer of funds and other things done. He said we still need accounting for that. He said he would like for whatever accounting we do from the Finance Department and Ms. Abney to be what we do for the auditor. He said we need to remember that we closed out the State Revenue part of that on December 30, 2012. That was the cutoff date. He said Mr. Pearce had stated the city received their last check of \$1.1 million before June 30, 2013. Councilman Ebner stated we should be able to go through all the projects and sum everything and get our cost information as of June 30, 2013, to include the legal settlement. He felt that was an important thing we need to do before we close that out.

He said in the Water and Sewer Fund there is one thing we need to address and be sure our ordinance addresses it and that our people in the city are well aware of it. In early 2012 Council authorized an 8% increase in the water rates. Six percent was dedicated to fixing water leaks. We pretty well knew in the beginning that we could not spend all of it. He felt it was more than implied that we would carry forward whatever unspent balance we had. He said we knew we did not hire the employees right away. He said we

need to be sure and check to see if we have carried those funds forward. He said the amount should be 6% of \$16 million, which is approximately \$1 million. The other thing is that in the 2012-13 budget we put \$1,200,000 for meters. He said early on there were some issues with getting the meters to feed into our system, and he thought we did not get as much done as we had anticipated. If that money was put in, and we did not spend it, he said he felt that money should be carried forward. He wanted staff to check on that. The other thing concerning the \$1.5 million loan out of the Water and Sewer Fund is that the ordinance required five annual installments to pay on that loan. He said for some reason we have not been keeping up with that loan. He felt we need to address that as we come into the audit and how we are going to account for it. The total amount is due in April, 2014. He said he would like an accounting for all these items as we get into the audit. He said there is a spreadsheet that was done by the previous City Manager called Project Capital Expense and Debt Service. That rolled all these up, and we need to redo that spreadsheet based on today's dollar. The sheet was first done in 2009, and it needs to be updated. He said it appears to him that inflation is probably running more than 2%. He said if we need special funding out of General Fund to keep the Water and Sewer Fund viable versus raising the rates, we need to know that. He said we have the same issue now moving to the Garbage Fund. He said we have a shortfall there as has been announced over time. We are making up that shortfall from General Funds. That precedent has been set by a number of cities so it is something that is done by others. He felt Council needs to know that amount each year and say a certain amount goes into the Garbage Fund or we make it self sustaining if we have to raise 10% or 15%.

He said the last item he has is that the Gem Lakes Extension Subdivision matter was discussed for an hour and half. He thought on that particular item there had been some real issues getting test reports from the contractor. The requirement for the test records is a part of our City Code which was passed in 1987. Also, the City requested additional tests, which is also part of our City Code. That is from the engineering procedures. We need to be sure we get those before we let the contractor go too far down the road with the punch list. He said his impression was that the developer felt that if he finishes the punch list that was talked about at the meeting that he is done. He said he was concerned about that and how the City is going to accept the roads when it comes to City Council without the test reports.

Councilman Ebner stated based on this, he wondered if we need to continue approval of the minutes or how we need to handle this so we can get the cost information to say that we all know what we have in our close out for 2012-2013. He said there are some big numbers that have changed. We still are not out of the recession. He wondered if he needed to ask for a motion to continue consideration of the minutes.

Mayor Cavanaugh suggested that the comments be made a part of this meeting. Mr. Pearce pointed out that his understanding is that the minutes before Council reflect the discussion that took place at those meetings. He said the concerns that Councilman Ebner placed in the record will be in the minutes of this meeting. He said Council should not continue consideration of the minutes. He said the question is whether or not Council believes the minutes are an accurate report of what took place at the three meetings.

Councilman Ebner stated a number of the things he mentioned were specifically asked about by him or one of the other Councilmembers. He said he needs other Councilmembers to comment. He said he did have an amendment to the close out of the 2012-2013 budget so that Council could look at this information mentioned. He said he wanted to make sure we do it, and he would like that to be done before the next meeting. He pointed out the audit is coming up, and he felt all this information needs to get to Councilmembers prior to the next meeting in time for Council to review the information.

Mr. Pearce stated the plan was for the September 23, 2013, meeting. Councilman Ebner pointed out the information is needed before the meeting and not distributed at the meeting. He said it is audit time, and a good time to close out a number of these accounts.

Councilman Dewar stated he would like to add comments. He said he agreed with the need for Pawnee-Neilson information. He said the frustration is that the last meeting was not the first time Councilmembers have asked for that accounting. He said for some reason we are having difficulty getting this information. Mr. Pearce responded we had provided the information, but Councilman Dewar stated it had not been provided.

Mr. Pearce stated staff had provided the information, but there was additional information that Council requested. He pointed out that as Councilman Ebner was saying in the timeline from the Engineering and Utilities Department the figures which they used are not accurate figures. He said that is the reason we are going back through the records.

Councilman Dewar stated he had not seen a listing of the expenses for Pawnee-Neilson from day one until the day we put in the \$200,000 settlement from the legal firm. He said we have not seen those numbers.

Mr. Pearce stated those numbers are on the internet, and he has given them to Council from time to time in a list of the checks written. Councilman Dewar stated he would not be asking for them if he thought he had them. Mr. Pearce responded that he was saying for the benefit of everybody in the room that staff gives Council a list of every check that is written just like we post to our website. That has the checks that have been written on the project.

Councilman Dewar stated that introduces another concept. He said staff has to simplify what is given to Council. He said somehow that has to be simplified. He said he did not want to deal with account numbers. He said he appreciates the data on the check register and on occasion he has questions. He said the Capital Projects Sales Tax should be under the total control of Council. He said Council starts that in the very beginning when Council determines which projects and how much money goes with which projects. He said beyond that Council gets the sheets with the yellow on them that Council is used to seeing. He said Council gets that in different forms that he is no longer interested in getting. He said there is no question that the City Manager has the authority to put in how much we spend, but beyond that Council should be controlling all of this. He said the \$1,113,519 should be portioned by Council. He said Council controls the Capital Projects Sales Tax program. He said the he felt the City Manager does not have the authority to do that.

Mr. Pearce pointed out that staff has been coming to Council with every project. Councilman Dewar responded that is true. He said he had asked the City Manager three times what he had done with the \$1.1 million, and he had not received an answer beyond the general thing of that he had put it in.

Mr. Pearce stated, no sir, he had answered Councilman Dewar three times. He said he had emailed today the Holding Accounts that we have and the total amount in there. He said the yellow sheet has the total amount that we are holding. He said the answer is that Council has approved the list of projects. The \$1,113,519 would go towards the remaining projects that have not been completed.

Councilman Dewar stated he disagrees, and if we need to have a vote on it, let's put it on the next Council agenda. He said it is his feeling that Council should control that \$1.1 million dollars. He said we still have some problems in Capital Projects Sales Tax II that Council needs to deal with.

Mr. Pearce stated staff plans to bring that to Council as the individual projects are ready to bid. Councilman Dewar stated he was not talking about the individual projects, but he was talking about the \$1.1 million, for example, Council should have a take out on that list.

Mr. Pearce stated Council has that opportunity when staff brings the projects to Council.

Councilman Dewar stated we are mincing words, and he was getting tired of mincing words. He said Mr. Pearce is probably getting tired of his haranguing him as well. Mr.

Pearce stated he was here to serve Council as that is what Council appointed him to do. He said he thought Councilmember Ebner had mentioned several times that on the Capital Projects Sales Tax projects it is a big change, and that we are coming to Council before we go forward with a project to develop a budget.

Councilman Dewar stated he understands that, but it has nothing to do with the comments that he is raising now, which is that Council should control the \$1.1 million. He said if that is a problem let's put it on the Council agenda for the next meeting and all of Council can vote on it and decide how to administer the program. He said he felt the law is pretty clear.

Mr. Pearce stated the plan of the City Manager's Office and his plan is to come to Council with the individual projects and a budget for it. We will bid these projects out and that is how the money will be spent. He said he did not know how else to do it.

Councilman Dewar stated he did not disagree with anything Mr. Pearce had just said, but it is not germane to what he is trying to say.

Mr. Pearce stated it is how the money we are holding is going to be spent.

Mayor Cavanaugh asked if Councilman Dewar and Mr. Pearce could talk about this outside the Council meeting. Mr. Pearce responded that he was always happy to sit down with Council as he has done with several Councilmembers and go over their concerns or financial information as that is an open book. Councilman Dewar responded that he wished it were.

Councilman Ebner stated we need an accounting as requested in the minutes this time, and an accounting of the Pawnee-Neilson cash-in and cash-out. Then have the Finance Department roll up that sheet so all the numbers are there. That would be for Capital Projects Sales Tax I rollover and where the other money went. He said he felt that was part of the issue because last year in the audit we had trouble finding some of those exact numbers in there because the rollup may not have been just right. He said the Finance Department needs to rollup the numbers.

Mr. Pearce pointed out the audit was an audit with no comments. We continue to receive Government Financial Accounting Awards for Excellence in accounting practices. He said if Council will let him know what they need, staff will be glad to provide it. He said we will provide the information requested at the September 23, 2013, meeting.

Councilman Dewar asked Mr. Pearce if he had a question about what they want on Pawnee-Neilson. He asked Mr. Pearce if he thought he had provided it to Council. Mr. Pearce responded that he said he would have the complete information on September 23, 2013.

Councilman Ebner stated he had understood that the information would be provided at the September 9, 2013, meeting. He said the Pawnee-Neilson and the Water and Sewer funds are important to get. He said Council needs to get it before the Monday of the September 23, 2013, meeting. Mr. Pearce stated he understood that.

Councilman Dewar stated his concern with raising these issues is that he does not want Council to approve the minutes and automatically approve the City Manager's approach towards Capital Projects Sales Tax management.

Mr. Pearce stated if Mr. Smith, City Attorney, were present, he would say that has nothing to do with approval of the minutes. The two things are different. The minutes are a reporting of what took place at the meeting. Council would only be approving that the minutes reflect what took place at the meeting, not approving anything else. That would be a separate item for the agenda. Councilman Dewar stated he just wanted to make sure. Councilman Dewar asked if he needed to give Mr. Pearce a separate item to bring the Capital Projects Sales Tax program management item that he had introduced to Council at the next meeting.

Mr. Pearce stated we will do whatever Council wants staff to do. He said he was not sure he understood what Councilman Dewar means. He asked if he meant a resolution or an ordinance.

Councilman Dewar stated he wanted the matter to be an agenda item so he can make his presentation concerning his concerns about how we operate the Capital Projects Sales Tax Program so other Councilmembers can give their input and to the point of voting to see whether or not they agree with his understanding of the program or Mr. Pearce's understanding of the program. Councilman Dewar stated it is frustrating beyond belief to come to meeting after meeting and raise concerns and everybody says fine there goes the world. Let them go, and we forget everything, and we do nothing.

Mr. Pearce stated he had never done that, but had given Council reams and reams of information and offered several times to sit down with Councilman Dewar and address his concerns. He said his office door stays open from 8:10 a.m. to 5 p.m. Monday through Friday.

Councilman Dewar stated he understands, and he had met with Mr. Pearce. He said he just wants to get a simple system. He said he spent all day getting ready for this Council meeting today. He said there must be an easier way to educate Council on financial issues.

Mr. Pearce stated he is always ready to help Council with an agenda.

Mayor Cavanaugh stated if Councilman Dewar wants that matter on the agenda for the next meeting that will be fine. Mr. Pearce stated he will have the request on the next agenda.

Mayor Cavanaugh stated there had been a motion by Councilman Ebner, seconded by Councilman Homoki that Council approve the August 12, 13 and 27, 2013, minutes as submitted. The motion was unanimously approved.

#### PRESENTATIONS

##### DAR

##### Daughters of the American Revolution

##### Constitution Week

##### Proclamation

Mayor Cavanaugh stated the first presentation would be the Daughters of the American Revolution who have a presentation to make to City Council. He pointed out that Judy Justice is the DAR Regent for the Henry Middleton Chapter.

Ms. Judy Justice stated it was an honor to come before City Council as a representative of the National Society Daughters of the American Revolution. The tradition of celebrating the Constitution of the United States was started by the Daughters of the American Revolution when the organization petitioned Congress in 1955 to set aside annually the week of September 17 – 23 to be proclaimed as United States Constitution Week. The resolution was later adopted by the United States Congress and signed into public law by President Eisenhower. The aims of the celebration are to inform citizens of their responsibilities for protecting and defending the Constitution, preserving the Constitution for posterity and to inform the people that the Constitution is the basis for American's great heritage and foundation for our way of life. In support of the upcoming national celebration of Constitution Week the Henry Middleton Chapter Daughters of the American Revolution do hereby recognize the Aiken City Council members for their outstanding leadership and work in upholding and promoting the ideals of our Constitution of the United States. She said as Chapter Regent it is with pleasure that she present each of Council with a Constitution Award and thank Council for their service as our elected City Council officers. She stated may Council continue in what our forefathers gave us as a landmark idea of self government, guaranteeing each of us the

inalienable rights as free individuals under our own government of the people, for the people, by the people. The resounding idea of a freedom to govern was the impetus of the American Revolution and resulted in the Constitution of the United States of America, our iconic document of freedom. She said may City Council as our elected government leaders each continue to uphold and protect our Constitution. She said the Daughters of the American Revolution salute Council and thank Council for their service.

Ms. Judy Justice and Ms. Margaret Shealy then presented each of Council with the DAR Constitution Award.

Mayor Cavanaugh read a proclamation signed by all of Council proclaiming September 17 – 23, 2013, as Constitution Week and presented it to the DAR members present at the meeting. Mayor Cavanaugh thanked the group for preparing a dinner for Council before the Council meeting. Those members present at the meeting were: Judy Justice, Margaret Shealy, Zee Homoki, Cheryl Guynn, Frederica Lofquist and Shirley King.

#### Pink Ribbonettes

#### Pink Ribbons

#### Downtown

#### Breast Cancer Awareness Month

Mayor Cavanaugh stated the second presentation was a request by the Pink Ribbonettes to place pink ribbons in our historic downtown area.

Mr. Pearce stated October is Breast Cancer Awareness Month, and the Pink Ribbonettes wish to place ribbons along Laurens Street, as well as Park, and Richland Avenues.

At the request of staff, we would suggest locating these ribbons at intersections, as Council recently approved for Ovarian Cancer Awareness Month in September with the teal-colored ribbons.

Ms. Irene Hawley thanked Council for considering their request to place pink bows downtown. She pointed out that October is Breast Cancer Awareness Month. She pointed out we all know many people, family and friends who have been touched by cancer, and especially by breast cancer. She said the group is called Pink Ribbonettes which is an organization of volunteers of people who have had cancer, who are survivors, who are caregivers, and friends. They are all invited to their meetings which are held once a month. They have no dues and do not call themselves members, but volunteers. She said they did not want to have to keep up with who was a member and if they had paid their dues. They want people to come and be encouraged. They do not give medical advice, but only give encouragement. She said they have been there; they have been through it; they know how you feel. She said the pink ribbons are to represent the things that are involved with breast cancer. She pointed out there are also some men in their group as breast cancer affects men too, not just women. Ms. Hawley pointed out the Pink Ribbonettes is sponsoring a tea on Monday, October 21, 2013, to be held at the Etheredge Center at USCA. The tea is hosted by Aiken Regional, Aiken Technical College, and USC-Aiken. She said everyone is invited, but asked that people RSVP.

Ms. Peggy Piesch then presented some statistics regarding breast cancer. She said South Carolina ranked 15<sup>th</sup> in the nation for breast cancer deaths. In the United States there were 1,662,290 people diagnosed with breast cancer. In South Carolina the total diagnosed with breast cancer was 27,620 with 9,800 fatalities. It was pointed out that the longest survivor of breast cancer in Aiken is about 40 years, and there is a very active lady 90 years old in the group.

Mayor Cavanaugh asked for Council's approval of the request to place pink ribbons in the downtown area.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council grant approval of the request of the Pink Ribbonettes to place pink ribbons in the downtown area in the areas designated last year. The motion was unanimously approved.

DOUGHERTY ROAD CORRIDOR STUDYURS Corporation  
Consultant

Mayor Cavanaugh stated the next item is the Dougherty Road Corridor Study.

Mr. Pearce stated Trey Hodges of URS is present. Several years ago the City of Aiken and Aiken County agreed to cooperate in the preparation of a study of the Dougherty Road corridor. The area between Silver Bluff Road and Whiskey Road is currently operating at about 73% of its capacity. He said we wanted to come up with a concept. Portions of the area are in the city and portions in the county. Over the past several months, URS has acted as a consultant by conducting research and then making recommendations for improvements that could be done to handle increasing daily traffic loads on Dougherty Road. They were hired in 2012. Several public meetings were conducted, and feedback was requested from attendees. A preliminary report was also presented at a final public meeting. Their Executive Summary of the study was included in Council's packet for review. The full report can be found on the city's website.

Mr. Hodges stated he was with URS Corporation in Columbia. He said he would give a presentation on the recently completed Dougherty Road Corridor Study that was completed in collaboration with City staff as well as County staff. He said he would review the highlights of the report. He said he would review the intent or purpose of the project. He would review the summary of the process followed to develop the recommendations in the implementation plan. He pointed out that Dougherty Road is experiencing significant congestion with the traffic volume being 73% of its current capacity. He said in 2012 when Dougherty Road was classified as a collector it was a 94% capacity. He said there is some significant congestion in the corridor. He said URS had been asked to come in and see if they could maximize the efficiency of the surrounding network, not just Dougherty Road, but look also at possible connections that may help alleviate some of the traffic on Dougherty Road. It is also important to consider the desires of the community. He said they are not looking for a 5-lane solution that does not consider the desires and needs of the constituents that live on Dougherty Road and use it every day. They wanted to involve them early in the process to determine what is feasible from their perspective. He said they were not just looking at traffic but also multi-modal solutions that incorporate improvements for pedestrians and bicyclists in addition to the traffic. He said funding is tight in every agency these days, so they wanted to try to come up with some solutions that are implementable, not something that would sit on a shelf and gather dust. The area of interest is Whiskey north-south, Silver Bluff Road, and Dougherty Road an important connection between two arterials which are the two busiest roads in south Aiken. They did not just confine their look on Dougherty Road so they expanded the area of interest to try to capture some of the residential areas to the south and the commercial areas to the north.

Mr. Hodges summarized the process they used. It was important to all to involve the public. The outcome of that was some guided principles that defined what was important to the public. He said they looked at the existing conditions and that led to an assessment of the needs. Once they knew what the needs were they tried to come up with some alternatives that they could present to the public and then test those alternatives in an evaluation. The alternatives that scored the best were further refined in the recommendations and ultimately the implementation plan. Public participation began in December, 2012. There was a two-day planning workshop. Over 70 individuals were involved. A number of exercises were run to get the participants to tell them what was important. That led to the guiding principles. The first one was to try to fix the congestion—respond to demand. Everyone spoken to was unanimous that Dougherty Road is congested, and they wanted them to try to improve traffic flow and reduce the congestion. He said they were looking not only at Dougherty Road, but also looking at the surrounding transportation network. To improve efficiency they wanted to see if there might be some other feasible connections that could be made in the area. Lasting solutions. Almost unanimously they heard that the people did not want a stop-gap solution. They did not want to tear up the road and then five years later have to tear it up again. The people wanted something that would last 15 to 20 years, so that is what they

were tasked to do from the public. Next was identity. The public wanted Dougherty Road to be seen as a destination, not just a pass through. He pointed out there are businesses and residences along the road, and they wanted that to be seen as a destination. A number of public meetings were held after the planning workshop. The first was to roll out the alternatives. He said they produced a number of alternatives for Dougherty Road and a number of alternatives for other types of roadway extensions or new locations and intersection improvements. The purpose of that was to garner their feedback. That allowed them to test the alternative solutions they had. There were about 55 participants in the public meeting, and 19 written comment forms were collected. He pointed out that the comments were included in Appendix B of the study report. After the alternatives were evaluated and recommendations pushed out, they went back to the public and convened another public meeting to show the recommendations and to get feedback on those. Again there were 54 participants at the meeting in June. Of the 54 they collected 12 written comments which are included in Appendix B of the study document. Coincident with all the activities, there was an online survey and links to the survey were on the city's web page and the county's web page. From November through March 70 responses were collected, and those are incorporated in the study report. He said that was the public involvement.

Mr. Hodges stated he had mentioned that they looked at the existing conditions to develop what the needs were in the corridor. He said they read the previous literature. There have been a number of studies and feasibility reports done that address different intersections along Dougherty, for example, Neilson. Also, there was a corridor study on Whiskey Road. He said they looked at the existing literature to make sure that the plan recommendations were incorporated or at least considered in their work. He said they got out in the field, and started looking at what was out there. He said they found that in 2012 the traffic counts provided by DOT for the corridor reached 12,000 per day. If you go back to Dougherty as a collector, which is how DOT classifies it, you are at 94% capacity for 2012. If you extend that into the future, congestion is likely to increase and reach the capacity and more. They also found with the traffic counts that there were two peak hours—one in the morning at 6:15 a.m. to 7:15 a.m. and another peak hour in the evening from 5 p.m. to 6 p.m. There is congestion in the morning as well as in the evening. He said they did an origin and destination survey. There was some anecdotal evidence that pointed to a connection between Dougherty Road and Pine Log Road to its south near the Centre South Shopping Center. He said they looked for vehicles that were consistent between those two. He said they found that there was a significant connection between the Dougherty Road traffic and the Pine Log Road traffic. About 50% of the traffic that was traveling westbound on Dougherty, away from Whiskey towards Silver Bluff, ultimately ended up on Pine Log so there was a connection that was important for the study.

Mr. Hodges then presented a map showing the historical accident inventory. He said it was provided by South Carolina agencies that track traffic accidents. He pointed out a lot of yellow dots which represent rear end collisions over a 9 year period. Over a course of 9 years about 200 accidents have occurred and been documented on Dougherty Road. The majority of those have been rear end collisions which is consistent with traffic stopping on Dougherty to make a left turn either at an intersection or into one of the residences or businesses that line Dougherty Road. The next most frequent accidents were angle type collisions which are consistent with a car trying to make a left turn in front of oncoming traffic and being hit in the side panel. He said they did see a number of the left turn conflicts through the historical analysis of the accidents that are occurring on Dougherty Road. He said they did an intersection analysis. They identified four intersections in the corridor, and they did specific turning traffic counts during those peak hours. He said they determined that Neilson Street currently has a very poor level of service. For traffic that is trying to turn off Neilson onto Dougherty, they are experiencing delays in excess of 80 seconds per car. Basically it is a failing level of service at Neilson.

He said they also determined that there are very few facilities for bicyclists or pedestrians along Dougherty Road. Traffic only is what Dougherty Road was designed to handle. He said they wanted to try to come up with some pedestrian, bicycle and possibly transit improvements that might increase the attractiveness of the corridor for all users. He said



they looked at infrastructure, specifically water, sewer and stormwater. They found, per city staff, that the 6 inch water infrastructure in the area is in excess of 50 years old. It is nearing its service life. There are very few sewer lines in the area. The stormwater is taxed, just as the corridor itself is congested; the stormwater is congested as well. He said that was the technical analysis which was important to set a base line for the needs.

He said he had mentioned earlier the public involvement. He said they try to balance the guiding principles that they developed in concert with the public. In the balance is where they determine what the alternative solutions are. He said it is not just driven by the paper, the hard engineering, but it is also factoring in what the public desires. With the alternative solutions they came up with several different cross sections for Dougherty Road. He said they looked at a four lane, a three lane, and a two lane divided by a continuous median. They also looked at several new alignments, some alternatives for new roads or extensions to existing roads. They looked at intersection improvements and some complimentary alternatives—those water or sewer or stormwater recommendations that they wanted to look at and get feedback from the public. In addition to the feedback from the public, they took all the alternatives and put them through a test. He then showed a chart to illustrate the process they went through. It showed the Dougherty Road cross sections—the three, two and four lane cross sections that were developed as alternatives. He pointed out the guiding principles which are what the public told them was important. Then the individual alternatives were listed—the four lane, three lane, and the two lane. He said they scored them against their basis of succeeding with the individual guiding principles. He pointed out on the chart that the four lane did not score well. The middle one was the one that scored the best at meeting the guiding principles for the intent of the project. He said that was the one that was advanced to recommendations.

Mr. Hodges then showed a map of an overview of the recommendations. He said it is a map they generated for the entire study. He pointed out the surrounding areas—the Walmart, the Aiken Mall, Whiskey Road, and Silver Bluff with Dougherty Road running through the middle. He pointed out the recommended three lane section of Dougherty Road, the complementary alternatives or recommendations, new alignments and roadway extensions, and intersection improvements recommended at three of the intersections.

Mr. Hodges stated they have recommended a three lane cross section for Dougherty Road. Currently there is a 60 foot right of way. One of the criteria out of the guiding principles is that the public was very interested in minimizing right of way acquisition to the absolute minimum necessary. He said the section of improvements would fit within the existing 60 foot right of way. However, there may have to be some slope easements or some minor strip acquisitions to get certain improvements, but from a conceptual standpoint the improvements will fit within the 60 foot right of way. They include two travel lanes of 13 feet in width which will allow a little bit of safety factor for bicyclists who want to travel with the traffic. It also includes a center continuous left turn lane. In certain targeted locations we might be able to fit in a barrier median that could be landscaped. On the periphery there is a grass strip that can be planted with trees and also provide a location for pedestrian lighting. Finally 5 foot sidewalks that flank that. He said that is the proposed cross section for Dougherty Road.

Mr. Hodges then showed another picture of what it might look like. He showed the existing conditions on Dougherty Road today. The picture was taken during the study. He then showed a picture of when you blend in the proposed improvements. He said this is conceptual at this point, but it is to scale. The measurements would match up. It is a real photo-sim of what it could look like.

Mr. Hodges then moved to the recommended alignments. He said there are some new roads or road extensions recommended as part of their study. The first is an east-west road. He pointed out the location of Walmart, Aiken Mall, Publix, and East Gate Drive and Dougherty Road. He said they have recommended extending Hamilton from its current end at Neilson all the way over to Whiskey Road. It would line up with Owens Street. That would be through privately held property, but it is undeveloped property. They also recommend extending Christee Place south through to the Publix Center in front of Publix to connect to the existing roundabout at East Gate Drive. They also

recommend extending Christee north to connect with Pawnee behind Walmart. He then showed a picture of a simulation of what the extension of Christee from Dougherty to Publix tying into the existing roundabout could look like. In response to a question regarding the speed limit for the road to Publix, Mr. Hodges stated it would probably be a design speed of 25 mph and posted at 20 mph. He said this is in a retail area, and the speed should be kept low. Mr. Hodges pointed out in the picture that the lanes tie into the roundabout, with sidewalks only on one side, and curb and gutter all the way up to the backs of the store fronts. It was pointed out this alternative would require right of way acquisition. Mr. Hodges pointed out the existing parking lot at the Publix Center and stated they counted 310 existing parking spaces. When incorporating the right of way acquisition for the new road, the number of parking spaces will be impacted. Some of the impact could be minimized by reconfiguring the parking lot. About 280 spaces would be achievable, so approximately 20 parking spaces would be lost. Some of the drive isles would have to shrink, but they would not shrink below the city's 18 foot requirement for one way traffic. We may have to ask the city to minimize some of the landscape requirements on the interior of the parking lot.

Mr. Hodges then talked about the proposed intersection improvements. He showed the intersections of Dougherty and Whiskey at Walgreens. He said they found in doing the traffic counts that for every one car that turns left off of Dougherty onto Whiskey Road northbound, there are more than 3 cars turning right to go southbound on Whiskey Road. He said they are recommending an additional right turn lane to complement the existing singular right turn lane.

Mr. Pearce stated the city had received money from the State Infrastructure Bank for the improvement at Dougherty Road and Whiskey Road. He said we are working on a concept for that additional right hand turn lane onto Whiskey. He said we are working with SCDOT as a maintenance item to add that lane. He said we are in the process of working on that particular part of the recommendations.

Mr. Hodges stated at Neilson and Dougherty the level of service is F. It is currently failing in the pm hour. He said their short term recommendation for Neilson includes left turn lanes on Dougherty. That would get the traffic out of the east-west flow and get it into a turn lane where they can wait for a gap in the opposing traffic before they complete their turn. It also recommends a right turn for westbound Dougherty at Neilson and a right turn for southbound Neilson at Dougherty. He said essentially that would be a left turn, a left turn, a right turn, and a right turn. That would be a short term recommendation. In the long term they feel that a roundabout may actually work better and provide a better level of service and decrease delays. It does come with some costs, however. He pointed out the footprint of the roundabout and when you compare it to the footprint in the middle of the more traditional intersection improvements you can see that there is larger right of way acquisition required for the roundabout. In 2035 the roundabout would maintain a level C flow on Dougherty. He said which way to go at the intersection is dependent on when the new connections are made at Christee and Hamilton. They kind of trip which direction you go on the improvements. If you only implement the southern Christee extension down to Publix, you will have more cars coming through the intersection trying to turn left off Neilson onto Dougherty. In that case the roundabout may be implemented sooner rather than later. It depends on the phasing of the new connections and new roads.

Mr. Hodges stated they looked at Spaulding. Spaulding currently diverges from Dougherty at about a 45 degree angle, which is fine for the traffic exiting onto Spaulding, but is difficult for the traffic trying to leave Spaulding and turn onto Dougherty. He said they recommend for safety purposes trying to T that up at more of a perpendicular intersection.

Mr. Hodges then talked about complementary improvements. He said those are the ones not necessarily transportation related. The Pawnee-Neilson connector was projected to carry about 4,500 cars per day when that connection was made, but we are not seeing that. He said they would like to make it more attractive to traffic. We could do that through some simple pavement marking. It could be done through some destination

signage so motorists know what is on the other end and how that might benefit them. Also, some lighting and street trees or landscaping treatments might help. He said they would like to promote Dougherty Road as a corridor, and that can be done with some gateway features. A lot of times you see these coming into neighborhoods or into municipalities where they may have a monument in brick or stone. He said they think that would be a nice touch and help create more of a sense of place rather than a pass through.

Mr. Hodges stated regarding the water, sewer and stormwater infrastructure, particularly with regards to the water, it does not make a lot of sense to make the improvements to Dougherty Road and just come back and pothole it and cut it when the water system starts to fail and requires more period maintenance. He said that could be done as a precursor to the Dougherty Road widening.

Mr. Hodges stated all the improvements come with a cost. He showed an action plan. He pointed out the project types—the widening of Dougherty Road, intersection improvements, and new locations or alternate connections to Hamilton and/or Christee Place. He pointed out projects that are eligible for Federal aid and projects not eligible for Federal aid. He stated the new roadways—Hamilton extension and Christee Place—do not qualify as eligible for Federal funds, so that would have to be implemented out of the local funds. He said the cost had been broken down by implementation period—near, short, mid, and long term. He said it is a 20 year plan. The near term includes intersection improvements, which cost \$606,000. That would be Dougherty at Whiskey, which Mr. Pearce addressed regarding funding and also the short term improvements to add the turn lanes at Dougherty and Neilson. Then the short term includes another intersection improvement for \$969,000, which includes the Christee Place extension to East Gate. He said they recommend the southerly extension to the Publix Shopping Center in the near term, the next 5 years. The mid term project eligible for federal aid is the widening of Dougherty Road. The estimate for that is about \$3 million, based on 2013 cost estimates. The long term improvement for \$588,000 is the roundabout at Dougherty and Neilson. The \$1.3 million in local required funding is for the other two alternate extensions—the Hamilton Drive extension and the Christee Place extension to the north to connect to Pawnee.

Mr. Hodges stated it had been an honor to work for the City of Aiken and Aiken County and a pleasure to work with staff. He said he would be happy to answer any questions.

Mayor Cavanaugh asked on what year the money values for the projects were based. Mr. Hodges stated the costs were based on 2013 costs. He said if we are looking 20 years into the future for the \$588,000 that cost is based on 2013 costs. Councilman Ebner pointed out then the money was not time valued. He said if the cost is based on 2013 value the cost could be double or triple in 20 years. Mr. Hodges stated the cost opinions are based on real quantity. He said they did a conceptual design, came up with a quantity for demolition or asphalt or whatever and applied 2013 unit costs for those numbers. He said they did not adjust for inflation.

Ms. Fay Waldrop, 911 Murrah, stated she wanted to find out what the city was going to do about her house. She said she wanted to know how long it would be before she is evicted. She said the Christee extension would go through her house. She said she had signed a contract with the city in January and was told the city would buy her property. She said she was told it would be finalized February 5, 2013, and she would have until May to get out. She said she signed a contract on another house to move, and then she was told that the purchase of her house had been postponed. She said she then had to cancel her contract on another house. She said she wanted to know what the city is going to do. She wanted to know if the city was going to buy her house, and if she was going to have to move.

Mr. Pearce stated that Gail Toole, a realtor, had told the city that Ms. Waldrop did not want to sell the house to the city. Ms. Waldrop asked what would be done with her property and if the city was going to take it and not pay her for it. Mr. Pearce stated we offered to buy it. City Council has not condemned land in a long time. Ms. Waldrop

stated she was willing to sell, but she did not want to wait until the last minute to be told she has to get out. She said she wanted to know how long she has to find a place to move. Mr. Pearce stated he and Ms. Toole would work with Ms. Waldrop. He said they had heard that Ms. Waldrop did not want to sell the house. Ms. Waldrop said if she does not sell her house how would the city put the road through there. She said she did not want to be in limbo. Mr. Pearce stated staff would follow up with the realtor on the matter.

Councilmembers commented that URS had done an excellent job with the study.

Mr. Terry Provost, 902 Dougherty Road, said he would like to recommend to City Council that the city go ahead and do the sizing and acquire the right of way and property for the roundabout and put the road area in even though the complete roundabout may not be built. He said it makes sense to him from a cost standpoint to go ahead and get the real estate and put the area in for a proposed roundabout and build the roundabout later. He felt that would save the city money.

Mr. Pearce stated no Council vote is required at this time. This was a presentation for receiving the study as information.

### BOARDS AND COMMISSIONS

#### Appointments

#### John Wallace

#### Recreation Commission

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

Mr. Pearce stated Council has 16 pending appointments to fill vacancies on different City boards, commissions, and committees. One appointment is presented for Council's consideration and vote at this time.

Councilmember Price has recommended that John Wallace be reappointed to the Recreation Commission. If reappointed Mr. Wallace's term would expire September 1, 2015.

Mr. Al Snell, Chair of the Park Commission, has asked if Council could make some appointments to the Park Commission. They have three vacancies and they are having difficulty achieving a quorum to hold their regular meetings.

Also, Mr. H. A. McClearen has passed away and Council needs to consider an appointment to the Election Commission to fill this vacancy. This is not an individual Councilmember appointment, but an at-large appointment by all of Council. He stated Councilmember Ebner had suggested the name of Ray Visotski for the appointment. He said any other Councilmembers may suggest a name if they wish. If no other Councilmembers have a name, the plan is to bring the suggestion of Ray Visotski back for the September 23, 2013 meeting for a vote by Council.

Councilman Dewar moved, seconded by Councilwoman Diggs that Council reappoint John Wallace to the Recreation Commission with the term to expire September 1, 2015. The motion was unanimously approved.

Mayor Cavanaugh asked for any appointments for the next meeting of Council. Councilwoman Diggs stated she would like to recommend that Robert Aaron be reappointed to the Recreation Commission.

Councilman Ebner stated he understands suggested appointments for the Election Commission could be submitted at the next meeting.

Mr. Pearce stated the Election Commission appointment is a Council-wide appointment and if another member of Council has a name they should recommend that name or let Council know they will have a name otherwise the suggested name will be submitted for vote at the next meeting.

Councilwoman Price stated she does have a name, but wanted to confirm before submitting the name. She said Council consideration on September 23, 2013, will be fine for the appointment.

Mayor Cavanaugh stated he would like to recommend that Royal Robbins be reappointed to the General Aviation Commission. He stated consideration of two appointments will be on the September 23 Council agenda, plus an appointment to the Election Commission.

#### SILVER BLUFF ROAD WIDENING PROJECT – RESOLUTION 09092013

##### Municipal Agreement

##### Silver Bluff Road

Mayor Cavanaugh stated the next item was consideration of a Municipal State Highway Project Agreement for the Silver Bluff Road widening project.

Mr. Pearce stated under state law the South Carolina Department of Transportation has to obtain the consent of the City of Aiken to proceed with construction or improvements for various projects within the City of Aiken. He said Council needs to approve the Municipal Agreement for the Silver Bluff Road Widening Project. He said Kevin Gantt is present to answer any questions. He said Council is aware of several public information sessions on the widening project for Silver Bluff Road. It started out as a five lane project, but is now a three lane project. The Municipal Agreement is necessary for SCDOT to proceed with obtaining additional right of way and then proceeding with the other aspects of the contract.

For Council approval is a Municipal Agreement with SCDOT for the Silver Bluff Road Widening Project.

Mr. Kevin Gantt, of SCDOT, stated the agreement is the same agreement that was done for the Laurens Street Bridge Replacement Project. He said SCDOT has been working on the Silver Bluff widening project in excess of seven years. It is a 1.5 mile corridor improvement which will widen Silver Bluff to three lanes and give some turn lanes in order to make the corridor operate more efficiently. He said there are a lot of subdivisions along the road, and we want people to be able to maneuver through the corridor much more efficiently. Also, a traffic signal will be placed at Richardson Lake Road for the commercial development at that end of the project. He said four public information meetings were held on the project. He said the agreement gives SCDOT the authority to advertise the project, let and construct it, purchase the right of way, and information on moving of the utilities. He said this agreement is obtained any time SCDOT does a project within a municipality. He said they would be coming into the city's legal jurisdiction. He said SCDOT is asking the city to waive certain things. He said for other contractors, the city would require a business license. He said SCDOT will advertise the project and meet standards that are a little different from what the city would require. He said they are asking for permission to come within the jurisdiction of the city to let the project.

Councilman Dewar asked if SCDOT needed the agreement before they can acquire right of way. Mr. Gantt responded technically they need the agreement before they go to construction. He said he wanted to get the agreement signed before they purchase right of way to be sure there is no conflict with City Council as far as getting the agreement signed. He pointed out that on the Laurens Street bridge project they did not have to acquire right of way so they came to the city just before construction.

Councilman Dewar pointed out that on the Silver Bluff project SCDOT will have to acquire property, which probably takes about a year, so the agreement needs to be signed

before buying land. Mr. Gantt stated the statute does not require having the agreement signed before acquiring right of way, but he does that on his projects. He said he would rather have the Municipal Agreement signed before SCDOT buys any right of way. He said if there is a conflict, he did not want to have to undo the purchase.

Councilman Dewar asked if the Agreement was approved could Mr. Gantt give an idea when construction would begin. Mr. Gantt stated presently they have 18 months for the duration for the purchase of the right of way. If everything goes well with the acquisition, that would put them in March, 2015, and they would be ready to go to construction.

Councilman Dewar pointed out the sentence "SCDOT shall not be liable for damages to property or injuries to persons as a consequence of the placing, maintenance, or removal of any utilities by the City or its contractors." He asked if SCDOT does something wrong would SCDOT repair it or would the City have to do that. Mr. Gantt stated SCDOT will advertise and let the project so they will have a contract with a contractor. SCDOT will not actually be performing the work. He said they would have a contractor doing the work.

Councilman Dewar asked about the statement "Be it further resolved, that the City hereby signifies its agreement to accept for maintenance purposes those sections of a highway remaining..." He asked if that meant the City would be responsible for maintaining that portion of Silver Bluff that SCDOT is improving. Mr. Gantt stated the road would still be on the SCDOT system, so they would be maintaining it. He said sometimes they abandon certain parts of the right of way, but in this case they will be widening the road, so they would not be abandoning anything that should go into the system.

Mr. Pearce stated the exception would be the traffic signal. He said the City has a maintenance agreement with SCDOT every year, and the City maintains the traffic signals that SCDOT owns, but not the roadway. Councilman Dewar stated in this case the only signal involved would be the new light at Richardson's Lake Road. Mr. Pearce stated we want a signal at Town Creek, but they are not willing to do that yet.

Councilman Merry stated he still had a question about Councilman Dewar's last question regarding abandonment. He said he understands the City will take responsibility to maintain the road if SCDOT abandons it. Mr. Gantt responded that would be true if SCDOT abandons a portion of the road. He said if SCDOT were to realign the road sometimes there is some excess in the right of way so if SCDOT were to abandon that portion of the right of way, it would fall under the City's jurisdiction. However, in this case they are not abandoning anything, but are widening the road.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council approve the Municipal Agreement for the Silver Bluff Road widening project. The motion was unanimously approved.

#### ZONING ORDINANCE AMENDMENT - ORDINANCE

Definition

Dwelling Unit

Kitchen

Kitchenette

Mayor Cavanaugh stated Council needs to consider the first reading of an ordinance to amend the Zoning Ordinance regarding the definition of dwelling unit, kitchen and kitchenette.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE  
REGARDING THE DEFINITION OF DWELLING UNIT, KITCHEN, AND  
KITCHENETTE.

Mr. Pearce stated Council has a report from the Planning Commission and a recommendation for changing definitions in the Zoning Ordinance. Since this is a change to the Zoning Ordinance, it will require two readings before the changes would be effective.

He said as part of an application to construct an Assisted Living facility on Silver Bluff Road on the southside of Aiken, issues arose regarding what constituted a "dwelling unit," what is considered to be a "kitchen," and what is supposed to be a "kitchenette." As part of their Action Item List Council sent this matter to the Planning Commission. These definitions were part of several public hearings and Planning Commission meetings. After these meetings, the Planning Commission has issued its findings and recommendations.

Mr. Pearce pointed out the Proposed Amendments to the Zoning Ordinance recommended by the Planning Commission.

**Dwelling Unit:** A single housekeeping unit arranged, designed, or used as living quarters for only one family, including, at a minimum, a complete kitchen facility permanently installed (see definition of "kitchen"), bathroom including bathing facilities, and sleeping area. Uses excluded from the definition of "dwelling unit" shall include, but not be limited to, the following: hotels and motels, dormitories, nursing homes, assisted living facilities, and shelters for the homeless and other "displaced individuals."

**Kitchen:** An interior portion of a building devoted to cooking or preparation of food for consumption and including a stove with burners or cook-top and oven, sink, and refrigerator with a separate freezer compartment. A "kitchenette" (see definition) is not considered a "kitchen."

**Kitchenette:** An interior area used for food preparation with facilities which are not sufficient to constitute a "kitchen."

Mr. Pearce stated the Commission voted 4 to 1 with one abstention to recommend approval of these additional definitions for kitchen and kitchenette and the revised definition for a dwelling unit.

Mr. Pearce stated for clarification for Council several items have appeared in the print media as well as in broadcast media. There was some concern that if this definition were passed there would be no limits on dwelling density. Actually, under the existing Zoning Ordinance, any time you have a Planned Residential development that comes before Council, typically that would be 5 acres or more, Council retains the right which they have had all along, to approve a concept plan. Of course, Council can condition approval of a concept plan and limit several things, such as parking, size of units, and density. In the RML and RMH zones, which are multi-family zones, there would not be a limit on the density. He said the RML zone has to be at least 12,500 square feet, and the RMH has to be a minimum of 10,000 square feet. He said RMH is a little denser development than the RML. Some examples of the RML zoned properties would be the old City landfill on Beaufort Street, the Glendale Terrace Apartments on York Street, the Crosland Park Apartments, an area west of Laurens and north of Hampton, and the USC Aiken campus that is within the city is zoned RML. Other properties zoned RMH are a large tract on York Street immediately north of the Bi Lo Shopping Center, the Grand Oaks apartments near the new County Complex building on the bypass, Colony Apartments, Sandstone Apartments, and the former Carriage Hill Nursing Home on East Gate Drive.

Mr. Pearce stated for further clarification the proposed amendments were a result of a case that involved the Lenity Group. They were going to construct an assisted living facility on Silver Bluff Road on a tract that was in the County zoned UD, but was going to annex to the city as a PR zone. That was not approved. There was Interpretation No. 52 by the Planning Director. Citizens appealed that to the Board of Zoning Appeals. The BZA reversed the interpretation that Mr. Evans made of the existing definition for a dwelling unit. Then, when Council met a year ago with the Planning Commission in a

joint meeting, they gave as an action to the Planning Commission to look at the definitions and recommend any modifications to the Zoning Ordinance. The Planning Commission had at least seven meetings, including a public meeting that was open to the public. The sole topic was definitions for dwelling unit, kitchen and kitchenette.

Mr. Pearce stated Council has a recommendation from the Planning Commission. The Planning Commission's role is to make recommendations for Council when there is a proposed amendment to the Zoning Ordinance. He said the proposed amendment would require two readings of the ordinance. Depending on the vote at this meeting, second reading would be scheduled for the September 23, 2013, meeting for public hearing and adoption. He said, as has been Council's policy on first reading, there are several people in the audience who would like to share their comments and concerns with Council. He pointed out that Preston Rahe, John Veldman, and Attorney Paul Simons wish to speak. He also pointed out that Ed Evans, Planning Director, and Liz Stewart, Chair of the Planning Commission, are present if Council has any questions.

Councilman Dewar moved, seconded by Councilman Homoki, that Council suspend their rule to require a motion to allow discussion on the matter and proceed with discussion. The motion was unanimously approved.

Mr. John Veldman, 352 Magnolia Lake Court, stated this had been a very long road for those interested in this question. He then reviewed a power point presentation. He questioned why we need density requirements. He said it is very disturbing to hear that we would not have density requirements, because they are fundamental to land use planning. They drive other requirements, like open space. He said for homeowners having the Zoning Ordinance to insure some measure of compatibility with adjacent developments is really important. He felt it was one of the keystones of protecting the character of the City of Aiken. He felt we all have seen development run amok with high density development jammed on top of residential development, inconsistent uses jammed next to each other. He said that is why density requirements are important.

Mr. Veldman said many people feel this topic is very complex. He said he had studied it a lot. He said there are some fundamental basics in dwelling unit. The reason dwelling units are important is that they are the measure--the number of dwelling units per acre is the density we have been talking about. He said some dwelling unit basics is that each unit is individually leased by unrelated persons for a period exceeding one month. Rent is paid individually. Each unit has a separate lockable entrance. Each unit has a separate address. He said this is kind of the foundational case law regarding dwelling units.

Mr. Veldman stated he had looked at many ordinances across the country, and he had found three common definition elements for dwelling unit. A dwelling unit is a building or a portion of a building. It is designed, occupied or intended for occupancy by one or more individuals living together as a family unit. They contain cooking, living, sanitary, and sleeping facilities.

Mr. Veldman stated some ordinances such as the one from Los Angeles, California, actually expand the definition of kitchen. Los Angeles says a Kitchen is any portion of living quarters arranged or conducive to the preparation or cooking of food, by inclusion of one or more of the following items: natural gas outlet, 220AC electrical outlet, double sink, bar sink exceeding 1 sq. ft., refrigerator exceeding 10 sq. ft., garbage disposal, any device for cooking or heating of food, total counter space exceeding 10 sq. ft. He said having any one of the items makes it a kitchen. Therefore, if you have living, sanitary, and sleeping facilities, it is a dwelling unit. He said the City of Los Angeles wants to err on the side of having things designated as dwelling units, because it is that important to have density considerations involved in decision making. On the other end of the spectrum there is a definition of dwelling unit based on basic functionality. He said this is Charleston, South Carolina's definition of dwelling unit. "Dwelling unit: one or more rooms, arranged for the use of one or more individuals living together as a single housekeeping unit, with cooking, living, sanitary, and sleeping facilities." He said Charleston is a big city. It has diverse uses; it has medical centers; it has colleges, hotels,



motels, residences, and historic properties. He said they are able to get by with a common sense definition.

Mr. Veldman pointed out the current Aiken dwelling unit definition. "Dwelling unit: A single housekeeping unit, whether in a single family or multi family structure, including at minimum, a kitchen, bathroom, and sleeping area." He said it is very similar to the Charleston definition. It is a functional definition. He said we have taken a left turn over the last couple of years as the Planning Commission and Planning Department decided that defining a kitchen was most important.

Mr. Veldman then reviewed the proposed Aiken dwelling unit definition. He pointed out the portion of the definition of Dwelling Unit that is fundamentally the definition as it is currently. He then pointed out wording that has a litany of exemptions. This means no density requirement by definition. He pointed out the exemptions include assisted living facilities, like the Lenity facility. It also is not an all inclusive list, as the wording is "shall include, but not be limited to the following:" He said there is an open end. He then pointed out the Planning Commission's version of kitchenology. It lists a lot of appliances. He said our proposed ordinance would not work the way Los Angeles' does. Our ordinance says you have to have everyone of the appliances in the unit for it to be considered a dwelling unit. He said the Los Angeles' ordinance said one of the items made it a dwelling unit.

Mr. Veldman stated as he looked at this over a period of time, he felt it was apparent that the goal of the proposed change to the ordinance is to codify the Planning Director's Interpretation No. 52, which was mentioned by Mr. Pearce and which was unanimously overturned by the Board of Zoning Appeals as being flawed.

Mr. Veldman stated the proposed Aiken dwelling unit definition is long; it is complex; it is appliance dependent. It is very poor legislation which will not stand the test of time. He pointed out an example of how a kitchen has changed in the last five years. He asked what kind of appliances do you have for heating food, cooking food, etc. He said microwaves and convection ovens are more important, but those are not in the definition. It is already behind the times, and you have to have all these items. He said more is not better in this case. Having half a page for a definition for something that the City of Charleston has one sentence for, he felt is off base and ill advised.

Mr. Veldman stated Mr. Pearce had talked about dwelling units, no density limits, etc. He said there truly will be no density limits at all. The sky is the limit for hotels, motels, dormitories, assisted living facilities, nursing homes, shelters and potential additional uses that are not defined. No density requirements in any of the zoning districts. Kitchenettes. He asked how many of us have started life in a small apartment with a kitchenette. He said a kitchenette is not a dwelling unit under the proposed definition. It is easy to dodge the designation as a dwelling unit. He said there are numerous ways to avoid the density requirements simply by your choice of appliances. Don't put one of the appliances they listed in the definition in, and it is not a dwelling unit. No density limit. He said Mr. Pearce is correct in saying that RML and RMH would have absolutely no limits. He said PR would have a limit if City Council exercises a review responsibility. He said there is a limit now in PR, but that would be gone. We would now rely on not putting the guide posts out there for the developers. We will let Council figure out what they want on kind of an a cappella basis. He said as Mr. Pearce pointed out this isn't an issue around Silver Bluff Road or the Lenity Project or his neighborhood, this affects a lot of areas within the city. He said his daughter had lived all over the world, and her apartments in New York, Boston, and Washington, DC would not qualify as dwelling units under the proposed definition.

Mr. Veldman questioned what is the key issue. He asked if the Planning Commission's definition of dwelling unit adequately protects Residential, Multi-family, and Planned Residential zoning districts from high density development. He said he contends no. He stated one may think it won't happen in their backyard. He showed a picture of the Lenity built Hawthorn Retirement facility in Mentor, Ohio. He said they built a fine facility. He said he wasn't against Lenity on basic grounds, but the way Lenity designed

it and tried to dense pack it, was what he objected to. He pointed out the facility he was showing was 120 units on about 12+ acres located in a mixed use zone. He said it is a big structure. He suggested picturing the facility on a 5 acre parcel on Silver Bluff Road. It was proposed to be 118 units on 5 acres. He said that is 24 units per acre. He asked when Council had approved 24 units per acre in a residential development. He said the structure kind of wound around itself in the Silver Bluff Road project. It was actually 600 feet long. It had very limited open space, and the buffer on his side of the property was 5 feet. He pointed out that Council required 50 and 75 foot buffers from Mr. Cunning when he was developing the Village at Woodside of about 900 acres. He said the Lenity facility loomed potentially 60 feet over the single family residences in Pin Oak Farms and Woodside. He said it was a fortress on Silver Bluff Road. He asked if that was compatible with the Land Use Plan that Council approved for the Silver Bluff Road corridor. He said he remembered talk about single family residences, thoughtful development, large buffers, and horse farms. He said the Lenity facility on 5 acres would get the green light with the Planning Commission's definition.

Mr. Veldman stated he was speaking against the proposal rather vehemently. He said more is not better and working on it for 9 months or 2 years when you get it wrong is not a very good end point. He asked that Council reject the Planning Commission's proposed definition. He said if Council wants to do something constructive, then enhance the current definition, which is a perfectly good one and served us well for many years. It did not stop any projects. It did not stop Lenity. Lenity decided to pack it up when they couldn't dense pack it. There was property adjacent to it that they could have bought, but they did not want to do that. We talked to them about redesign, but they didn't want to hear it. It did not suit their price point, which was based on dense pack. He said let's define a kitchen as what it is. It is a place to prepare or cook food. He said stop fooling around with it. He said let's define apartments/units in facilities offering communal dining as "dwelling units." He said if it has a kitchenette, if there are apartments, if they have sleeping quarters, living quarters, and bathing and sanitary facilities—it is a place where people live—it is a dwelling unit. He thanked Council for their patience and for listening. He said he gotten wound up about this over the last two years that he has been dealing with it. He said he was at every one of the meetings. He said the input they provided was constantly ignored. He said he hoped their input would not be ignored by City Council. He said the Planning Commission and Planning Department failed to open on this. He said he was counting on Council.

Mr. Preston Rahe stated the purpose in opposing this change is to protect the residents in residential and planned residential districts from the high-density development that would be allowed by the proposed ordinance change. He pointed out the change impacts all of Aiken—large parts of downtown Aiken are RML and RMH zones, large parts of the Hitchcock Parkway on either side are as well, areas along Silver Bluff Road, Pine Log Road, and Woodside Plantation is the largest Planned Residential area in the City of Aiken.

Mr. Rahe stated Mr. Veldman had covered some of the historical context. He said in 2012 the Board of Zoning Appeals unanimously rejected the Planning Department's interpretation of dwelling unit that would have allowed the Lenity project to proceed at twice its allowed density limit. Having been rejected by the Board of Zoning Appeals in 2012, in 2013 the Planning Department asked the Planning Commission to change the Zoning Ordinance now in order to embed the flawed interpretation as law. He said what didn't make sense to seven unbiased people unanimously voting in 2012 all of a sudden is supposed to make sense in 2013. He said he did not think so. He said we are looking at a fundamental ordinance change that will allow high density projects in residential and planned residential districts and impact property values of current residents.

Mr. Rahe pointed out the blanket exemption from current density limits, which is the first flaw of the proposed ordinance. They are proposing that hotels, motels, dormitories, nursing homes, assisted living facilities, and homeless shelters be EXEMPT from ANY density limits in the zones in which they can be built. He said if you want a residential hotel or motel it could be put in the RMH, PR zones and no density limits are applicable. The 12 to 17 units per acre would be gone. Mr. Rahe stated to be sure the Planning Commission understood the reality of the exemptions; the Planning Director was very

straight forward. He stated in a memo to them on June 5, 2013, that "The proposed exemptions for hotels, motels, dormitories, nursing homes, assisted living facilities and shelters for the homeless, and other displaced individuals means that any unit in one of those uses could not be considered a dwelling unit no matter what features it contains." Mr. Rahe stated, for example, you could have 1,000 fully functional kitchens in one of these exemptions and it would not count as a dwelling unit.

Mr. Rahe stated City Council and the Planning Commission have historically used dwelling unit density for the facilities that the Planning Commission wants to exempt. He pointed out that in 2010 Second Baptist Church wanted PR zoning for a multiple retirement purpose based on dwelling unit concept, and it was approved. In 2007 Millbrook Baptist Church used dwelling unit density concept for PR zoning for equestrian and single family dwelling, but it was rejected. He pointed out that in 1993 for the Shadow Oaks congregare care facility in the R-1 zone they used the dwelling unit concept to seek a variance on the parking spaces. He said the blanket exemption impact is inconsistent with prior practice, inconsistent with current Aiken law, and inconsistent with South Carolina statutes. He pointed out that the Planned Residential zone requires compatibility with surrounding neighborhoods. He said if you are allowing an infinite density facility, how could it possibly be compatible with surrounding neighborhoods that have density requirements. He said South Carolina law considers the sleeping area as a dwelling unit. He said what the Planning Commission is proposing is a fundamental change to the ordinance that is inconsistent with prior practice, current Aiken law, and South Carolina statutes and will have a far reaching impact on residents of the city.

Mr. Rahe stated defining a kitchen by its appliances is a bad idea. He pointed out technology changes how we prepare food. He said who would have thought that a microwave and a toaster oven would suffice for a kitchen these days. He said when you define it with all the appliances that you must have, if you omit one of them, you can avoid all the density limits. For example, you can provide the space and outlets, but not the appliances and it is not a dwelling unit and has no density requirement. Or you could supply a refrigerator without a separate freezer compartment, and it would not be a dwelling unit and have no density requirement. You could provide a cooktop or burners, but no oven or call it a kitchenette, and it would not be a dwelling unit and have no density limit. He said if one thinks this loophole is facetious, he would point out that the loophole was the loophole that the Planning Department used to rationalize the Lenity Group project and the loophole that the BZA saw through and unanimously rejected.

Mr. Rahe urged Council to vote no on this fundamental ordinance change. He said the exemptions are designed to allow unlimited density projects in residential and planned residential districts. The kitchen definition and the dwelling unit density can be easily skirted.

Mr. Rahe stated Mr. Bill Lykins, the President of the Woodside Plantation Property Owners Association, had separately sent a letter to each Council member. He said Mr. Lykins had asked that he read that into the record. The letter reads: "Dear City Councilmembers: It has come to the attention of the Woodside Plantation Property Owners Association that the Aiken City Planning Department is proposing a fundamental Zoning Ordinance change that will allow high density development in existing residential and planned residential districts across the entire City of Aiken. We would like to be counted among those who are opposed to this proposed Zoning Ordinance change. Altering the definitions of dwelling unit, kitchen and kitchenette could promote serious overcrowding within the city which would put undue strain on the city's resources and services, create a disconnect of one of the purposes of the Zoning Ordinance which is to regulate population density and distribution of population, and third would destroy the charming character of Aiken. We believe in smart, well planned growth and are therefore concerned that this proposed Zoning Ordinance change would minimize the city's ability to control its future."

Mr. Paul Simons, attorney, stated he had represented Mr. Rahe throughout the last three years since going to the Board of Zoning Appeals regarding the interpretation. He said they had interpreted the proposed development by the Lenity Group would be capped at

60 dwelling units based on the fact that there were 5 acres where the development would be times the 12 unit maximum per acre. He said they thought they were considered a dwelling unit, so their 120 unit complex to be constructed adjacent to the Rahe's residence did not meet the design requirements in the Zoning Ordinance. The Board of Zoning Appeals disagreed with the Planning Director's Interpretation #52 as applied to the assisted living facility proposed by the Lenity Group. He said this is what the BZA said when they were interpreting what the Zoning Ordinance meant. He said they said "Individual residences, such as those described in the retirement facility, should be considered 'dwelling units' for the purposes of the Zoning Ordinance." They were not redefining what a dwelling unit was. They were giving direction. These should be considered dwelling units. As such they should be subject to the dwelling unit density requirements.

Mr. Simons stated if passed the current draft of the language that the Planning Department and Planning Commission has suggested would allow the Lenity Group to come back right outside Mr. Rahe's doorstep. Nothing would stop it, because now it is law. He said how can you say this is what the ordinance meant when they wrote it. In our conversations they said with the revised definition the Lenity Group would not have dwelling units. There would be no limit. He said that is concerning. He said the draft amendment would allow the Lenity Group to come back. He said he wanted to give a quick summary on the law whenever you consider a Zoning Ordinance amendment. He said in 6.2.15 it says "The Planning Commission shall study the proposed amendment taking into account all factors which it may deem relevant, including, but not limited to... whether the proposed amendment serves to carry out the purposes of this ordinance." He said he felt that language was very important because that guides and asks is this consistent with what the Zoning Ordinance is all about. He said they don't think it is. He said they don't think the draft amendments carry out the purpose of the ordinance because they remove the ability to effectively regulate population density and distribution across multiple types of residential zones. He said one of the cornerstones of Zoning Ordinances is to limit population density and distribution. If you pass the proposed amendment as drafted, you do away with that across multiple types of residential zones. The expressly stated purpose contained in the Zoning Ordinance says they are to "regulate population density and distribution." He said the proposed ordinance would not do that. He said they feel that the proposed ordinance is not consistent with the purpose of the ordinance.

Mr. Simons said to reiterate what Mr. Rahe said when you have a recipe for what has to be in a kitchen for it to be considered a kitchen, it is subject to being abused. You can take out one piece of the recipe and it is not a kitchen; it is not a dwelling unit and you skirt the ability of regulating population density and distribution. He said this not how the ordinances have been implemented previously. If you look at Shadow Oaks and Second Baptist Church applications, these were residential assisted living facilities and the same dwelling unit density analysis applied in those projects.

Mr. Simons stated the proposed draft amendments to the Zoning Ordinance give no deference to the BZA ruling. He said to have a client who has gone through and been successful in the appellate process, you think it is over, but no it is not. We can go back and change the language in the ordinance and get around it. He said that is what he struggles with the most. He did not know what good it would do a citizen to win at the BZA level, if it can be circumvented by something like this. He said it does not give him a peace of mind that you ever have finality to any of the decisions. He said this is what an appellant body is supposed to do.

Mr. Simons stated he agrees with what Mr. Veldman and Mr. Rahe have said. He said he thinks they need a functional definition. He said do you want a definition consistent with the BZA ruling or do you want it inconsistent. He said they don't think the ordinance proposed for first reading is consistent with the BZA decision, and he does not understand that.

Mr. Bill Busser, 102 Savannah Drive in Gem Lakes, stated the basic thing he wants to ask is who benefits from this change. He said the change will not benefit the people

currently living in neighborhoods that will have the new zoning units. It will degrade their areas. The zoning change could impact a large number of people in Aiken, and their property would probably be degraded, because it will go down in value, have increased traffic, and possibly increase crime. He pointed out two examples. He said when he lived in Denver some areas allowed people to build small apartment buildings in residential areas. A friend had a house on one of those streets. After a couple of years, he was tired of the increased noise, the increased traffic, and a very large increase in petty crime. When he put the house on the market, he found that the price that he could get was much lower than other houses in the area. He felt Council has to look at these type of things when you start putting higher density developments in the area. Another example in Gem Lakes is a house on Huron Drive that was vacant for years. It caught fire and was partially burned. It sat there for another couple of years. He said he did a search of the County records of home sales. The homes around that house had a much lower sales value than identical houses on other streets in the area. He asked who benefits from the proposed change—follow the money.

Mr. Dick Smith stated Council had heard a lot, and he hoped they were listening very well. He said in the fall of 2000 Smart Growth Aiken organized and began a campaign for better management of growth in Aiken. We did this because many felt the city was approving new projects without adequate planning for the traffic, infrastructure, and compatibility with existing neighborhoods. This concern really came to a head in 2001 when City Council, despite more than 200 objecting citizens, at the meeting approved the Woodside Phase III annexation of more than 500 acres, including a large commercial parcel to open onto Silver Bluff Road. That one incident was the precipitating factor which led to the campaigns and election of Jane Vaughters and Dick Smith to City Council. The basic theme of both of their campaigns was to protect Aiken's future. He said a few other people have used the same idea. He said he was proud to say that with the cooperation of most on City Council and City Administration, they accomplished a lot including: 1. A major update of the Comprehensive Land Use and Transportation Plan which included the mandate that rather than just be a guideline the plan should be followed unless there is a public reason for not doing so. One aspect of the plan is to define the nature of development which will take place by area to maintain compatibility with existing development. 2. A policy requiring that annexation, rezoning, and water and sewer requests exceeding 4 acres residential and 5 acres commercial be submitted respectively as Planned Residential or Planned Commercial. A requirement of Planned Residential is to regulate population density. Further the definition of Planned Residential calls for development of residential areas that are compatible with surrounding uses. With just one clever change in the definition of a kitchen, these two accomplishments will be eradicated. Despite what anyone says there is no doubt that the proposed change has been initiated by the Lenity Group proposal for a high density assisted living facility on Silver Bluff Road. That property is currently zoned residential by the County and the City's Comprehensive Plan calls for residential development along Silver Bluff. The proposal is clearly not compatible with surrounding uses. Worse, if it were approved, this change also opens the door for more high density commercial type developments in residential neighborhoods throughout the city, a real step forward to the past. After admitting causing so much divisiveness, Woodside Phase III was developed under the new guidelines and the commercial portion is known as The Village at Woodside. He said he thinks The Village is an asset for the community and it a great example of cooperation and good planning. It proves that the changes they made do work. During his tenure on City Council, he always worked for the overall good of our community. Sometimes he was frustrated when it seemed that development at any cost had won out over the long term good for Aiken, and a proposed development was given preference over existing neighborhoods and property owners. He said he still believes that progress was made and many were willing to work together to make it happen. He said he was sad to see that slipping away. He said he sincerely hoped that City Council will do the right thing and reject this insidious change.

Mr. Pat Cuning, 113 Mulberry, stated he and Mr. Smith did work very well together and got both sides together for the good. He said he feels that Woodside Village is a prime example of that. He said he is no longer CEO of Woodside. He said when Woodside was first annexed in 1985, they always operated under the 12 units per acre. When they annexed The Village they always operated on the 12 units per acre. He said they knew

they had to adhere to that. He said they have 100 acres and it is 69% green space, but that was one of the most important things they had to adhere to. He said they are working on an assisted living facility. He said they got 35,000 square feet approved, but they have 299 units approved. He said they want to use some of those units to have 75 units on about 7.35 acres which is 12 units per acre. He said if the proposed ordinance is passed, the density that they operated under all these years, from 1985, just goes out the window. He said he commends Mr. Veldman and Mr. Rahe for the amount of work they have done. He said there is no question it would affect their property values. He said we could give it all to City Council and not have any density requirements and let City Council make the decision. He said when it comes to something as important as density, you want to have some tight regulations to use. He commended Mr. Veldman and Mr. Rahe for their work on the issue and thanked Mr. Smith for his comments. He said the good developers want to keep the 12 unit density per acre.

Mr. Greg Szymik, of 1504 Partridge Drive, stated he thought the Planning Commission was doing a good job, and he thought Council was doing a good job. He said the Planning Commission was tasked by City Council to review the dwelling unit definition and to come up with kitchen and kitchenette definitions because there were no such definitions in the city ordinance. He said that is what they did. He said he was impressed with the amount of work, attention and concern the Planning Commission put into the task Council gave them. He said he did not attend all the work sessions that they held, but the ones he did attend, impressed him considerably with the concern they had for properly addressing the issues that were before them. He said he was saying that in the context of being a professional land planner. He said he had written ordinances, administered ordinances, and he had interpreted the ordinances. He said in his professional opinion, he felt the Planning Commission had done a very good job in revising the definition of dwelling unit within the context of the overall city Zoning Ordinance, and they have made an important distinction between a kitchen and what isn't a kitchen, defining what is a kitchen and what is not a kitchen. He said the Board of Zoning Appeals said those definitions were not present in the ordinance, and they needed to be. He said the definitions had been created, and he felt it was essential that the city have these distinctions in its ordinance so issues such as the ones that arose with the Lenity Group project won't arise again. Or if they do arise again, there will be definitions that can be applied clearly to them. He said he represented the Lenity Group when they brought their development application before City Council. He said he could assure everyone that the Lenity Group, once they withdrew their application, has no intention of coming back and reapplying here. He said that does not mean that another organization might not, but the Lenity Group is not coming to Aiken or anytime in the foreseeable future. He said he wanted to address the definitions in the context of a property owner. He said he does not live in the city, but not far from it. He said if the City of Aiken is to ever grow by annexing existing residential development in south Aiken we are next. If these definitions are not approved essentially as they stand now, his house, which contains a kitchen and a guest suite, with what is defined as a kitchenette, would become a non-conforming use if annexed into the city because essentially it would be a duplex and not permitted in a single family zoning district. He said it is not just him; it includes his next door neighbor and the neighbor across the street. Both are adjacent to the city limits and would be in the same situation. He said why would they want to subject themselves to possible loss of the future use of their property by being annexed into the city if the kind of distinction proposed is not approved by City Council. He said if his house burns like the one in Gem Lakes did, he would not be able to rebuild it the way it is now unless he went back to the same Board of Zoning Appeals and asked for a variance to the situation that had to be addressed by these ordinances. He said the Planning Commission is a dedicated group of unpaid volunteers who put a lot of time into the matter. He said he had looked at the detail they put into it and looked at the material they looked at, and in his professional opinion they did a very good job in bringing the definitions to Council as requested. Secondly, he said he did not have a problem with leaving in the hands of City Council the responsibility for determining what density is appropriate. That would be Council's decision under the ordinance if the definitions are adopted.

Mr. Ed Giobbe, 541 Grace Avenue, stated he would say that we all realize that this town is extraordinary in many respects. It is unique. It is a place that has been improving with

age with a glorious and wonderful history. He said we need to be cognizant of that. We need to do everything that we can do to preserve the residential character and the quality of our town. He said what Council is being asked to approve is not a good idea. He said he did not think Council wanted to sit there and argue about whether there should be a microwave, or what is a dwelling unit, or what it is. He felt that was almost irrelevant at this point. He said we need to talk about what we want Aiken to look like. He said he did not think unlimited density in residential areas is a good idea. He said he did not think the definitions would make sense. He did not think Council wanted to sit there and argue over definitions. He said there is a Planning Commission, and he had served on the Planning Commission. He said he voted against the project that was proposed. He said there was another decision by the Board of Zoning Appeals. He said it is now up to City Council to make a decision. He urged Council to take into consideration what this would mean in terms of the kind of density that could occur if you allow this to happen. He urged Council to vote no on the proposed amendments to the Zoning Ordinance.

Mr. Pat Paterniti, 217 Hemlock Drive, stated he was a near resident of the location of the proposed Lenity Group project. He said he was a member of the Board of Zoning Appeals and was on the BZA board that approved the administrative appeal of Mr. Veldman and Mr. Rahe. He said he had been following the question for the last two years. It was about the fall of 2011 that the Lenity Group came to the Planning Department with their proposal of annexation of 5 acres in the County to be zoned PR. As Mr. Smith pointed out, the land was zoned by the County as residential. The Comprehensive Plan for the area was for residential use. The Planning Commission, after reviewing the application, approved the proposal for a residential residence. That is what the Lenity Group called it. It contained 118 one and two bedroom suites with kitchenettes on 5 acres which is approximately double the density of the PR. The Board of Zoning Appeals on hearing the case approved the appeal. The BZA found basically that the Planning Director's Interpretation No. 52 was inconsistent and contradictory with historic practices and interpretations in the application of the ordinance. We have many examples in the city of retirement communities—Cumberland Village and others that all live within the ordinance. The application and interpretation for the Lenity Group was totally inconsistent with the prior interpretations. As an example, we have many retirement community apartments and accessory apartments. Most residences are entitled to accessory apartments. These have to meet the definition of dwelling units. Most of these only have kitchenettes. For the purpose of the Lenity Group application, the Planning Director chose to call these, what was in the past full kitchens or dwelling units, not dwelling units. Talking about contradictory, the Planning Director also said in his testimony that the use of the property was residential, but for the purpose of determining open space it was considered non-residential. He asked how you could have something that is residential and non-residential in an area in the County zoned residential and the Comprehensive Plan use is residential. Also, it is important to note that Interpretation No. 52 was written one month after the Planning Commission hearing and the approval of the Lenity Group plan. He said this was written after the fact to rationalize and justify the case that had already been decided.

Mr. Paterniti said one thing he did hear tonight is reference to both retirement and assisted living. He said he felt it was important for Council to keep in mind that there are basically three types of senior living facilities once a person leaves an independent home. The first is a retirement center or apartment. He said the definitions he will mention are basically industry definitions and are generic and intended to be descriptive and not definitive. He said a retirement center apartment is an independent living community offering a safe and social environment for active, independent senior. Under varying names these communities usually set up as apartments, small patio homes and cottages. Independent living communities appeal to individuals doing everything for themselves, but would like to live among their peers and have an active social life. These communities usually offer maintenance free and meal packages, so that residents don't have to worry about cooking and dining alone. Apartments usually have full or partially equipped kitchens and may have laundry facilities. He said this is what you have at Cumberland Village, the benchmark for a retirement facility in Aiken. This is what the Lenity Group was proposing—one and two bedroom suites, a kitchenette facility. For the purpose of the proposal and to double the density, the Planning Commission chose not to call this a dwelling unit.



The second type of senior facility is assisted living. Assisted living facilities provide room and board and a degree of personal service for elderly people who need assistance with daily activities. That assistance might include getting dressed, bathing, eating, assistance with walking, prescriptions and getting in and out of bed.

The third type is nursing homes. Nursing homes provide even greater care under professional nurses.

A fourth type is a convalescent and rehabilitation care facility like Anchor. These are similar to nursing homes, but with the expectation of recovery and return to health following illness.

Mr. Paterniti said he mentions these because the question is how do these apply to these particular cases and how are these treated or anticipated in the ordinances. He said under the ordinance in Section 3.2.2 land use is divided into two types, household living and group living. Household living is described as resident occupancy of a dwelling unit by a household on a month to month or longer basis. Cited examples in the ordinance are: single homes, duplexes, triplexes, and other multi-dwelling structures. Retirement center apartments are put into the same category as single housing structures and other structures with self-contained dwelling units. This is how retirement center apartments are anticipated to be treated in the Zoning Ordinance. The second type of household living is called group living. Group living is described as residential occupancy in a structure by a group of people that does not meet the definition of household living. Generally group living structures have a common eating area for residents and residents may receive training or treatment. Examples cited in the ordinance: group homes for physically disturbed, mentally retarded and emotionally disturbed people, group homes for drug and alcohol treatment, group homes for post incarceration facilities, nursing and convalescent homes, residential assisted living facilities, orphanages, dormitories, fraternity and sorority houses, monasteries, and convents. One is considered group living. They are not dwelling units. The other considered household living and cited specifically is retirement apartments. He said the question is what zoning districts and use regulations generally apply to these categories and City Council's prior intentions in drafting the ordinances, and the intentions and assumptions regarding compatibility with nearby residential areas. Retirement center apartments may be located in PR but also by right in residential RML and RMH zones as multi-family dwellings. Group living facilities, which include assisted living facilities, those without kitchens or kitchenettes, could be located by right by special exception in RML and RMH zones, but it is significant to note that they are permitted by right in General Business, Downtown Business, and Office Institutional zones, in other words commercial districts. He said he mentions this because you have to conclude that the intention is for group homes to be more located in commercial zones, whereas retirement apartments are more residential and would be located in residential zones. He said that is the obvious conclusion and that would be the preferred intention of zoning.

Mrs. Preston Rahe stated she had a letter from Ralph DiSibio, of 270 Magnolia Lake Road, that she would like to read to Council.

"The issues before you this evening are becoming tedious at best, annoying in the extreme and beginning to smack of manipulation at worst. The Planning Commission has been relentless in its pursuit of changing the definitions of a dwelling unit since the Lenity Group Project on Silver Bluff failed to gain approval. Any other explanation is implausible.

This evening you are being asked to become an accessory to this misuse of agency power by being asked to approve yet another amendment that will result in the project moving forward with impunity. That is the intended consequence of what the Commission is seeking but the unintended consequences would open the floodgates as others have or will testify to.



Countless hours, indeed days, have been spent by those who seek to ramrod these changes through with little scrutiny. Only a diligent and tireless citizenry have tracked and monitored every circuitous effort by the Commission to achieve the intended purpose of the changes. Every time the citizens have succeeded in thwarting the Commissions' efforts. Tonight, once again, the Commission seeks an amendment that is flawed and will result in unintended consequences.

The citizens are tired. It's time for our elected officials to take up the battle of logic and common sense. Reject this amendment. The Planning Commission should not be driven by the interest of one entity but by the good of the community. Changes in the regulations must be thoughtfully deliberated for the unintended consequences of such changes. The Zoning Board of Appeals unanimously overturned the last attempt to skirt the regulations. This rebuke did not stop the staff from continued pursuit of the changes. It falls on you to stop the nonsense and reject, perhaps once and for all the amendment before you.

The issue being deliberated is about one thing—density in residential zones. The intended consequence of these changes would pave the way for the original project to move forward. These changes will apply indefinitely and have unintended consequences. Today it is a senior citizen facility. Tomorrow it could apply to a half way house for drug addicts, next a center for recovering pedophiles or more likely an extended stay hotel.

I know this is not your intent but ask yourselves if these changes could allow for those facilities. Is this what you intend. Do you want to pave the way for all manner of facilities certainly unintended today? It's all about density. The present residential density requirements had intended purposes and they work. Validate them tonight. We citizens are tired of standing watch and we pass the baton to you, our elected officials.

We should not have to be constantly alert to maneuverings and private meetings that will result in unintended consequence. Changes of the magnitude being suggested should only be considered in extreme circumstances for the good of the general population and only because not acting would result in harm being brought to the community. With all due respect I would ask that you adopt the physician's mantra, 'first do no harm.' Accepting these changes would do potential harm to our community. Vote against the unintended consequences that would surely result in voting in the affirmative for these changes."

Mr. Pearce pointed out this is first reading of the proposed ordinance. There is nothing to prevent Council from passing it on first reading and asking for a recommended limit. We have heard 12 units per acre. There is nothing to prevent Council from obtaining input from the Planning Commission to set a limit of the number of residents allowed per acre and have a maximum cap if that would help in the deliberation with the ordinance.

Mr. Liz Stewart, 300 Hagan Court, stated she was present representing the Planning Commission. She said she had listened very carefully to all the comments that were made tonight. She said she has no power point, and her goal is to be the briefest presenter we have had, but she has four or five points that she does want to make. First of all, the Planning Commission was asked by City Council to redefine or revisit the definition of dwelling unit. They were not asked by the Planning Department to do so, and they were not instructed, nor did they ever accept as their goal to rubber stamp the Planning Director's comments or submissions. She said she wanted to be very clear that Council have the context in which the Planning Commission presented this. The Planning Commission is a group of volunteers who put in a tremendous amount of time. They listened with great respect and great energy to all the comments made by many of the presenters here this evening. In fact, she called a special work session, an extended work session, where the Planning Commission gave the citizens all the time they needed to be heard. She said they considered all the comments very carefully. They did come to the same conclusion that they did. She said it is the Planning Commission's responsibility to make a recommendation to Council, and it is up to Council now to decide how they want to proceed.

Ms. Stewart said she does have to take some exceptions with some of the framing that has been done of the Planning Commission's actions and wants Council to consider that as well. There was no intent to codify the Planning Director's Interpretation No. 52. She said while they understood that the Lenity Group Project was the catalyst that brought this issue to the forefront, once they began their deliberations, the Lenity Group Project was not discussed. The Planning Commission did not make any decisions or have any discussions on the basis of whether a project by Lenity Group or a similar project would or would not become acceptable. She said they took a very global perspective as they believed was their charge. As a matter of fact, in January the Planning Commission had three new members who were not even around when the Lenity Group presented their project or when Council considered it or when the older members of the Planning Commission considered it. There was no intent on the Planning Commission's part to work around any of the existing regulations or zoning requirements. She said she had to really take exception to this, on behalf of all the hard working members of the Planning Commission, there was no intent at circumvention, and there was certainly no devious intent. She said the Planning Commission had listened with a great deal of respect and afforded everyone consideration. She said she personally felt the Planning Commission deserves the same.

Councilman Merry stated he thought the Planning Commission probably had done a lot of research. He said he was listening to Mr. Paterniti talk about his research and found it interesting. He said he did not know much about how many units go into nursing homes or assisted living facilities, etc., but it sounds like from the research that Mr. Paterniti had done that the number of units per acre for the existing facilities in Aiken might meet this 12 unit maximum. He asked Ms. Stewart if she had any knowledge of whether or not the facilities already in Aiken meet the 12 unit per acre code and also whether that is a typical standard for assisted living, nursing, retirement type facilities like that. He said his assumption would have been that the density was much higher for most of these places. He said when he looks at Cumberland Village and some of the others, they look visually like they would be more units per acre, but he did not know.

Ms. Stewart stated the Planning Commission's research had indicated that generally those facilities have a higher density. She said as to the local facilities Mr. Evans would have to answer because those were all projects that were initiated years ago. She said she thought some of them are more than 12 units per acre.

Councilman Merry asked if there is any typical or common density for these types of facilities or is it all over the board. Ms. Stewart responded that when they looked at them, it was all over the board. She said they did do a lot of research. They did look at a lot of other communities, both when the Lenity Project came before the Planning Commission, and then subsequently. The density is all over the board. It depends on the communities. She said there is a range and the range tends to be a lot higher in the larger communities where higher densities are more the norm. She said if you look at Atlanta, you cannot compare that to Aiken.

Councilman Merry stated he was curious as to whether the existing nursing and assisted living facilities comply with the 12 units per acre.

Mayor Cavanaugh thanked Ms. Stewart for her time and the time of the other members of the Planning Commission. He said Council knows they work very hard and have spent many hours in their efforts. He said many times there is a difference of opinion.

Ms. Stewart stated they are fine with different opinions. She said they did their job and did the best they could. They did a lot of research; they listened carefully to the comments of the citizens; and they put forth their recommendation. She said they would put a check mark on this item on their list. She asked that Council please not send the item back to them.

Mr. Evans stated to answer Councilman Merry's question regarding the density of the current nursing homes and assisted living areas, he had some information on some of the projects. He said all of them pre-date the time the Planning Department was responsible

for zoning enforcement. He said Eden Gardens, which is now Harbor Chase, has 27.5 units per acre. He said the number does not mean that those would be considered dwelling units under the proposed definitions. He said that is just the rooms in the facility. Hitchcock House on Crepe Myrtle Court contains about 15 units per acre. Shadow Oaks is 14.2 units per acre, and Trinity on Laurens is 18.22 units. He said all those numbers do not relate to being dwelling units. They are the rooms or units within the facility. He said Eden Gardens is zoned PR.

Councilman Merry stated he had learned a lot tonight from the persons who had spoken. He said he finds himself agreeing with them in ways that he did not expect to. He said it seems there is a need or demand and a place for facilities like this that might have a higher density than 12 units per acre. He said what we are trying to do is create the distinction of how to distinguish between those that might be allowed at more than 12 units per acre versus a standard multi-family definition, which is limited to 12 units per acre. He asked Mr. Evans if he was aware of how any other municipalities or local governments set those limits. He said he felt the definition of kitchen is very awkward, and he felt it would be easy to get around. He felt that had been established. He said if other municipalities permit a greater number of units per acre than the multi-family zone, how do they distinguish it. Mr. Evans stated he had not done any research in that regard. He said their focus, based on the direction from Council, was to look at the definition of dwelling unit and decide what to do about it. That was the charge to the Commission, and that was what they tried to help them with.

Mr. Pearce pointed out there is nothing to prevent Council from setting a maximum number of residents within a certain designated area as part of the ordinance. Mr. Evans stated for uses that do not have dwelling units, something could be put in the Zoning Ordinance to set a cap on the number of residents in that development, not associated with dwelling units, but people living there.

Councilman Homoki asked if the number could be reduced below 12. He said Mr. Evans had said Council could determine a number and set a cap, he asked if Council could reduce the number below 12. He said he thought the number was set by law. Mr. Evans responded that in a PR development, the maximum density is 12 units per acre. When a concept plan comes before Council, Council could reduce that number, but not go over 12. Mr. Evans said that for uses that don't have dwelling units, Council could put a cap on the number of residents in that particular use.

Mr. Veldman stated Cumberland Village was originally a smaller parcel of 30 or 40 acres. The original assisted living, retirement center and apartment facility was built before the ordinance existed in its current form, but there was discussion of how many units per acre were there. Since there is a lot of land in that parcel, it meets the 12 units per acre criteria. Cumberland Village has expanded beyond that. They bought about 60 more acres a few years ago and have developed a different type of additional facilities. Some are independent cottages; some are more intensive care facilities. Mr. Veldman stated regarding the two type facilities, nursing homes are different. They are not dwelling units by definition. They are group living facilities. He pointed out a chart that Mr. Rahe showed and in the RML and RMH zones in certain uses you can go as high as 17 units per acre. He pointed out some of the things Mr. Evans talked about were dwelling units, household living things and some were nursing facilities.

Councilman Merry stated he hears what they are saying and he agrees, particularly in a residential environment like the Lenity project chose next to Woodside, that this project would not be compatible. He said he wondered when we think about the big picture of the city, if there would not be some demand and some need to be able to accommodate senior living facilities and assisted living facilities in certain areas where they do exceed 12 units per acre. Mr. Veldman stated he felt those would be exceptions that he would like for the developers to bring to City Council and explain why that makes sense. The developers have the opportunity to apply for exemptions.

Councilman Merry pointed out that Mr. Evans had stated they could not go over 12 units. Mr. Evans stated the Board of Zoning Appeals cannot grant a variance over the 12 unit

cap. Councilman Merry stated if there were areas where it might make sense to have greater than 12 units per acre, Council would not have the power to do that. Mr. Evans stated that was correct.

Councilman Merry stated that was his concern. He said he felt the citizens had made a great point and case, but his hang up is that we would be eliminating the potential for anything greater than 12 units per acre, and Council would not have the power to do that. He felt there might be a demand, particularly for possibly the middle to low income retirees needing assistance who might not be able to afford facilities of that description. He said he would hate to think that our city would not have something to offer them.

Mr. Veldman stated we are not land locked in Aiken. He said we have a lot of land in Aiken. It was sad that the Lenity Group, rather than getting mad and walking, would not buy some additional acres and spread the facility out. He said nobody who was against that concept was against a retirement facility at that location. He pointed out that they went through two rounds with the County before for commercial development that was trying to go there.

Councilman Merry stated he was right, and that would have been a good path for them to take. They did not do it, and perhaps it was for the best. He said he was thinking of the north, east and west sides of town. He said even though we are not land locked, we are talking about a restriction that will affect the entire city and any piece of property that is annexed into the city. He said he was not sure we want to be that restricted.

Mr. Veldman stated he did not know of any project that was thwarted by the density requirements. He said the Lenity Group project was not approved because of density requirements, as they had options, but they chose not to take them. He said you have to look at it from another standpoint whether you are on the north side or south side, if you have invested your life savings in a home that is going to be next to a parcel, you want some assurance that it is going to be compatible and there is some limit on density. He said that is where they are coming from. You have to look at it both ways.

Councilman Merry stated he felt Mr. Veldman was right, and he does not disagree with what he said, but he was also thinking about the middle and lower income people and their options, which might be a very high density place. Mr. Veldman responded that maybe those type facilities may be appropriate in a business or commercial zone.

Councilwoman Price pointed out an example of high density, which is the Windham House. It is a facility where there is independent living, and it is affordable. It went before the Planning Commission, and it is located near the Council on Aging and the County Council location. There was no opposition to that location for that facility. It is affordable, and it is a nice facility.

Mr. Paterniti stated he wanted to clarify one thing. He said some of the examples that Mr. Evans cited are a mixed bag, and we are talking about apples and oranges. He said he tried to specify the different types of senior housing. He said Cumberland Village is retirement and some assisted living. Pepper Hill is nursing and convalescent care. Shadow Oaks is assisted living. Anchor is convalescent care and nursing. He said none of these, other than Cumberland Village, are in a PR zone. They are in many different zones. He said Anchor is RMH. The 12 unit per acre limitation is only in the PR zone. The other limitations would depend on the zoning of the area.

Councilman Merry asked what happens if Council does not approve the proposed change. Are we back to where we were when Lenity came to us in the first place. Mr. Paterniti stated the current ordinance was working. If it had a facility to cook food, a bathroom, and a sleeping area, it was a dwelling unit. He said what the BZA did was disagree with Mr. Evans and the Planning Commission's decision that if the unit did not have an oven, stove and refrigerator with a separate freezer that it wasn't a dwelling unit and limited to 12 per acre.

Councilman Merry stated there are two sides—the Planning Department and Planning Commission and the BZA in disagreement and City Council has to take a side.

Mr. Paterniti said we are back to where we were with the ordinance as written which says a dwelling unit has a sleeping area, a bathing area, and kitchen. He said if you want to define it further, he agrees with Mr. Veldman's definition.

Mr. Paul Simons stated nursing homes and assisted living facilities could be put in commercial zones. There are restrictions there also. He said it is the fact that the proposed ordinance does allow these facilities in a residential zone. He said there is not a problem to have them come in and build these facilities, but they should not be in a residential zone like a PR, RMH, or an RML. He said that is where the concern is.

Councilwoman Price stated Mr. Cunning had mentioned a facility to be built in Woodside. She wondered how that would fit in the area.

Mr. Cunning stated the area is 100 acres for the plan that is approved. It would meet the 12 units per acre. He said that is the critical part. He pointed out the assisted living facility adjacent to Woodside was in Woodside's plan. It is under the PR zone, the same way the Woodside Professional Center and Executive Park are. Under the PR zone you can have 5% commercial use. He pointed out when Woodside was originally annexed it was 600 acres. Now it is 3,000 acres. If you take 5% of that, then 150 acres can be mixed use. That is the distinction. He said you can't be next to a PR zone and make 5 acres PR and put 24 units per acre. They would not have the green space for the area. He said the reason they did not want to go multi-family or commercial is because that is not what the city Comprehensive Plan says. The Comprehensive Plan says it needs to stay residential in nature. PR is Planned Residential. He said in a large community you can take 5% of the area and make it commercial. He said in a large PR zone, he could present a plan for a commercial area, but would have to change the land plan. He pointed out the Lenity plan started on 5 acres with 24 units per acre. He said the Lenity plan started with Planned Residential, but he was not concerned about it because he felt they would have to adhere to 12 units per acre as he did. He said when they heard they would have two bedrooms, a bath and a half, and a kitchenette, that is when they got concerned. They were not against the Lenity Group, but were against 118 units on 5 acres. It was all about density. He said what you have to say is that in a PR zone you still have to adhere to the 12 units per acre, and this would not be an issue.

Mayor Cavanaugh stated it seemed that things were okay until certain things happened and the matter went to the Board of Zoning Appeals and the matter was denied. He said Council had been told many times to not approve the proposed amendment. He asked if there was something else besides just don't approve it. He said this matter is not the easiest thing to understand.

Mr. Preston Rahe stated he had worked with this for quite some time. He said there is a fairly simply way to fix this and fix it so that it is consistent with South Carolina statute, consistent within the Zoning Ordinance itself, and meet their concerns about high density and consistent with the BZA ruling. He said we could take the current definition of a dwelling unit and add a sentence. He proposed the following.

**Dwelling Unit.** A single housekeeping unit, whether in a single-family or multifamily structure, including, at a minimum, a kitchen, bathroom, and sleeping area. In residential and planned residential districts, dwelling unit density for any multifamily dwellings with a communal kitchen will include the number of units, with bathroom and sleeping areas.

**Kitchen.** A room or space used, or intended, or designed to be used for the cooking or preparation of food.

Mr. Rahe stated the proposed definition is consistent with the state law of a dwelling unit, and it essentially limits the dwelling unit density whether it is 12 or 17.4 in the particular zoning district. It is a formula for essentially telling you if you want an area Planned Residential zone, here is what you have to do. You have to stay within the current

ordinance of 12 and 17.4. If you have a communal kitchen you have to count the number of sleeping areas to get a total. The other problem is a kitchen. He suggested a kitchen be defined very functionally. He said the suggested definition is simple and functional and consistent with the state law, the BZA ruling, and meets their concerns about density in residential areas. He said it sets no precedent for someone wanting to have a denser structure in a commercial zone. He said what they care about is a residential area and the density, and care about maintaining the BZA precedent being consistent with South Carolina law and maintaining density requirements in residential and planned residential areas.

Ms. Ann Dicks, 314 Jehosse Drive, stated she had a question about procedure. She pointed out this is first reading of the ordinance. She asked if the ordinance is approved, would there be a second reading. She pointed out she is in a low to moderate income area, and she would not want a structure with 118 units in her neighborhood. She asked if the ordinance is passed on first reading, could Council vote differently on second reading.

Mr. Pearce stated if the ordinance is passed on first reading, there would be a second reading of the ordinance on September 23, 2013. He said Council members could vote differently on second reading. He said if density is a concern and Council would like to see a cap on the maximum number of residents in a given amount of area, whether that is square feet or acreage, they could pass it on first reading, send it to the Planning Commission to review, or they could adopt Mr. Rahe's alternate definition modifications. He said if the ordinance is modified and passed, there will be a second reading on the ordinance.

Mr. Bill Busser stated one thing Mr. Pearce keeps mentioning is that Council can set the density units, but unless the definition is very, very tight, then you can put as many units in any place you want to as long as you don't put in a cook top stove or a refrigerator. He said Council could set the density unit at 14 for a PR, but if the definition of a unit is that it has to have all of the elements, then you can get around that by not putting those elements in.

Mr. Pearce stated he may not have been specific enough. That is not the case. He said it would be up to Council to decide. It would be in instances where it is not considered a dwelling unit so the exemptions that are in the proposed definition from the Planning Commission, even if it is exempt from being considered a dwelling unit, Council could place a maximum cap on the density. Mr. Busser stated the density unit says it has to have a kitchen to be a dwelling unit. Mr. Pearce stated it is for developments that are not dwelling units where the cap would specifically address the concerns about the exemptions. He said that was a suggestion. He said that would put a cap in place. He said it is up to Council to decide.

Mayor Cavanaugh stated he felt it was up to Council to consider the matter and make a decision.

Councilman Ebner stated the matter and concern of the citizens deals with density. He said he heard a lot of this over the last year and a half that he has been to the Planning Commission meetings. He said let's keep this in the density realm.

Councilman Ebner stated a citizen had asked him to propose an amendment to the amendment recommended by the Planning Commission. He said he is now proposing the amendment as proposed by Mr. Rahe earlier in the meeting as a motion for Council to vote on. He said the proposal is a reverse of what we have been talking about at this meeting. It goes back and deals with the original ordinance and says keep the original ordinance. He said one would need to vote yes on the motion he is going to make in order to keep the current density. Councilman Ebner pointed out the first sentence is what is in the current Zoning Ordinance. He said the purpose of the proposed amendment is to meet the ruling of the BZA and SC code of regulations for SC Human and Fair Housing. Council is encouraged to vote yes to approve this amendment to ensure current density zoning requirements are adhered to. He said we want to stay

within the requirements that are already in the code. We are not trying to change density requirements at all. The first sentence is the current ordinance. The next sentences further define the dwelling unit and functional kitchen for use for the zoning density requirements.

Councilman Ebner moved, seconded by Councilman Dewar, that the ordinance proposed for first reading to amend the Zoning Ordinance be amended to include the following and be approved on first reading, with second reading and public hearing being set for the next regular meeting of Council.

**Dwelling Unit.** A single housekeeping unit, whether in a single-family or multifamily structure, including, at a minimum, a kitchen, bathroom, and sleeping area. In residential and planned residential districts, dwelling unit density for any multifamily dwellings with a communal kitchen will include the number of units, with bathroom and sleeping areas.

**Kitchen.** A room or space used, or intended, or designed to be used for the cooking or preparation of food.

Councilwoman Diggs asked if the proposed amendment was favorable to the Planning Commission and to the residents.

Councilman Homoki stated a couple of years ago Council sent the Lenity proposal back and gave the impression to the Planning Commission that Council wanted a change. He said when Council sent it back we did not realize the work to make some kind of modification to it. We could have stuck with the definition as it was at the time and totally rejected the proposal and instead of belaboring the Planning Commission for two years trying to refine the definition of dwelling, etc. Council could have denied the request and said it did not comply and that the BZA had spoken on the issue and that we agree with the BZA. He said Council should have done that two years ago and not wasted people's time. He said Ms. Stewart is caught between a rock and hard place. She is the chair of the Planning Commission. The Planning Department assumed that Council wanted a change. He said Council has to be more careful about what we send back to the departments, as they will automatically assume Council wants a change when in fact Council did not want that and really did not want to change the Zoning Ordinance.

Councilman Ebner stated there are probably some unintended consequences. The original request was written by him in 2011 to the City Manager that said to please revise the zoning issues to meet the BZA ruling. He said that was a simple statement. He said he thought that was what started all of this. He said if not, then the note came from somewhere else. He said it did not mention dwelling unit or density, etc. It just said to review the BZA ruling and see if we need to make any changes. He said that was his original request, and that came from the citizens who appealed to the BZA.

Councilman Dewar stated we generally do that by sending something to the Planning Commission for their input. He said Council never independently decides to make changes. They always ask for Planning Commission input. Then Council can do whatever they want.

Councilman Homoki stated it was intimated by Council that we wanted a change by sending it back when, in fact, Council really didn't want a change.

Mr. Pearce stated the Zoning Ordinance requires that the Planning Commission advise Council about a proposed amendment. That is set forth in the Zoning Ordinance. He said it does not go to a department; it goes to the Planning Commission, and that is what they have looked at for a year. He said the request was part of the Action Agenda that Council and the Planning Commission agreed to in the work session that was held to discuss items for the Action Agenda. He said any proposed change to the Zoning Ordinance would be something that the Planning Commission would consider on an advisory basis only. He said Council does make the final decision.

Councilman Merry asked if we would just throw out what the Planning Commission did and approve the proposal as moved by Councilman Ebner.

Councilman Dewar stated he did not want to say throw it out. He said we have to be careful. We are dealing with a bunch of volunteers, and if we did not have the volunteers we probably would not get a lot done.

Councilman Merry stated he appreciated what the volunteers do. He said the wording that was suggested by the citizens makes a lot of sense. He said he likes things simple rather than more complex. He said he tends to try to give some credit to the work that the Planning Commission and the Planning Department did in the sense that they did labor with the idea of defining dwelling unit in a certain way. There must have been some reason for that. He said he would at least like their input on the new language, and the Planning Commission has not had the language to give an opinion. He said if Council is to receive recommendations from the Planning Commission, he would at least like for them to give their input on this language. He said there must be some reason the Planning Commission did their recommendation the way they did it, although he was not sure he totally agreed or disagreed with what they came up with. He said at the same time without asking their opinion on this, we are throwing away what they have done, and not asking their opinion. He said he would like to have their opinion.

Councilman Dewar stated Council had a copy of the Planning Commission's minutes which explains their discussion.

Councilman Merry pointed out the Planning Commission had not discussed the new wording that had been suggested by Mr. Rahe.

Mr. Pearce stated as mentioned earlier, Council can pass the ordinance on first reading, and if Council wants Planning Commission input, it can be sent to the Planning Commission for comment before voting on it at second reading. He said Ms. Stewart is present at this meeting, but she could not speak for the whole Commission. He said Council does have the option.

Councilwoman Price stated she did want to applaud the Planning Commission for their work. They spent a lot of time discussing the matter. She felt as Council members they have to be very careful about what they send back to the committees to revisit and restudy, but Council needs to think about the time involved and what we are requesting of the volunteers. She said she realizes when Council passes an ordinance they want to pass the most effective ordinance in the best interest of the citizens. She said there are two sides. There is a group of people who are in Woodside who have been worried about what is going to happen to the value of their property. She said the issue of the ordinance and the wording has lingered with them. She said there is the Planning Commission that has been reviewing the matter and trying to come up with what meets the citizens' needs and the City of Aiken so they are caught between the rock and a hard place. She said Council needs to be careful as a governing body in terms of what they request, not only as it deals with the Planning Commission, but other things Council is requesting as well. She said we need to be mindful of time and whether the request is a valid request that we are requesting of individuals to labor and to look into and investigate. She said she felt the citizens are entitled to some rest with this matter as well as the Planning Commission. She said she supports the idea of passing the ordinance on first reading and in the meantime ask the Planning Commission to review what Council passes on first reading.

Councilman Merry stated he agrees with everything Councilwoman Price had said, and he agreed with what Mr. Rahe and Mr. Veldman had said. However, he thought the Planning Commission and the Planning Director felt there was a distinction to be made to differentiate assisted living facilities, nursing homes, and retirement facilities from other multi-family development. They probably felt that distinction was because those types of land uses were not perfectly similar to multi-family, such as fewer vehicle trips, fewer children, fewer residents per unit, and less demands for city services and other things. He said there are fundamental differences between the two. He said he assumed that was the reason for them to draw that distinction and for him to gloss over the work they did and



not recognize that distinction was a concern to him. He said he finds himself agreeing more than he thought he would with Mr. Rahe and Mr. Veldman. He said he liked the simpler definition, but he also would like to know how the Planning Commission's distinction fits with the proposed wording.

Councilman Dewar stated he was confused. He said there was a motion on the floor, but Councilwoman Price was talking about sending it back to the Planning Commission. He said if Council passes the amended ordinance on first reading, when it comes to Council for second reading if the Planning Commission wants to present their views to Council that would be okay. He said he had the feeling that there were seven people who do not want to see this matter again. He said the Planning Commission had done a good job, and with the turnover in the Planning Commission members it took longer to make the review. He said if there is any other input that the Planning Commission wants to make as a body or as individual members they could do so at the second reading.

Mayor Cavanaugh stated he was sure all Council feels the same way about the Planning Commission and all the boards and commissions. He said we all know that we don't always agree, but we do appreciate everyone's work. However, it comes to the point that a decision has to be made. He said as he looked and listened to the presentations that were made and heard what might happen to our community if the Planning Commission recommendation was adopted, he did not want that. He said the proposed change could have been detrimental in many ways. He said that was not saying we don't appreciate the Planning Commission. It is saying we are making a decision that we feel is best for our city. He said he had heard all the discussion and the remarks from both sides, and he was convinced that the change to the ordinance proposed by Councilman Ebner is the best thing for our city now. He said that is not saying the Planning Commission did not do their job. They did their job, but came up with something that is different from what Council feels is best.

Councilwoman Price stated the only thing she would impress upon Council is that in six months if another request comes in that Council not decide they want a different definition of a dwelling unit. She said whatever is decided we need to stay with it. She said she did not want to see the citizens again with the same issue at a Council meeting.

Mayor Cavanaugh called for a vote on the motion by Councilman Ebner to approve the ordinance on first reading with the amendment proposed by Mr. Rahe. The motion was unanimously approved. Second reading will be held at the next meeting of Council.

#### AIKEN MUNICIPAL AIRPORT

##### FAA Grant

##### Security Fencing

##### Fencing

Mayor Cavanaugh stated Council needed to consider acceptance of a grant from FAA for the security fencing project at the Aiken Municipal Airport.

Mr. Pearce stated this project was discussed under the capital projects in the budget process. He said it was included in the budget in the \$150,000 for landscaping at the airport. He said that was for this project of finishing the fencing around the perimeter of the Aiken Municipal Airport. Bids have been received on the fencing project.

The Federal Aviation Administration [FAA] has awarded the City of Aiken a grant to complete the perimeter fence project at the Aiken Municipal Airport. This FAA grant totals \$172,021, which covers 90% of the cost for the fencing project. The South Carolina Aeronautics Commission will pay 5% of the fencing cost [\$9,557], and City Council budgeted \$9,557 in local matching money that is required towards the project total cost of \$191,135.

In order to meet the requirements of this grant, we need City Council approval of acceptance of the grant.

For Council consideration is acceptance of a \$172,021 grant from FAA and \$9,557 from the South Carolina Aeronautics Commission to complete the fencing project at the Aiken Municipal Airport.

Councilman Dewar stated he did not see the city's share of \$9,557 listed in the budget. Mr. Pearce stated it is in the budget, but is not itemized as \$9,557. It is included in the total budgeted amount of \$150,000 listed as landscaping.

Councilman Homoki moved, seconded by Councilwoman Price, that Council accept the \$172,021 grant from FAA and \$9,557 from the South Carolina Aeronautics Commission to complete the fencing project at the Aiken Municipal Airport. The motion was unanimously approved.

#### CONCEPT PLAN - ORDINANCE

Shoppes at Richland

Richland Avenue W

Sign

Lulu's Car Wash

Mayor Cavanaugh stated the next item is first reading of an ordinance to amend the Concept Plan for Shoppes on Richland regarding signage for Lulu's Car Wash.

Mr. Pearce stated that a message had been received that the representative for Lulu's Car Wash could not be present at the Council meeting as they are sick. They asked for a continuance of the request to September 23, 2013.

Councilman Dewar moved, seconded by Councilwoman Diggs that the request to amend the Shoppes at Richland Concept Plan for a larger sign for the Lulu's Car Wash be continued to the September 23, 2013, meeting since the representative could not be present because of illness.

The motion was unanimously approved.

#### CONCEPT PLAN - ORDINANCE

South Park Shopping Center

Sign

Party City

Whiskey Road

Mayor Cavanaugh stated Council needed to consider first reading of an ordinance to amend the Concept Plan for South Park Shopping Center regarding signage for Party City.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE AMENDING THE CONCEPT PLAN FOR SOUTH PARK SHOPPING CENTER.

Mr. Pearce stated the owners of Party City at the South Park Shopping Center on Whiskey Road have requested an amendment to the concept plan to install a larger sign than the center concept plan or the Zoning Ordinance allows.

The owners went to Mr. Evans, Planning Director, for administrative approval. Mr. Evans reviewed the request. The size of the requested sign would exceed the size of the signs in the rest of the South Park Shopping Center, including the Fresh Market, Jimmy Johns and Romas.

The Planning Commission reviewed this request. The Commission members voted 6 to 1 to recommend against allowing a larger sign in the South Park Shopping Center for Party City and voted against amending the Concept Plan. A copy of the Planning Commission memo regarding this request, their voting results, and their recommendation

was provided to Council for reference.

Mr. Pearce stated a representative from Party City is present to express their reasons for wanting a larger sign than any other business in that shopping center.

For City Council action is a vote regarding the request to amend the South Park Shopping Center Concept Plan for a larger sign for Party City.

Mr. Evans, Planning Director, stated the request came to him for administrative approval. He pointed out sign Options 1 and 3 in the agenda packet. He said Option 1 is what Party City would like. Mr. Evans said he could not approve that administratively. However, he said he could approve Option 3 administratively. He said there is not a huge difference in the two proposed signs, but the "P" and "C" in Party City in what they would like are 4' tall. In Option 3 the "P" and "C" are 3'6" tall. The scale on the façade is much bigger with Option 1 than it is with Option 3. The façade width for Party City is a lot less than it is for Fresh Market. He said he wanted to approve it administratively, but he had to draw a line somewhere. He said the development is so valuable and such a great job has been done, he felt it was important to be careful with the signage.

Councilman Dewar asked if any concerns had been expressed by the developer regarding the sign request. Mr. Evans stated the developer Halvorsen had not expressed any concerns nor had the Fresh Market. Councilman Dewar asked if Council approved either Option 1 or Option 3 if it would have an adverse effect on anyone else in the shopping center. Mr. Evans stated he doubted it would have an adverse effect on anyone else in the shopping center.

Councilman Ebner stated the 4' is allowed in the ordinance, but Council made an exception in the Concept Plan. Mr. Evans stated their proposed sign is well within the 20% in the ordinance, but it is much bigger than what is shown on the concept plan approved by Council.

Councilman Ebner stated he felt that was important. He said for some reason the signs were made smaller in the concept plan. He said if you look at the Zoning Ordinance the sign would be okay and Mr. Evans could have approved it administratively.

Councilman Dewar asked Mr. Evans if Council were to approve Option 1 if he could think of any negative reason it would be a problem.

Mr. Pearce stated if approved, it would be the largest sign on any of the buildings in the shopping center. He pointed out Mr. Evans is deferring to Council because of the concept plan that Council approved with smaller signs.

Councilman Dewar stated Council approved the concept plan not knowing who was going in any of the stores. He asked if Party City would be the largest unit in the shopping center. Mr. Evans stated Fresh Market is the anchor store and the largest store in the center. He pointed out an elevation picture in the agenda packet which shows a comparison of the two facades and Fresh Market is much larger. It was pointed out there is a building between Fresh Market and Party City.

Councilman Dewar considered approval of Option 1 which is the larger sign.

Councilwoman Price asked if Council did not want to consider conformity and staying with something that is in compliance with Fresh Market.

Councilman Ebner pointed out that the façade for Party City is larger than the other facades.

Ms. Kara Giummo, representing Party City, stated they do request consideration of City Council to be allowed to use their 48" Party City sign with their 12.25" tag line reading The Discount Party Super Store. She said that is their standard minimum size sign

package that is on every Party City lease since 2011. It helps create brand consistency. She said they don't believe approval of the signage would affect the character of the development. She said, as stated prior, the wall sign does not exceed 20% of the front surface of the building, and the Zoning Ordinance does not mention a limit on the height or width of the signage on a building. The total square footage of the Party City front surface is 1,629 sq.ft, and 20% of that is 325.8 square feet. The signage they are proposing of 48" with a tag line is only 183.4 sq.ft., which is well within the 20% code. The concept plan originally showed only the Fresh Market signage and tenant signage for all the spaces. The concept plan did not include any sort of written criteria for the signage allowed in the center. She said they feel that their signage is consistent with what was approved. The approved Fresh Market signage is much larger than what is shown on the concept plan. She pointed out that the concept plan shows the Fresh Market signage takes up a small portion of the façade. However, another picture showing the actual Fresh Market signage on the façade is much larger than the approved concept plan. She said the Fresh Market signage that is currently on the building does take up the largest portion of their façade that they can use. There are decorative elements to the right and left of their signage. She said the Party City signage would do the same thing, taking up their entire area, but does not include decorative elements. She said they have approval from the landlord to have this façade built to accommodate their signage. She said the façade was built large enough to accommodate their 48" sign with a tag line.

Mayor Cavanaugh asked Mr. Evans to again give the reason the request was defeated by the Planning Commission by a 6 to 1 vote.

Mr. Evans stated he did not recall a reason being stated. They just thought the sign was out of scale. Mayor Cavanaugh pointed out the proposed sign is smaller than the Fresh Market sign.

Mr. Bob Besley, of the Planning Commission, stated he thought the Commission was guided by the ruling that a sign could not be greater than 20% of the complete front of the structure. The Commission felt it was only fair to do what they were doing for everyone else in the center and keep it consistent.

Mr. Evans stated the proposed sign that Party City wants would still be less than 20% of the front surface of the building.

Mr. Pearce stated he thought the 20% did not play in the decision. Party City proposes a 4' height sign, but Option 3 proposes a height of 3'6". He said Party City's sign would be about a 6" difference in the "P" and the "C" letters.

Mr. Evans stated he had explained to Party City in April that he could not approve 4' letters administratively.

Councilwoman Price stated then the other letters were in conformity, and only the "P" and "C" were the issue. Mr. Pearce pointed out those letters were 6" higher.

Mr. Evans stated only because of the scale on the building. He said it had nothing to do with the 20% of the surface of the building. The proposed sign would be well within the 20%. It is only an issue of the scale on the Party City façade. He said he did administratively approve the Fresh Market sign bigger than what is shown on the concept plan, but the Fresh Market façade is much bigger than the Party City façade. He said the question is the Party City sign appropriate with the façade they have. Is the scale appropriate. He said he was trying to be consistent with other signs. He said if you look at the Fresh Market sign and compare it to their façade, the Party City sign would be much larger on the façade that they have than the Fresh Market sign on its façade. It is in the comparison of the scale of the two signs.

Mayor Cavanaugh stated each sign was being handled the same way to be consistent. Mr. Evans pointed out the Roma's sign fits with their façade as well as the Jimmy John sign fits their façade and the Fresh Market is in the same pattern. The sign proposed by Party City is significantly larger.

Mayor Cavanaugh stated if we stay consistent with the signs that is being fair. He said if we allow something different then others will want something different too.

Mr. Evans stated he wanted to approve the sign administratively. He said he did not want to have to explain this and put Party City through this. However, he felt it was such an important development that he wanted to be careful with the way the signage looks.

Councilwoman Diggs asked if Party City was told when they decided to open that there were some limitations as to the size of the sign they could have.

Ms. Giummo stated they were shown a concept plan, but since there was no wording for the signage plan, they were under the impression that they could get the 48" with the tag line, which is their standard sign. She said if they go with a 48" sign with a tag line, they usually go for a city variance.

Councilman Homoki asked if the original sign was Party City just by itself without the tag line. Ms. Giummo stated they always propose the tag line.

Mr. Pearce pointed out that the City Attorney has said that the city can regulate size of signs, but not content. He said there is nothing wrong with the tag line being on the sign.

Councilwoman Price asked a question about the marketing. She said she was a proponent of marketing, as if you can't market your business, you can't succeed. She asked how the signage impacted visibility for traffic passing by and the distance between the store and Whiskey Road. She asked if that was a consideration for the larger sign.

Ms. Giummo stated that was a consideration, as they want the larger sign that will fit on the façade so that the cars going by can see it. In response to a question about the signs being lit, Ms. Giummo stated the signs are front and back lit. She showed Council a picture of a lighted sign at night.

Councilman Merry stated in the judgment of Mr. Evans if 48" is too much would 42" be okay. He asked how Party City felt about a 42" sign, and if there was a reason that was not doable.

Ms. Giummo stated if that is all that is allowed, that is what they would go with. She said they prefer the 48", but if they are only allowed 42" then they would comply.

Councilman Dewar asked how bright the Party City sign would be. Ms. Giummo stated she did not know the lumens. Councilman Dewar stated he thought someone from Aiken Estates expressed concern about the brightness of the sign. Ms. Giummo stated there was someone at the Planning Commission who expressed concern about the sign. She said their signage is lit no more than two hours after closing. It is on a timer. It is not lit all night. She said their hours are from 9 a.m. to 10 p.m. At the latest the sign would be lit till 11 p.m.

Councilwoman Diggs asked if the brightness of the sign might keep the neighborhood awake. Ms. Giummo responded that it should not.

Councilman Dewar stated that was his concern. He pointed out the brush had been cleared on Whiskey Road and the replacements have not grown up to the point where they block light. He said the Aiken Estates community was very concerned about what may happen to the shopping center. He pointed out that only one person spoke against it at the Planning meeting.

Councilman Ebner pointed out there are four rows of parking lot lights between their sign and the street, plus a row of trees. He said he did not feel that lumens is an issue. He said one thing Ms. Giummo had mentioned was if you look at the size of their façade, the

height and everything, they actually had it designed for a larger letter, being 48", as that was the original concept plan that they had. It does have a bigger façade.

Councilman Dewar stated this matter reemphasizes the point made in the joint meeting with the Planning Commission that we need to work on the sign ordinance. He said he thought that should be about next.

Councilman Merry stated in looking at the sign, it does not look that much out of scale for the façade.

Mayor Cavanaugh stated it seemed to him that we need to be consistent with what we do. He pointed out there will be other businesses and other signs coming in.

Mr. Pearce pointed out that Option 3 is the one that Mr. Evans would be comfortable with which is a 42" sign. Option 1 is a 48" sign.

Ms. Ann Dicks, 314 Jehossee Drive, asked what the ordinance says about the 20% of the building.

Mr. Evans stated the ordinance says the sign can be up to 20% of the area of the front wall. You take the width by the height of the building and calculate 20% of the area. He pointed out the proposed sign is below the 20% of the area of the building.

Councilman Homoki asked how you measure the size of the sign and whether it was surface area or dimension. He asked if you measure from the top of the "P" all the way to the end of the tag line. Mr. Evans responded that typically they draw a box around all the letters and calculate the size. He said they do not subtract for empty space.

Ms. Dicks stated a concern is what about signs for other businesses that may come in the shopping center. However, if the proposed sign is within the 20% of the area of the building, that should be equitable.

Mr. Pearce asked Mr. Evans to address the comment that if the sign is within the 20% why he did not approve it administratively.

Mr. Evans stated he did not approve the proposed sign, even though it is within the 20% of the area, because the concept plan shows signs much less than the 20%. He pointed out he had approved a sign for the Fresh Market bigger than what is shown on the concept plan. He pointed out the Party City sign is much bigger in proportion to its façade than the Fresh Market sign. He said he had to draw the line somewhere. He said he chose to draw the line between Option 1 and Option 3. He said he could not approve Option 1 administratively with the 4' letters. He said he could approve Option 3 with the 3.5' letters.

Councilman Dewar pointed out there is a monument type sign for the shopping center on Whiskey Road and Party City will be on that sign. He said he felt Party City will be so successful that the sign will not make a difference.

Councilwoman Price moved that Council approve the ordinance on first reading and approve sign Option 3 for the Party City sign. The motion was seconded by Mayor Cavanaugh. The motion was unanimously approved.

SHILOH SPRINGS - ORDINANCEFilter SystemRadiumSC Department of Health & Environmental ControlDecommissioning

Mayor Cavanaugh stated Council needed to consider first reading of an ordinance of intent to comply with DHEC regulation regarding any decommissioning of the filtering system at Shiloh Springs.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE PROVIDING A STATEMENT OF INTENT PURSUANT TO DHEC REG. RHA 1.15 AND RHA 1.15.12.4

Mr. Pearce stated that part of the work that we are doing at Shiloh Springs is removing radium from the water through a reverse osmosis filter. After a period of time the filter will have to be removed. The filter has a 10 year life time expectancy. He said the intent will be to change out the filter every eight years. When we do that the filter has radium in it, so we have to dispose of it properly. In order to receive the forgivable loan to install the filtering system, we have to approve the decommissioning of the filter at such time that Shiloh Springs has no radium in it consistently, and we don't have to continue to operate the filter. The estimated cost for that is about \$65,000. He said we have money in Reserve to cover the cost. DHEC is satisfied with that, and we don't have to post a bond, but will have cash on hand. Under our Consent Order with SCDHEC, Council has approved FY 2013-14 budget funds to install a filtration system to remove any radium present as we take water from Shiloh Springs. As part of this work, we also need approval from Council regarding a path forward to decommission this filtration system at any future date when it may no longer be needed. Our Engineering and Utilities Department Director has reviewed this SCDHEC-required document and is confident that this decommissioning process can be accomplished without any undue expense to our taxpayers.

For Council approval is a decommissioning agreement from SCDHEC for the filtration system at our Shiloh Springs water source facility.

Councilman Ebner suggested that the city get a background check on the radon gas. He said this area is one of the heaviest areas. He said we should get a base reading before we start.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance of intent to comply with DHEC regulations regarding any decommissioning of the filtering system at Shiloh Springs. The motion was unanimously approved.

SHILOH SPRINGS – RESOLUTION 09092013LoanSouth Carolina Water Quality Revolving FundRadium Filtering System

Mayor Cavanaugh stated Council needed to consider a resolution accepting loan assistance from South Carolina Water Quality Revolving Fund for installation of radium filtration system at Shiloh Springs.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING AND APPROVING THE ACCEPTANCE OF CERTAIN LOAN ASSISTANCE MONIES FROM THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, AUTHORIZING THE MAYOR TO EXECUTE THAT CERTAIN LOAN ASSISTANCE AGREEMENT BETWEEN THE CITY OF AIKEN AND THE SOUTH CAROLINA WATER QUALITY REVOLVING FUND AUTHORITY, AND OTHER MATTERS RELATING THERETO.

Mr. Pearce stated this is the proposed resolution from the South Carolina Water Quality Revolving Fund. As part of our project to install filtration equipment at our Shiloh Springs water source is approval of a loan agreement with the State of South Carolina. Under this agreement, the State will loan the City of Aiken \$1,000,000 to pay over 75% of the expenses for this Consent Order-required installation. It is a forgivable loan that should not have to be repaid. The balance of the funds needed has been budgeted in the 2013-14 budget. We have gone to bid for the project. The cost is about \$1,300,000 for the project.

For Council approval is acceptance of a State-funded loan towards the cost of installing filtration equipment at our Shiloh Springs water source.

Councilman Dewar moved, seconded by Councilman Ebner, that Council approve the resolution accepting loan assistance of \$1 million from the South Carolina Water Quality Revolving Fund for the installation of a radium filtration system at Shiloh Springs. The motion was unanimously approved.

TOWING FRANCHISE – ORDINANCE

Conventional  
Heavy Duty  
Rotation List  
Wreckers

Mayor Cavanaugh stated an ordinance had been prepared for first reading regarding involuntary towing franchise agreements for conventional and heavy duty towing.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE GRANTING NONEXCLUSIVE TOWING FRANCHISES FOR INVOLUNTARY TOWING WITHI THE CITY OF AIKEN.

Mr. Pearce stated representatives were present from several towing companies. He said Council had originally indicated that every year they would like to review the franchise agreement. He said Public Safety Director Barranco, and City Solicitor and Staff Attorney had looked at the towing ordinance. There is no change in the rate structure. The change is instead of reviewing the franchise agreements every year, the recommendation from the Public Safety Director and Staff Attorney is to change the review to a three year rotation to review the franchise agreement. Pursuant to prior City Council action, it is again time to review the franchise agreements for conventional and heavy duty rotation lists for involuntary tows by companies performing this service to our Aiken Department of Public Safety when the need arises to involuntarily tow a vehicle from an incident scene.

Rates for towing are:

<u>Regular Sized Vehicles, Daytime</u>	\$125
--Nights, weekends, holidays	\$175
Storage Fees per day	\$ 25



Larger Sized Vehicles

More than 7,000 lbs, but less than 17,000 lbs., Daytime	\$150
--Nights, weekends, holidays	\$200
17,000 lbs., or more Daytime	\$300
--Nights, weekends, holidays	\$350
Storage Fees per day	\$ 40

For Council consideration on First Reading is an ordinance approving the towing rates and franchise agreements for conventional and heavy duty involuntary tows by private companies on behalf of ADPS when the need arises.

Mayor Cavanaugh stated any changes in rates would have to come back to City Council. Mr. Pearce stated any change in rates would require adoption of a new rate schedule.

Mr. Jeff Corbett, of Wayne’s Automotive, expressed concern about the rates and asked if there was any change in rates. He pointed out there had been rates for light duty and for heavy duty vehicles. Mr. Pearce responded that the rates had not changed.

Ms. Mary Coffey, with Custom Finish, stated her concern is that the city wants to go from a one year contract to a three year contract. She asked if the city was taking into consideration the expenses for towing companies. She stated every year their insurance increases and fuel costs are very high. She said if the towing companies are locked into a three year contract, there is no chance for an increase in rates. She pointed out there had not been a rate increase in years.

Mayor Cavanaugh stated he did not understand that the towing companies would be locked into a three year contract. He stated that was the question he had asked about rate changes. He pointed out there are no rates increases in the proposed ordinance. If the rates change, that will have to come back to City Council for approval.

Mr. Pearce stated if there is any proposal to change rates that will have to be approved by Council. He pointed out the towing companies are not locked into a three year contract. He said the towing companies can opt out of doing involuntary tows for the city at any time. He said if expenses increase and fuel doubles and the towing companies want to meet with the Public Safety Director, we can do that at any time. He said we are just asking for a three year review of the franchise agreement rather than an annual review. The towing companies are not locked into anything. He said Council can amend the ordinance at any time. He said the towing companies could contact the Public Safety Director or him at any time.

Ms. Coffey stated the rates have probably not changed in five years. She pointed out expenses have increased during that time, especially insurance rates and fuel costs. Councilman Ebner stated if the rates have not changed in five years, expenses have increased. He pointed out that the cost of diesel fuel had increased. He asked if before the next Council meeting the Public Safety Director could meet with them and review the rates for towing.

Mr. Pearce stated staff would be happy to meet with them and discuss the rate schedule. He said the information we had is that this rate schedule was actually a better rate of pay than a routine tow. He said if that is not the case staff needs to know that before second reading of the ordinance.

Ms. Coffey stated she had two trucks, and she is paying almost \$800 per month for the liability coverage required by the city. Every year the insurance rates go up. She said that was her concern that being locked in for three years, the rates would not change for three years.

Mr. Pearce pointed out the rates would not be locked in for three years. He pointed out the towing companies do not have to participate in the towing. He asked that the towing companies discuss the matter with Public Safety Director and the rates could be discussed on second reading.

Councilman Dewar stated we need the towing companies, and we need to make sure the rates are reasonable.

Mr. Pearce pointed out that the rate schedule can be revised at any time. There was no intent to lock the towing companies into a rate schedule for three years.

Councilwoman Diggs moved, seconded by Councilwoman Price, that Council approve on first reading an ordinance approving the towing franchise agreements for conventional and heavy duty involuntary tows by private companies and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

### INFORMATION

#### Labor Day Barbecue Cook Off

Mr. Pearce informed Council that the Labor Day Cookoff was a huge success. He said they think we are close to \$7,000 in net proceeds which would be up 12% from last year. He pointed out Chief Barranco and his team get credit for increasing the net proceeds for the Labor Day Cook off.

#### Bridges

Mr. Pearce stated he had received a call from Councilman Merry, that he would like to discuss a resolution from Council concerning the historic bridges, which would include the bridges at Union, Fairfield, and two at York Street. He said the plan is to put that on the agenda for September 23, 2013, for discussion by Council. He pointed out that at the joint meeting with the Planning Commission and City Council, it was mentioned that the Design Review Board has approved the designation of the bridges as historic structures. The second matter was to give DRB the authority to look at bridge design under their jurisdiction.

Councilman Merry pointed out the matter of Council considering the bridges as historic structures was discussed at the joint meeting with the Planning Commission. He said the local DOT Commissioners would like for Council to tell them what Council would like to do so he asked that the matter be put on the agenda so Council can take whatever means to provide some very general and broad priorities of Council.

#### Aiken's Makin'

Mayor Cavanaugh stated he was stopped at Aiken's Makin' by a member of the Chamber committee for Aiken's Makin'. He asked the Mayor to express at the Council meeting their thanks for all the outstanding work Public Safety did at Aiken's Makin'.

Mr. Pearce stated there were 130 vendors at Aiken's Makin'. He said he also heard from a member of the Committee who said the vendors had said they had never been in a more receptive, supportive, friendly city than Aiken.

#### Channel 4 Televising Council Meetings

Councilman Dewar pointed out that a bid had been let to TootSuite for Channel 4. He wondered if staff was talking to them about televising the Council meetings. He said we need to make an outreach to the community so they can be aware of what is happening in the city.

Mr. Pearce stated the main discussion with TootSuit was to convert Channel 4 from an analog to a digital system. They can do video on demand, and we could price that with them. He said we could live stream the Council meetings or have it has a video on demand.

Councilman Dewar asked that the City Manager bring some options to Council and the pricing so Council can discuss it. He said televising Council meetings had been a long standing goal, and he is sensitive to the fact that we don't have a lot of money, but he is also sensitive to the fact that we need to outreach to the community. He said we have four people running for office for reelection, and there are no opponents. He pointed out that very few people come to the Council meetings. He said when it was televised even though sometimes it was on at 2 a.m. or 3 a.m., people would talk to him about watching the meeting and making comments. He said he would like for Council to discuss the matter again.

#### Water Meters

Councilman Dewar stated his other matter has to do with water meters. He said he was confused with the wording in the Issues memo which stated "All water meters are scheduled to be replaced as unit batteries reach the end of their 10 year life expectancy. As we test replacement units from our vendor Badger Meter Company, we have found a unit that will allow us to record all water consumption." He asked if we have a unit now that we have approved and buying and putting in.

Mr. Pearce stated we have a unit in testing. He said we tried the stainless steel units with no moving parts. When there was a high demand we were having problems with those meters. He said that is why we have not gone in full force with replacements. He said we have some sample meters. We have met with the representatives from the meter reading company and we think we have a solution. We want to try that for a month.

Councilman Dewar stated he did not mean to be critical, but it just seems that it has been a long time getting a meter. He asked if we are tied to one company.

Mr. Pearce responded that we are on the reading units. Orion is the company we have been with consistently. He said we had started changing the meters, but had problems with them. We met with the company representatives. They have a new unit that we are trying. So far it is working okay, but he does not have enough information yet to go forward. He said we should have more information by the first meeting in October. He said we want to make sure we are reading all the water that is being used.

Councilman Dewar asked if the meters were easy to install. Mr. Pearce responded that it depends. The main challenge has been finding the corporate stops. In a neighborhood sometimes the corporate stops are under a driveway, so we have to cut the concrete and dig down to be able to cut the water off to a corporate stop so we can replace the meters and not have water running everywhere. Mr. Pearce stated we were trying to focus on the areas that had the major number of water leaks. We would be replacing the water lines so as long as we were digging in the area we would replace the meters also. He said those areas included South Meadows, the area behind Aiken Mall and West Pleasant Colony in Woodside. He said in doing those replacements we found the problems with the other units. That is why we are trying the new units.

Councilman Dewar asked about the employees hired to replace leaks. Mr. Pearce stated in the summer time those employees spend most of their time working on water leaks and water line replacements that have been identified. When we don't have so many water leaks, which typically happens in the fall, winter and early spring, then that is when we work on the meter replacements.

Councilman Ebner asked if the problem was the body of the meter or the reader. Mr. Pearce responded it was the body of the meter. He said at peak usage times, the meter did not register the water usage right and the meter would fail.

Councilman Ebner stated that sounds odd. The charts that were given to him and Mr. Morris showed full flow on a 5/8" meter with a 1" line. He said he was surprised. He said the charts they gave them showed full flow.

Mr. Pearce stated they had problems and they failed. He said they think they have a solution, but they want to test it before doing 18,000 meters.

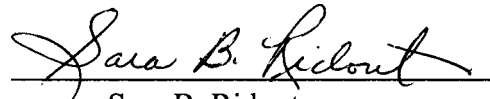
#### Council Agenda

Councilman Homoki stated he thought we were killing a lot of trees with the Council packages. He asked if there was a way to get copies of the City Manager's memos and the ordinances. Then have the backup information either on a flash drive or available so they can put it on a flash drive and bring their own PC or laptop to the Council meeting.

Mr. Pearce stated we could do whatever Council wants. He said other requests are that even though we send the agenda electronically they want a backup paper copy too. He said we can work with whatever the individual Council members would like.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 11:29 P.M.

  
Sara B. Ridout  
City Clerk