

Aiken City Council MinutesREGULAR MEETING

July 9, 2012

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

Absent: Councilmember Dewar

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Larry Morris, Alicia Davis, Glenn Parker, Charles Barranco, Tim Coakley, Ed Evans, Sara Ridout, Amy Banton of the Aiken Standard, and about 50 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:02 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.

MINUTES

The minutes of the regular meeting of June 25, 2012, were considered for approval. Councilwoman Diggs moved, seconded by Councilman Wells, that the minutes of the June 25, 2012, meeting be approved as submitted. The motion was unanimously approved.

BOARDS AND COMMISSIONSAppointmentsJohn HorvathHousing AuthorityButch RobersonGeneral Aviation Commission

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

Mr. Pearce stated Council has 3 pending appointments to fill vacancies on different City boards, commissions, and committees. Two appointments are presented for Council's consideration at this meeting.

Councilmember Homoki has recommended the appointment of John Horvath to the Housing Authority Board to fill the unexpired term of Kent Cabbage who has resigned. If appointed Mr. Horvath's term would expire May 28, 2015. Housing Authority terms are for five years.

Councilmember Wells has recommended the appointment of Butch Roberson to the General Aviation Commission to fill the unexpired term of a member who recently died. If appointed his term would expire September 1, 2013.

For City Council consideration is approval of two appointments to this board and commission as recommended.

Councilwoman Price moved, seconded by Councilman Wells, that Council appoint John Horvath to the Housing Authority to fill the unexpired term of Kent Cabbage with the term to expire May 28, 2015, and appoint Butch Roberson to the General Aviation

Commission to fill the unexpired term of Craig Jarvis with the term to expire September 1, 2013. The motion was unanimously approved.

REDISTRICTING – ORDINANCE 07092012

6-1 Plan

District Lines

Single Member Districts

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to redraw City Council districts and implement a 6-1 districting plan.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 14-1 OF THE AIKEN CITY CODE TO PROVIDE FOR THE MAYOR TO BE ELECTED AT LARGE AND SIX COUNCIL MEMBERS TO BE ELECTED FROM SINGLE MEMBER DISTRICTS AND AMENDING SECTION 14-2 OF THE AIKEN CITY CODE TO PROVIDE FOR THE TERMS OF OFFICE FOR MAYOR AND COUNCIL MEMBERS.

Mr. Pearce stated last spring, we held several public hearings regarding the new 6-1 Single Member District City Council Plan that voters approved in November, 2011. The proposed ordinance would adopt a plan for implementation in the 2013 City Council election, or for any other necessary City Council elections before the next regular Council election. The proposed plan would have 6 districts for Councilmembers, and the Mayor would be elected at large.

Jim Holly, attorney who has been helping the city with the process, and Will Roberts from the State Office of Statistics, were present to review the redrawn single member district plans and answer any questions arising from the proposed plan.

Two proposed plans were presented for Council consideration. One plan shows the district lines Council approved at the March 26, 2012, first reading. The other, drawn at the request of Councilmember Dewar, shows a redrawn map with both he and Councilmember Wells in the same district. Mr. Pearce pointed out that at the March 26, 2012, meeting there was some question about a potential alternate plan from what was approved on first reading. The ordinance for first reading talked about adoption of a Plan 1, which was adopted by Council on first reading. Several public information meetings were held on the proposed plan. Comments were received on the plan, and one comment regarded the line that jutted out like a finger into District 6. Some recalculations and line drawings were done by the State Office of Statistics on Plan 1, and the finger appendages were eliminated. With the adjustments Plan 1 became Plan 2. Plan 2 shows the original plan with the minor modifications that were made as a result of the public hearings. There is also a Plan 3. There was some question about whether a downtown district could be established. Councilman Dewar had shared with Council some concerns about the effect of the proposed new District 6 carving of Aiken Estates. It was discussed at that meeting that a plan be prepared to show a different configuration for that area of the City. Councilmember Dewar could not be present at this meeting, and he expressed his feeling that he would like for the hearing on the redistricting to be carried over to the August meeting.

City Council approved this ordinance on first reading at the March 26, 2012 meeting. For Council consideration on second reading and public hearing is adoption of a 6-1 City Council Single Member Districting Plan for City Council elections.

Mr. Jim Holly stated he would start with Plan 2. He said Plan 2 removes some of the fingers, particularly along Pine Log Road, that intruded across Pine Log Road from one district to another. In addition in the Council packet there are statistics for Plan 2 which reflect the change in boundaries and also reflect some corrections that were made by the Office of Research and Statistics by Mr. Bowers and Mr. Roberts to clean up some blocks that were non-contiguous areas. He said Mr. Roberts will address the statistics,

but there are no material changes in the statistics. The deviation from the most populated district to the least populated district is about 4%. The two minority districts 1 and 2 still maintain very strong population numbers as well as voting age populations. District 1 minority population is 62.77%, and District 2 is 65.82%. The voting age minority population in District 1 is 58.85% and in District 2 it is 61.94%.

Mr. Roberts stated in looking at the plan they found some places, because of annexations and donut holes inside the City of Aiken, that were questionable as to whether they were contiguous or not. He said they made sure those areas were contiguous so the Department of Justice would have no problem with the plan. In making those changes there was a slight change in some of the districts, affecting possibly 20 to 30 people. Nothing major was changed as far as demographics and statistics.

Mr. Holly pointed out that most of the changes from Plan 1 to Plan 2 were along Pine Log Road East.

Mr. Holly stated Plan 3 was the alternate plan that Council discussed at first reading. That plan evens the districts some, but the plan places Councilmembers Dewar and Wells in the same district.

Councilman Wells stated he had talked with Councilmember Dewar last week regarding Plan 3. Initially, when Councilmember Dewar recommended going to Plan 3, it was thought we would know in June who would win the position for House District 81 and would know whether or not a Councilmember would be leaving and we would know whether we would be zoning out a sitting Councilmember. He said his concern is that a Councilmember that could possibly be leaving Council would have an at large term that is unfilled. If a special election were to be held, it would have to be for an at large Councilmember which could come from anywhere in the City of Aiken. If that Councilmember came from a district other than the newly created District 6, then come November 2013, that member could not run for Council unless they ran against a sitting Councilmember. Councilmember Wells wondered if that was legal.

Mr. Holly responded Council has the legal flexibility to consider that in its decision, i.e. whether to redistrict now or redistrict later. Preserving districts for sitting Councilmembers is a legally permissible interest that the courts would respect. He said Council has flexibility to deal with it now, if it chooses, or very soon so the districts could be reviewed and approved by the Justice Department. If a Councilmember is elected to House District 81, whoever might run to fill the unexpired term in the at large district, which would be for a period of about eight months, would know which district they live in and what their chances for election under the new plan might be. He pointed out the district would be up for reelection in the 2013 general election.

Councilman Wells stated his concern was whether we leave ourselves open for a law suit if we were to delay the redistricting until we know who has won the seat for House District 81.

Mr. Holly stated the longer the city goes before adopting a new single member district plan and having Justice Department pre-clearance, the greater the chance someone might choose to sue on the one person, one vote concept. That may be a low risk, but the longer the risk exists the greater it becomes. With respect to the scenario mentioned by Councilman Wells, it is not so much legal as it is practical, and whether or not it is a better policy. If the person on Council is elected in November to House District 81, and Council has not adopted a plan yet, the City Councilmember would be leaving office in mid to late November, and by state law the filing period for the people who may want to run for City Council starts three weeks later. The filing period would start the first or second week in December and run for 10 days. If you wait until November after the election for House seats to pass a redistricting plan, it will not be pre-cleared by the Justice Department until months after the filing period starts. Whoever files would not know with any degree of certainty which district they may be in under the redistricting plan, especially if Council might choose to change its mind and go with Plan 3 instead of Plan 2.

Councilwoman Diggs asked if it might mean that the seat could be vacant indefinitely.

Mr. Holly responded that if the Councilmember left the seat and takes the state office sometime before the end of November, the seat would be vacant until the special election is held to fill it. The special election would be sometime around mid-March under state law. However, before that the primary would have to be held, assuming there is more than one candidate. There has to be time for petition candidates. The filing period would begin in early December. He stated if Council waits that long whoever runs will not know what district they may be in when the new plan is adopted and pre-cleared by the Department of Justice and implemented in November, 2013.

Councilmember Ebner asked for a clarification. He pointed out that if Councilman Wells is elected to the House District he would not be holding another public office until he is sworn in, which would be in January.

Mr. Holly pointed out the swearing in is November, shortly after the election. If elected he would not be a Councilmember after November. If elected, the Councilmember should resign their Council seat, as holding the Council seat would expire when sworn in to the state office. The seat would become vacant with the swearing in to the state office. The next City Council person would not take effect until after the March election. There would be a vacancy in the at large position until March.

Councilman Wells stated he was understanding from Mr. Holly's comments that at that point it would be too late, once we knew who may have won the House District, to start the redistricting process and get it approved for the 2013 election.

Mr. Holly stated it would be late. He pointed out if Council approved a redistricting plan in December, Council would not know for about two months after the filing period started whether the plan had been pre-cleared by the Justice Department. There was a question as to whether a special election had to be at a certain time. Mr. Holly responded that Section 7-13-190 of the State Code sets out the time periods for filing, primaries, and general election. The general election has to be held on the 18th Tuesday after the vacancy occurs, which would be approximately mid-March. The filing period would begin by law the third Friday after the vacancy occurs.

Councilman Ebner stated then it would mean that if Councilman Wells wins House seat 81, there would be an election at large to fill the vacancy. Then in September there would be a primary election for District 6 and general election in November, 2013. He said essentially then it would mean that whoever runs would have to run twice in the same year.

Mr. Holly stated, regarding making comments about the special election schedule, he would want the City Attorney to reach a consensus on the schedule issue. He said it seems to him that would be the process based on existing state law. If Council is inclined at this meeting or a subsequent meeting to vote on second reading approving Plan 2 with the corrected statistics, an amendment to the ordinance would need to be made and voted on before the ordinance is adopted.

The public hearing was held.

Ms. Ann Willbrand stated she had viewed Plan 2 and Plan 3. She stated she felt that Plan 3 makes a lot of sense. She said she understands Council's concerns about the elections, but to put the Westcliff, Kalmia Hill part of the city in the downtown district makes a lot more sense because it is contiguous. It also makes sense to put Houndslake and Aiken Estates in the same district on the southside of the Woods makes sense. She said she would vote for Plan 3.

Councilman Ebner stated it seems Council does not have a choice other than to approve Plan 2. He stated there has to be sequence.

Mr. Holly stated he disagreed that Council did not have a choice. He said it is not a legal constraint that Council is operating under. It is a policy decision as to whether Council wants to take the chance that there is a change in Council membership and a special election needs to be held. He said whoever files for the at large seat would not know which district they would be in come November, 2013, if they choose to run for reelection. That may discourage people from running for the at large seat, and it would put them at a disadvantage. That is not a legal issue. He felt it was a policy issue.

Councilman Homoki asked what the consequences are if nobody gets elected and the seat is vacant until November, 2013.

Councilwoman Price responded there would be a group of people that would not have representation if that happened.

Mr. Holly responded that it may be possible that the Governor might have the right to appoint someone in that situation. He said he would have to research the law to see what would happen in that situation. Mr. Holly pointed out if Councilman Wells is elected to the House, his Council seat would continue to be an at large seat until the term expires. He pointed out the state law under which the new plan will be established, which is a single member district plan, says the new plan is to implemented at the next municipal general election, which would be November, 2013.

Councilwoman Price pointed out that in 1987 she was faced with the same situation with someone moving from City Council to County Council, and she ran at large.

Mayor Cavanaugh stated he appreciated the hard work of Jim Holly and Will Roberts on this matter. He said he would hate to see Council delay the decision any longer on this matter for the reasons that have been mentioned. He pointed out anyone could point out areas and ask that lines be moved on the plans. He said there are reasons for the lines drawn as they are so the population is as close as possible to the same number of people in each district.

Mayor Cavanaugh moved that Council approve on second reading after public hearing Plan 2 as amended as explained earlier, taking into consideration the comments at the public meetings held on the plans. The motion was seconded by Councilman Homoki. The motion was unanimously approved.

AIRPORT – ORDINANCE 07092012A

Hangar Lease

BusAv/Del, Inc.

Victory Aviation Services, Inc.

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to assign the BusAv/Del, Inc. hangar lease to Victory Aviation Services, Inc.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING THE RE-ASSIGNMENT OF A LEASE BETWEEN BUSAV/DEL, INC. AND VICTORY AVIATION SERVICES, INC.

Mr. Pearce stated David H. Mosier, President, BusAv/Del, Inc. has contacted the city seeking the reassignment of their hangar lease at the Aiken Municipal Airport to Victory Aviation Services, Inc.

As he explains in his letter, after the death of Dale Phelon this group has undertaken the deaccession and sale of various assets, including their hangar lease at the airport. Provisions of the existing lease require City Council approval of this reassignment.

Mr. Pearce pointed out BusAv/Del, Inc. has two hangars at the airport. One hangar is on the FBO's leased space area at the airport and formerly belonged to the Wyatt Development Corporation. He pointed out the FBO has the right to approve or disapprove the assignment of any lease within the FBO leased area. He pointed out if Council approves the reassignment of the hangars, any approval of the sublease of the BusAv/Del lease for the hangar on the FBO leased area would be subject to approval by the FBO. The other hangar is on City of Aiken property, and Council can approve the reassignment of the hangar on City of Aiken property.

City Council approved this ordinance on first reading at the June 25, 2012, meeting. For Council consideration is second reading and public hearing of an ordinance to reassign the hangar leases from BusAv/Del, Inc. at the Aiken Municipal Airport to Victory Aviation Services, Inc.

The public hearing was held and no one spoke.

Councilman Homoki moved, seconded by Councilwoman Price, that Council pass on second and final reading an ordinance to reassign the BusAv/Del, Inc. hangar leases at the Aiken Municipal Airport to Victory Aviation Services, Inc. on the condition that the FBO provide the approval of the reassignment of the lease within the FBO area. The motion was unanimously approved.

CONCEPT PLAN – ORDINANCE

The Ridge at Chukker Creek

FPA, Inc.

Chukker Creek

Hollow Creek Preserve

Ron Monahan

Bill Kolarek

Development Plan

TPN 124-09-01-002

TPN 108-11-01-001

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend The Ridge at Chukker Creek concept plan.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CONCEPT PLAN FOR THE RIDGE AT CHUKKER CREEK.

Mr. Pearce stated that about a year ago there were several concerned residents in the Woodside Subdivision who expressed concerns about the natural buffer between The Ridge at Chukker Creek and Woodside. There were some questions about planting in the natural buffer area. There was also a question about the detention area. When Council approved the concept plan in 2006, there was discussion about a 25 foot wide natural buffer on the property line and then 25 feet dedicated to an equestrian trail. During the course of the development of the subdivision, it became apparent that there was a severe erosion problem on the northern boundary of the property. There was considerable discussion about that, and the developer installed some very large rock of riprap along the northern border of the property and that helped stem the erosion problem. Coming forward there were several administrative approvals by the Planning Department Director to make some changes, as developers have done in other subdivisions, as far as the location of access to the equestrian trail. These changes are listed in Mr. Evans' memo and shown on a drawing in the agenda packet. Some of the roads were relocated at the entrance into the subdivision. The original concept plan had showed several lots along the northern border at the entrance of Chukker Creek Road. Those were eliminated, and the road was moved closer to the property line. There was some realignment of the paddock area. There was also some open space that was reconfigured. We have had several discussions about this subdivision, not only in the Council Chambers, but also

with the City Attorney, the Planning Director, the Engineering and Utilities Director who have gone out on site as well as Mr. Pearce to look at the progress of the development of the subdivision. Some of the concerns that came up last year were the question of whether the riprap on the northern boundary or border of the subdivision would remain in place. Based on those discussions, staff prepared an ordinance that came before Council for consideration last year to amend the concept plan to drop the equestrian trail on the northern boundary, understanding that there are green spaces on the southern portion of the subdivision as well as along the power line easement and in other locations as shown on the concept plan. At that time the developer indicated that he did not wish to amend the concept plan, so the issue died. We did work with the developer on planting vegetation along the northern border. Several pine trees were planted, some ligustrums were planted and an irrigation system was located on the Woodside side of the existing hog wire fence that is between the two subdivisions. Below the detention area an installation was put in. He said he thought the water main for the subdivision was installed there. Then there was considerable plant material and landscaping that was done by the developer in that area. In addition, there were some modifications to the detention pond as far as the size of pipe for the outlet. The original plans had shown a 36 inch pipe, but an 18 inch installation was done at the subdivision.

Mr. Pearce stated there is a petition in the agenda packet from the residents of Woodside. The petition lists three major concerns of the Woodside residents. One, that the developer be accountable for the 25 foot undisturbed natural buffer that was in the concept plan approved by the city. Two, that the developer be held responsible for planting appropriate vegetation to provide a visual buffer along the property line between the two developments. Three, that no additional trees be removed.

Mr. Pearce stated he would take responsibility for the memo that he wrote. He said he inadvertently put in the memo that the residents of Woodside had petitioned to revise the concept plan. He said he realizes now that was not the best way to word the sentence. He said the reason he wrote it that way is that back in 2006, when Council talked about the equestrian trail, there was some question about whether the trail would be in its 25 foot width easement or would it potentially meander over into the natural vegetative buffer. That was discussed by the developer. If the concern is to not remove any additional trees from the vegetative buffer area, the elimination of the equestrian trail would accomplish that, because that would be the threat to the existing trees and vegetation in the area. We had a discussion not only with the developer, but also with his business manager and his attorney, who are present at this meeting. They stated they would be in agreement to remove the equestrian trail along the northern border, but not from the rest of the development. We are talking about eliminating the equestrian trail along the section where the riprap is located. If that part of the trail is eliminated, the riprap could stay in place and help control the erosion. That leaves the vegetative buffer between the two developments, which is an issue that is a concern by the residents that have signed the petition. There are several pine trees along the buffer that were installed that have since died. According to the City Horticulturist the best time of year for installing plant material is late fall in the October-November timeframe. In discussions with the developer, staff understands that the developer stands ready to replant the material that has died. There are some existing irrigation lines that are in place in the area, but they need repair. It is staff's understanding that the irrigation lines would be repaired as well. That leaves the equestrian trail. He said he thought there was some concern that the equestrian trail would be removed from the entire subdivision. The stable for the subdivision is located away from the Woodside Subdivision. It is our understanding that there are existing equestrian trails that are still located in the subdivision, and those would remain. Mr. Pearce stated this was his understanding based on the conversation with the developer. He pointed out representatives of The Ridge are present, and they can speak to the issues. He said the matter is an unusual situation, in that typically a developer would file an application with the Planning Department that would be considered by the Planning Commission. Then it would come to City Council for consideration. This is an unusual situation, where there are several concerns. One would be whether the vegetative buffer would be preserved. Two, that the dead plant material would be replaced. Three, that no additional trees would be removed from the buffer. Four, that the equestrian amenity for the rest of the subdivision stay intact. Five, that there be a process and a specific description of what would be done on the record.

He pointed out there is a Letter of Credit on record that the developer has submitted on staff's request. The Letter of Credit will expire in October, 2014. The Letter of Credit covers items such as storm drainage, the detention pond and its condition, the sanitary sewer, the water mains, the catch basins and manhole covers, as well as the road paving. The final layer of asphalt has not been poured on the streets because in Phase I there were additional homes being built. Those who have visited the site have seen heavy equipment there. The hope was to get the construction done and then put the final layer of asphalt down. The other thing the Letter of Credit covers is the easement where the riprap is located and covers the plant material. He stated that is all under the purview of the Letter of Credit. The developer has put an installation in place, but unfortunately some of the plant material has died, but it will be replaced. In an effort to try to address these concerns there is first reading of an ordinance to delete the equestrian trail on the northern boundary. If Council votes on the ordinance on first reading, Council could refer it to the Planning Commission for their consideration based on the application. There would be a public hearing at the Planning Commission meeting and an additional public hearing before City Council. He said before Council at this meeting is first reading of an ordinance to amend The Ridge at Chukker Creek concept plan. He pointed out to Council that there is a petition from the residents of Woodside with their three concerns which he had reviewed; those being that no additional trees be removed, that the developer remain accountable for the undisturbed natural buffer, and that the developer plant appropriate vegetation to provide additional buffer along the property line of Woodside Plantation.

Mayor Cavanaugh stated several people are present who are interested in this matter. He asked that those residents who are present who wish to speak on the issues, speak first. Then Mr. Monahan will address the issues, and then Council will address the issues.

Councilman Ebner stated this matter has a long history. He said he was part of the problem for letting it go this far. He said there had been some extended discussions between him, the City Attorney, and the City Manager about who can change the concept plan. He said his concern is if we say no additional trees can be removed, are we changing the concept plan. He said this all comes from administrative rulings that he asked about in March, 2011. He said he was concerned that the citizens' petition is overriding an administrative procedure. He pointed out an administrative ruling that says you can remove all the trees. This was done in May 13, 2010. He said this was from the minutes of August, 2011. He said this originally came from the Planning Commission to City Council from the Planning Commission minutes. He said after he asked the question in March, 2011, this is the answer from Mr. Evans to Mr. Pearce dated May 13, 2011. He noted three sentences that have to do with the 25 foot deep buffer. "The wording is not clearconsisting of a 25 foot deep horse trail and 25 foot deep undisturbed vegetation buffer, except this buffer may be disturbed for good forestry management, with vegetation added as determined by the Planning Director. The equestrian trails may intersect with the undisturbed buffer in order to protect existing trees or vegetation." This came from the concept plan approved in February, 2006. He said the answer to his question was "This wording is not clear and it does not say where the horse trail and the vegetation buffer are in relation to each other. It makes it clear that the riding path can meander into the vegetation buffer as long as a total of 50 feet of the buffer is maintained." Councilman Ebner stated the reality is that there are no trees there. They have all been taken out in the area where the drain ditch is now and where the equestrian trail is supposed to be. All the trees were taken out. His point is that the decision was made that the trail would be put in and it would meander into the undisturbed area, and that could be done because they would be saving trees. He pointed out there are no trees to save. He said that is what their petition is about. He said there is an administrative decision that the petition is complaining about. He said that is a separate issue from the equestrian trail. He said they feel it should not meander because there are no trees to save. They were all taken out as per the design that was sent to the city by Mr. Monahan's design group and approved by the City. He said that is what the petition is about and what was asked to be on the agenda.

Mr. Pearce stated it is in the agenda package, and he had clarified the wording in his memorandum. He said the main thing, as he understood the conversation, was that the

elimination of the equestrian trail would remove the threat of the removal of any additional trees, as there would be no equestrian trail to meander.

Councilman Ebner stated to eliminate the trail based on what the citizens have asked to be done he felt was not correct.

Mr. Pearce stated that was what he was trying to clarify; it is not based on the petition. It is based on the other request he received from Council that the item be on the agenda.

Councilman Ebner felt the petition would be overriding administrative procedure and he wondered if a petition could do that.

Mr. Pearce responded that a petition gets the matter before Council, as citizens can always petition Council to address their grievances. He stated Council had the conversation in August, 2011, about the modifications to the concept plan. Then we had an additional presentation without the developer present about continuing concerns about the buffer and whether it could be disturbed if additional trees would be removed and whether the developer would be held accountable for planting as the concept plan said in the buffer area. He said we were trying to address the concerns of many different parties. He said the ordinance was prepared and brought to Council because the difference between now and August, 2011, is that the developer had indicated to us a willingness to drop the equestrian trail on the northern boundary.

Mayor Cavanaugh asked Councilman Ebner to restate his question.

Councilman Ebner stated that in March, 2011, he sent some questions to the City Manager. He answered those questions. The answer is the statement he had just read. He said the citizens objected to taking out trees that are not there. The developer submitted drawings that eliminated the equestrian trail in September, 2006. The City approved those plans without the equestrian trail. Then the "as built" drawing was done by Mr. Monahan's team and the "as built" drawings did not show the equestrian trail, but show a ditch as a grass swale. Councilman Ebner stated he wrote a letter in March, 2011, asking the question about "where is the equestrian trail." The answer was that the wording is not clear. He said they thought it was clear that the reason it meandered is that he saved trees, but the trees are not there.

Councilman Ebner stated his other question was about the administrative decision. He said the petition says not to remove any more trees. He said they feel that one group of neighbors should not be able to rule what goes in another neighborhood.

Mayor Cavanaugh stated he felt Council could overrule anything, since Council has the last word.

Mr. Smith, City Attorney, stated if the purpose of the ordinance is to modify the concept plan to delete the horse trail on the line adjacent to the northern buffer, then he was not sure how answering Councilman Ebner's question will help Council deal with the modification to the concept plan.

Councilman Ebner stated they are using the petition to justify the removal of the equestrian trail and that is not correct.

Mr. Pearce pointed out that the first sentence in his memo is that Councilmembers requested that the item be put on the agenda. He stated conversations with the developer underscored that unlike last August the developer is now amenable to removing the equestrian trail on the northern boundary. He said that is what gets the matter back before Council.

Councilman Ebner stated he can't remove the trail because of the petition. He said he was hesitant to leave the memorandum with the words as they are. He said we need to get the words changed before voting on something.

Mr. Pearce stated the matters are two separate items. He said he had clarified his memo. The important thing is the ordinance. He pointed out Section 1 paragraph 1 of the ordinance should be changed to read "That the northern border equestrian trail shown on the original concept plan be deleted." He felt that accomplishes the question. He said it does not have anything to do with the petition. It is based on what is on the record that the developer as the owner is amenable to remove that portion of the trail.

Councilman Ebner asked if the developer at The Ridge at Chukker Creek made his decision based on the petition or did he make it on discussions with Council versus what happened in August, 2011.

Mr. Pearce stated he had mentioned that the matter was going on the agenda because it was requested to be on the agenda at the June 25 meeting. That started discussions with the developer. In the course of the conversation with the developer, unlike August of last year, he stated, as well as his business manager and attorney, that they were amenable to removing the equestrian trail on the northern boundary. That removed the impediment that existed before, as the City Attorney had stated that it would take the developer's consent in order to modify the concept plan.

Councilman Homoki stated it was his understanding Council would not vote on the petition, but it is one other item to consider. He said the first part of the petition asks that there be a 25 foot undisturbed natural buffer. He asked if the buffer had been disturbed and if vegetation had been taken out of the 25 foot buffer.

Mr. Pearce stated a 25 foot undisturbed buffer is in the concept plan.

Councilman Ebner stated some had been taken out, some had been replaced, some had died, and some still need to be done. He said the other question is that no additional trees be removed. He said his concern, and that of the neighbors, is that the equestrian trail can be put in, but that no more trees be removed. The administrative procedure said they could take out trees.

Mr. Pearce stated the ordinance would override the Planning Director's administrative interpretation.

Mayor Cavanaugh stated if Council does the three items that the citizens have asked in the petition that should take care of the issues.

Councilman Ebner stated, however, the petition would override an administrative procedure.

Councilman Homoki pointed out Council can override an administrative procedure. He said the decision can be made by Council. It was pointed out the petition would not override the administrative interpretation, but an ordinance adopted by Council could.

Mr. Smith stated a petition of the citizens does not override a Council decision. He pointed out the administrative decision had not been appealed. There is a process to appeal the decision, but that time has expired some time ago.

Mr. Pearce stated that was the reason for bringing an ordinance to address the concerns of everyone, including the developer, the people in The Ridge, the people in Woodside, and the people who have an interest in the equestrian trail.

Councilman Ebner stated then he should have appealed the matter within a few weeks when the administrative decision was made. He said that was the whole issue. He said the Planning Director's decision says that they can put the equestrian trail in the undisturbed area.

Mr. Pearce stated when the concept plan came before Council in 2006 there was a discussion about the equestrian trail and whether it might meander into the undisturbed buffer in order to save a tree. He said we have spent a lot of time talking about 2006, but we have to come forward to the situation we have at this time. The proposed ordinance is an attempt to address not only the developer's willingness to delete the equestrian trail on the northern border, but in turn in passing the ordinance address the concerns of the neighbors that additional trees not be removed, the dead vegetation be replaced and that the development comply with the concept plan for that vegetative buffer between the two subdivisions.

Councilman Ebner stated he was unhappy with his inconsistency and not following up on the matter. He said he felt the City Attorney would need to say we need to repeal item 4 of the original ordinance which says you must save trees by meandering. He said item 4 says that the trail may intersect with the undisturbed buffer in order to protect existing trees or vegetation.

Mr. Pearce pointed out if there is no equestrian trail on the northern border, that would not apply any way. He stated you could not meander with a trail that is not there.

Councilman Homoki stated to do this Council would have to vote to change the concept plan to delete the horse trail on the northern boundary.

Councilwoman Price stated the memorandum to Council talks about deleting the equestrian trail along the northern boundary. She felt that was what Council was to discuss and vote on.

Councilman Ebner stated to delete the equestrian trail along the northern boundary would be a change to the concept plan. He wondered if Council should request that item 4 of the original concept plan be deleted because that is where it is addressed.

Councilman Wells stated if Council moves forward to delete that section of the equestrian trail, then it is no longer there for any meandering to take place. It would no longer be there on the northern border for any additional trees to be cut. If Council approves the ordinance on first reading, Council would be taking the first step in doing what the residents want at Woodside Plantation. He said it was also his understanding that some trees along the line have been taken out which leaves them with an unsightly view. It is their desire that trees, shrubbery and dense vegetation be put in there to block their view at The Ridge at Chukker Creek and the construction going on there. He said if Council adopts the proposed ordinance, Council would be undoing the northern border which backs up to East Pleasant Colony and would be deleting that portion of the equestrian trail. Unless the developer comes back to Council again to amend the concept plan to include the trail, the northern trail could not be installed. He said without the trail there would be no meandering into the buffer area and the buffer would be an undisturbed, planted buffer that has to be maintained.

Mr. Pearce pointed out that we would have to be careful about removing all of item 4 in Ordinance 02132006, otherwise it would affect all the boundaries. He pointed out the Planning Commission could look at the item at their review to see how the condition could be redrafted.

Ms. Judy Miller, 103 East Pleasant Colony Drive, stated she is before Council again as she has done in June, 2012, and January and February, 2006. She also attended the Planning Commission hearings in 2006 regarding The Ridge at Chukker Creek. She said she was asked in 2004 by the residents of East Pleasant Colony Drive to act as community spokes person in regards to this issue. She said their concerns remain as they have been since 2006, which is that a buffer needs to be developed and maintained along the property line between the two areas. She said they are concerned that the developer has not been held accountable to the concept plan as accepted by the city in 2006 with regard to the buffer, and it has negatively impacted their street. She said she had raised concerns, asked questions, and patiently waited for 6 years to have this issue resolved. In the process they have seen substantial trees destroyed, plantings die due to lack of

appropriate irrigation, and they have seen little monitoring of the development from the onset by the city. She referenced her comments to City Council on August 8, 2011, where she reviewed the history from the time the first road was cut to the entrance to the development and subsequently what had happened. She stated on June 25, 2012, she asked about the status of the buffer and the corrections that the developer would be held to. At that time she was told of a performance bond that the City had required of the developer. The bond has a two year extension. She said she had asked if the buffer was included in the bond and was told that it was, but then read in the information she was given "that there are no funds included for the landscaping in the buffer areas." She said this is an example of the mixed messages they have received on this matter. She said they have petitioned Council to hold the developer accountable for the 25 foot buffer and the appropriate added plantings to provide the visual buffer called for in the original concept plan of 2006. She called attention to the petition that was included in the agenda packet. She said she was disappointed that the petition was misrepresented in the memorandum to City Council in the agenda packet. She said they had never petitioned to change the concept plan. She said it is none of their business what is included in the concept plan. She said she was glad the discussion came up and sorry about what was presented to Council, as that is not what their petition said. She pointed out included in the agenda packet were pictures of the area. She then showed some pictures of the view across the street from where she lives. She pointed out Woodside had put some plants in six years ago, and beyond that there were just weeds on the other side of the fence. She pointed out the picture shows the need for an appropriately planted buffer. She said she was referring to the concept plan where the city initially accepted the plan saying there would be a buffer. She showed several other pictures of the buffer area and pointed out the need for plantings in the buffer. She said they are hoping the city will enforce the concept plan as noted initially to create the buffer. She said the residents are asking for what they have asked for all along, a buffer with appropriate plantings so as to provide the visual buffer with something of an evergreen nature so the leaves don't drop in the fall and winter months. She pointed out the buffer is not maintained with appropriate irrigation to provide the visual buffer as noted in the concept plan.

Mr. Les Stahl, 119 East Pleasant Colony Drive in Woodside Plantation, stated he would like to echo the comments of Ms. Miller who had stated the comments as far as the issue. He stated he felt the benefit of the buffer was for both sides of the fence not just Woodside, but also The Ridge. He said he had walked along the fence line today and the buffer is mostly weeds and underbrush and not attractive to either side. He said he would also like to stress the need for an irrigation system. He said he understood the replanting will be done in November. He said he had not been a resident of South Carolina very long, but if the plantings are not watered nothing will grow. He pointed out the irrigation system needs to be repaired, but he felt there needs to be some type of onus on the developer to insure that the proper water gets to the plants and trees so they can grow. Otherwise, the residents will be back again. He said if it is done right the first time the buffer will be there for the benefit of both sides of the fence and the issue will come to a rest.

Mr. Alan Karten stated he was present on behalf of the equestrian farms at Hollow Creek which borders on Woodside off of Anderson Pond Road. He said about a month ago he started researching Chukker Creek and Woodside Plantation and the trail system that was promised to residents. He said in all the discussions no one seems concerned about the fact that the equestrian trail was promised, represented, contracted for and agreed to in 2006. He said Council's solution is to get rid of the trail. He said he thought the Woodside residents are saying they would like to see a buffer and he said they would also like to see a buffer with a horse trail. He then gave Council an overall perspective of why the northern border is important. He pointed out it had been five years and the horse trail has not been built. He said the northern border goes into what is 501(c)3 property at Woodside. He said it is property in the middle of Woodside owned by Hollow Creek Land Preservation, LLC. That property is supposed to have a horse trail around it. It has been represented since 2007 to all the residents and to the equestrian farms at Hollow Creek. He then presented a map showing the area that he was referring to, pointing out Anderson Pond Road and the new Pony Trail and the 501(c)3 property that runs in the middle of the undeveloped area of Woodside. He said this could connect up to the northern border boundary at The Ridge. He said they are in negotiation now with Hollow

Creek Land Preservation to have the trails put in. The 501(c)3 property is public land and held for the public benefit. It is not Woodside land or Hollow Creek land; it is held by a corporation for the public benefit. The land has been chained off. He said the northern trail at The Ridge is important as it would ultimately connect into the 501(c)3 trail. He presented an original brochure that Woodside used in the marketing of Hollow Creek. The brochure shows the 501(c)3 territory. It clearly marks the horse trail continuing around the property and it even cuts through Woodside. It then comes back around and goes up Pony Trail Road and around the perimeter of Woodside, the undeveloped area, and comes back to Chukker Creek. He said it is important that the horse trail remain, as it is to interconnect with other horse trails in the area. He said the solution is not to eliminate the horse trail. The solution is to build the buffer and build the horse trail where it is supposed to be so it can interconnect with other trails. He pointed out Council historically, in the last few months that he has been investigating, has ignored the agreements that are made with developers. For example, Council made an agreement in 2007 as a condition of annexation that a horse trail be built from the gate at Anderson Pond Road up to the Village. That was never built. When Mr. Steele refused to do it, the land was deeded by Woodside to the City of Aiken. He said the condition for the trail was not enforced. There was also an agreement for installation of a left turn lane from Silver Bluff Road onto Anderson Pond Road. When that was not built Council entered into an agreement to pay \$210 per lot sold in Woodside in the undeveloped area in lieu of the turn lane. He said the City has collected \$22,000 to date. To put in a left turn lane would cost at least \$250,000. He felt the integrity of City Council is partly at stake. He said he never heard a Council member say that the horse trail was important or that the people in the community were important that wanted horse trails throughout the community. He said he understood that Woodside is concerned about the appearance and a buffer. He said we could have both a horse trail and a buffer. He said if the developer fails to live up to his promises in the concept plan and his agreement, Council needs to enforce the agreement and not let him off the hook and not let anyone else off the hook. He said Council should make them put the buffer in and make them put the horse trail in. He said Council was taking the easy way out.

Councilwoman Price asked if Mr. Monahan's property was under the 501(c)3, and Mr. Karten responded that it was not, but it borders the property. She asked if his concern was that the trail should remain on Mr. Monahan's property because it would connect to the trails around the 501(c)3 property. Mr. Karten stated the trails on Mr. Monahan's property are public, but the idea is to connect all of the trails. He said there is a trail that meanders through the woods all around Hollow Creek. It will connect ultimately to the City of Aiken trail that will go from Hollow Creek trail on Anderson Pond and the gate to Woodside and go up the border of Woodside and up to the Country Club, across the driving ranges and into the Village. He said he does want the horse trail to go where it was promised. He pointed out the map which he had which shows the representations made when the Equestrian Farms at Hollow Creek were sold to the residents. He said they want all the trails except for the one that runs from the Country Club to the 501(c)3, because that part cannot physically be built any more. The reason it can't be built anymore is because no one has enforced any of these conditions and the developer has developed the area so now it is impossible to put the trail there. He said the time is now to stop this before it is too late and the trails cannot be built. He said for a horse trail there has to be a linked system of trails throughout Aiken. He said Aiken is about horses and golf. He said they understand and respect the residents of Woodside that they want buffers and they don't want the trails going through their golf courses. He said, however, there are ways to work around that by the perimeter of Woodside and the 501(c)3 property, etc. He said all those trails are linkable. He said the northern trail at The Ridge would link up the 501(c)3 property to the other two sections of Chukker Creek. He said they hoped to be able to come across to Pony Trail Road and link back into the whole system which would be a big loop of miles for the trail.

In response to a question by Councilman Wells regarding how the trails would link, Mr. Karten pointed out on a map and explained how the trails would link. He pointed out there are other people in the community other than Woodside and the developer who relied upon the representations made of the developer and what Council approved. He said they had relied on that and invested time, effort and money. He said they have a

right to rely on certain things being developed and not have Council let everyone off the hook because they dug ditches or took out trees. He said make them put it back.

Mr. Robin Thomas, Chukker Creek, stated his property borders the easement for the buffer. He said his concern was not for the horse trails, as he is not a horse rider. He said he heard that the trail area is public land, and he wondered if that was true. He said he thought the land was private land, so he was concerned about someone else coming and saying that the developer has to do something to private land. He pointed out these issues have been going on for some time, and that he had been dealing with the issues for six months. He said he has lived in Chukker Creek for a year. He said he does agree with the residents of Woodside that a buffer is needed, but he did not agree with the methods of getting the buffer. He pointed out that Mr. Monahan has spent thousands of dollars putting plantings up the trail, and many are dead. He pointed out a tree fell from a storm and took out several other small trees. He said he had a problem with the no touch zone. On one hand people say we need to take care of it and on the other hand, don't touch it. He felt we could not have it both ways. He said presently there are weeds and vines growing up the trees. He would like to have a nice buffer zone that is fully developed and thick for privacy. He would like for the buffer to be done right. He said in talking with some neighbors they also want the buffer and want it to be done right. He said he did not want to take the risk of throwing money at something that can never be satisfied. He pointed out one picture showed an area behind one of his neighbors. He pointed out there is a power line in the area, and he was not sure how much area is designated for the power line and even if Mr. Monahan could plant trees and shrubs in the area. He pointed out Woodside may have to develop their side of the fence in order to block the area. He felt the issue had gone on too long, and that we need a resolution. He said he did not care about the horse trail and really didn't want people riding in his back yard.

Ms. Carol Haggerty, 137 East Pleasant Colony, stated she agrees with the comments made by the other speakers. She said they are in agreement. Let's be neighbors and get the job done and get it done right. She said they had been dealing with this matter for six years, from the day that a sign said "posted." She said they had come in good faith asking for a solution that would benefit both sides. She said they want their neighbors in The Ridge, Hollow Creek and Woodside to be happy. They don't want a disagreement. She asked that it be done.

Mr. Phil Haggerty, 137 East Pleasant Colony, stated one of the things he feels strongly about is that the developer has constantly ignored every ruling of City Council and ignored many promises they have made. He said for six years City Council, the City Manager and City staff have never bothered to follow up and, if they follow up, the developer does not pay attention. He pointed out the horse trails that connect. He stated when City Council approved the development, it was approved with the horse trail, because the horse trail was an integral part of not only the development, but the city planning as far as horse trails are concerned. He stated the developer has ignored the rules and his promises. He pointed out an area that was clear cut and every tree taken out. He stated every house that has been built has had every tree taken out. He read a part from the concept plan—"The developer will provide a 50 foot wide equestrian trail and buffer on the east, north and west perimeters to protect existing trees and vegetation." He also noted the ordinance which said there "would be a 50 foot deep visual buffer on the perimeter of the northern boundary consisting of a 25 foot horse trail and a 25 foot deep undisturbed vegetative buffer." He said there was to be a buffer and a horse trail. He said it was not a buffer that merges with a trail, but two independent pieces of property as shown on the concept plan. "The equestrian trail may intersect the undisturbed buffer to protect existing trees and vegetation." He said the statement is not to merge the trails with the buffer, but to go around any existing trees and vegetation. On July 14, 2011, Mr. Monahan was asked to respond to gaps in the vegetation buffer along the northern boundary. He talks about the 50 foot deep buffer/equestrian trail. He said it talks about two pieces of property. In a memo dated June 21, 2012, it says "the wording is not clear and does not say where the horse trail and vegetative buffer are in relation to each other. It makes clear the riding path can be within the vegetative buffer as long as a 50 foot buffer is maintained." He said we know where they are in relation to each other as that is on the concept plan, with 25 feet for a buffer and 25 feet for a horse trail. He said there is nothing anywhere that says the 50 foot buffer is removed. He said

apparently the developer did things he was not supposed to do. They do not know why or how he did it or who gave him authority to do it. The City Manager and City staff state that changes to the concept plan for The Ridge were not significant enough to warrant City Council approval, and the City Manager agreed with that. None of the changes involved the conditions placed on the annexation by the City Council. He said the City Manager and the City Planner have authority to make changes. However, it was previously stated they did not have authority to make any changes to the buffer or the equestrian trail. He continued to point out there were two separate trails with a minimum depth of 50 feet, and that he felt the promises and requirements of the concept plan had not been complied with. Mr. Haggerty stated he is on the Architectural Review Board for the Property Owners Association of Woodside and does landscaping approvals. He said in landscape approvals wherever there is a buffer between the back of the property line and the Woodside fence line they encourage the property owner to take ownership of the buffer area and plant and maintain it. He said final approval is not given until the area is landscaped all the way back to the fence.

Mr. Larry Meyers stated he lives at 2226 Hillsdale, but in 2006 he lived at the end of Chukker Creek Road which is the entrance to The Ridge today. He said he agrees with those who have spoken from Woodside concerning the buffer. He said the 25 foot buffer was not only a buffer for Woodside, but it also shielded the trail from Woodside. The 50 feet became a safety factor for riders as well as a buffer for the people who live in Woodside. He said the 50 feet was the whole consideration for the trail. He felt the meandering had been discussed. He said the 25 feet for the horse trail was not planned to be a boulevard, completely devoid of any vegetation and paved with some sort of horse friendly surface. It was supposed to be kept in a very natural state with the trail meandering through. The 50 feet was to the benefit of the residents of Woodside as well as to the users of the horse trail. He said sometimes when we talk about a horse trail we lose sight of what the trail really is. He said the trail is not for equine use only, especially when it is an area like The Ridge. It is also a very nice place to walk, spend some time with yourself, and a nice place to walk your dog or walk with your grandchild and see the natural habitat. He said it is more than just an equine use facility. It is a place where people can go and enjoy some of the things that make Aiken what it really is. He pointed out the equine community brings in over \$75 million a year to the Aiken area. Most of those people came here because there was a healthy attitude and a concept of municipalities and government being considerate, understanding and friendly toward the equine community, realizing the economic impact it has on Aiken. He said in a situation where we would abandon an already planned and dedicated trail denotes an attitude somewhat bordering on indifference to the economic impact. He said he hoped this is not the first domino that would fall in an equine friendly community.

Mr. Jim Hartsip stated he did not live in Woodside or The Ridge. He said he moved to Aiken about a year ago from Florida. He said he wanted to comment from a different perspective. He said the reason they came was because of the equine community. He said they looked at Chukker Creek, and they were promised that the horse trails would be there. He said he was concerned that Council allows the developers to walk away from these commitments. He said if he had bought in Chukker Creek he would be very upset now, rather than just presenting comments as a new person to Aiken. He said the reason he came to the meeting was that he had heard that some of the horse trails are at stake. He pointed out he walks and runs on the horse trail. He said if Council starts allowing the developers to walk away from what they put in their development plan and their marketing to people who want to come to Aiken, he felt it would hurt the Aiken community. He felt Council has a good place to take a stand now and follow through on the development. He felt Aiken would hurt the economic place that Aiken has grown to if Council allows the developers not to follow through on some of the commitments made, especially when they are still marketing it to people who are coming in that these trails will be there.

Ms. Jenny Stoker, Kershaw Street, stated she does not live in any of these areas, but she had attended several of the meetings starting in 2006. She pointed out that Dacre Stoker would be present, except that he is out of town and he asked her to come and remind Council of the discussion in 2006 about the undisturbed buffer and the confusion during that discussion about the definition of an undisturbed buffer. She pointed out the

Planning staff was to work with the Horticulturist to prepare a formal definition which describes what an undisturbed buffer would mean and how to manage it with the goal being a visual barrier. She was not sure if a formal definition was done, but felt if it was that a lot of the discussion would not be necessary. She felt it is a good point that if a 50 foot total buffer was the agreement, then we should not just have a 25 foot buffer and take away the horse trail. She said she was sure the residents of Woodside would rather have a 50 foot buffer rather than just a 25 foot buffer. She felt the trail should be left, especially if that is what has been agreed to. She pointed out that many of the people present at this meeting are not from South Carolina, but have come to Aiken from other places with their horses because of the promised trails. She asked that Council hold the developer to the 50 foot buffer on the northside.

Mayor Cavanaugh stated there is a plan and the City Horticulturist had been involved. He said he thought the problem is that much of the plant material has not been planted and that some of it that has been planted has died.

Ms. Stoker asked if the undisturbed buffer had been defined so the developer would know what he is agreeing to.

Mr. Pearce pointed out that the map in the agenda shows what the developer has planted. The plants are on the approved planting list in the Zoning Ordinance.

Mr. Dick Barron, 127 East Pleasant Colony Drive, made some comments regarding the buffer. He said the buffer was to be 50 feet undisturbed. Of that, 25 feet would be used by horses and 25 feet would be unused buffer. He felt all of the 50 feet is a buffer and a buffer to him means mature plantings. He pointed out that there are areas where the buffer has been cleared, so there are no trees. There is open space, shrubs, and plants that have died. He pointed out that without water it is very difficult to grow anything. When the buffer has been stripped, there is no other option but to replant and there has to be water to keep it healthy. He pointed out there are plants that grow quickly that could be used in the buffer. He stated residents of Woodside and in The Ridge have both stated they want a buffer with plantings. He said the proposed ordinance would eliminate part of what was the buffer between the subdivisions if the horse trail is eliminated. He said the concept plan has a 50 foot buffer, and he wondered why we would eliminate part of it.

Mr. Pearce stated there would be no elimination of the buffer space. It is just the portion that was going to be an equestrian trail that would be deleted. Presently it has runoff water with the large riprap in it.

Mr. Barron pointed out presently the area has no plantings, and he felt it was not a buffer. He said his definition of a buffer area is dense plantings so you don't have a view to the other side. He felt that is what the original plan called for.

Mr. Bob Miller, East Pleasant Colony Drive, stated six years ago it was decided that a buffer was required. At that time Dacre Stoker was the expert in the field and offered his expertise. He said it has been six years since the development began and there is no buffer. He said they are finding now that Mr. Monahan has been given two more years to take care of the buffer. He said he thinks that a lot of people don't know what a buffer is, and that it may be different things to some people. He stated plants require water, sunlight, and time to grow. He said he keeps looking at what is supposed to be a buffer behind his house. What he sees is something that he would plow up rather than have it around his house. He said the area may be an open space, but it is not what he would call a buffer or what they would like to have alongside their house. He said he was here because he feels it is extremely important that Mr. Monahan be held to his commitment and have a plan for the buffer that includes appropriate plantings, water resources and a position so they can receive some sunlight. He pointed out shrubs need some care so they can't just be planted and left. They require maintenance. He said he was impressed with the comments by the equestrian people and their concerns. He said he hoped that the residents of East Pleasant Colony, Equinox Loop and the equestrian people will work together to make this successful and a community affair rather than a frustration.

Mr. Buzz Rich, Attorney for Ron Monahan, stated he had represented Mr. Monahan for years. He said the issue had just recently come to his attention. He said he attended a meeting in the City Manager's Office with the City Manager, Director of Engineering and Utilities, and Ed Evans, Planning Director. At that meeting it was made clear to him that the City had no major issues with Mr. Monahan. He felt there was a misconception in terms of the removal of the equestrian trail which is the issue before Council at this meeting. He said the removal of the equestrian trail was not initiated by Mr. Monahan. He said he was not clear where it came from. He pointed out Mr. Pearce had called Mr. Monahan a couple of weeks ago and suggested the removal of the equestrian trail. Mr. Monahan wants to be a good neighbor with Woodside and all the other neighbors, and he agreed to do that, but it was not his initiation. The concept of Chukker Creek was originally largely an equestrian community, as was pointed out. That concept has changed through the years and is more residential. He is under the impression that most of the residents in The Ridge don't care as far as it being an equestrian community. Most of the residents don't have horses. He said the other issue was that the trails be connected. He pointed out that The Ridge is a private development, and he did not know if Mr. Monahan could connect the trail to Woodside if he wanted to. He said Mr. Monahan is willing to leave the trail in. He did not ask that the trail be deleted. It can be left and Mr. Monahan will continue with the original concept the way it was adopted if that is the desire of Council.

Mr. Rich stated the other issue is the buffer, and a lot of comment has been made about the buffer. In Mr. Pearce's memo to City Council of July 9, 2012, Mr. Pearce stated that at the June 25, 2012, Council meeting he had provided a memo of all action items staff has completed with the developer of The Ridge. To date, the developer has complied with all requests from staff. Also, in Mr. Pearce's memo of June 25, 2012, Mr. Pearce stated the follow up has shown that the developer, as he told you when he last appeared before Council, is still intent on following the concept plan. The next phase of the development is underway and the developer has complied with all requests city staff has made so far. Mr. Rich then noted a memorandum dated June 25, 2012, to Richard Pearce from Ed Evans, Planning Director, and Larry Morris, Director of Engineering and Utilities. The memo detailed the plantings that Mr. Monahan put in at the request of Tom Rapp and the city. He pointed out all this was done at Mr. Monahan's expense at the request of the city.

Mr. Rich read another paragraph of the memo, "The wording of the condition imposed by City Council does not state or imply that the vegetation to be added as determined by the Planning Director was to create a completely impenetrable evergreen buffer which would prevent someone within Woodside Plantation from seeing anything in The Ridge. Our interpretation of the condition is that there be additional plantings where there were gaps. Prior to the installation of the plantings listed above done by the developer, the vegetation in the vast majority of the buffer was substantially more than satisfactory with only a few gaps to be filled."

Mr. Rich stated what he was hearing from city staff is that Mr. Monahan has done everything that he was supposed to do. He pointed out in the meeting last week someone made the comment that this is one of the better developments in the city and that the developer had done everything and gone beyond what had been expected of him. He said he did not understand the comments and confusion about what he has done and has not done. He said he thought Mr. Monahan had done everything. Some of the things that died Mr. Monahan has agreed to replant them in October. He will continue to follow the recommendations of the City Horticulturist and the Planning Commission as directed by the original concept plan. In terms of the equestrian trail they don't have a "dog in the fight." He said it was his understanding that the equestrian trail was being removed at the request of the citizens at Woodside.

Mayor Cavanaugh stated you can do everything you say you are going to do and it may look lovely for a while, but if it is not watered it will die. He said there were good intentions in planting all the plantings, and he did not understand why there are so many dead plants unless they were not watered and taken care of. He said according to the

[information it seems that Mr. Monahan has gone a long way in putting plantings in, but if they are not watered and maintained they die, and the buffer is not there. He said there had been some criticism about Council and the trails. He said he felt that most of Council did not know about some of the trails. He said those who have been on Council for some time know how important the equestrian community is to Aiken. He said he was not in favor of doing away with the northside portion of the horse trail. He said he did not know what the legal ramifications are connecting the trail with other trails. He said the developer has said he does not really want to take that portion of the horse trail out, so why should we take it out of the plan. He said he was concerned that statements had been made that the whole 50 foot buffer needs to be planted. He pointed out you would not want to put bushes in the trail that horses would trample down. He felt that needs to be taken into consideration also. He felt the horse trail probably would not be as densely planted as the other 25 feet of the buffer.

Councilman Ebner stated for some reason all along the equestrian trail has been tried to be removed. He said he had a timeline. He said in the original design that was submitted by the developer on September, 2006, which was after the approval of the concept plan, the equestrian trail disappeared and it showed a ditch on the drawing. Over the years the ditch was approved and then there was an "as-built" plan, and it does not show the equestrian trail, but has a ditch. He said for some reason the equestrian trail was never intended to be there. He said the drawings show that the equestrian trail was not intended to be there. He said we need to look at what happened along the way. The second item is that you can't physically put in the trail in the 25 foot area without going over into the undisturbed area. He said that is why he felt Mr. Evans made the ruling he did. He said maybe there is some way to get the trail in without disturbing the buffer area. He felt that needs to be looked at. He felt a physical appearance would make a big difference. He felt there is an issue to become familiar with as to why the trail is not there in the first place. He felt the discussion of the buffer is fuzzy logic.

[Mayor Cavanaugh stated the important thing now is what is in the concept plan. He said the equestrian trail is in the concept plan. He said the history is important, but what is on the table is what is in the concept plan and are we abiding by the concept plan.

Mr. Pearce stated if the developer does not want to go forward with removal of the equestrian trail, then we go back to the existing concept plan, and there is nothing for the Planning Commission to review. It would be a matter of enforcing the concept plan.

Councilwoman Price stated the purpose of the meeting was to discuss the equestrian trail. She felt that is off the table now as Mr. Monahan has agreed to leave the trail where it is. She pointed out Mr. Monahan has also agreed to plant the vegetation. The citizens are asking that the city monitor the buffer area plantings very carefully. She felt if we can assure the citizens that the plantings will be done and that they be monitored, that will ease their concerns.

[Councilman Homoki asked what would be the ideal solution to the question. He said we are talking about possibly amending the concept plan and if that is necessary. He said he was not a horse person, but he had looked at the area. He said assuming the first 25 feet adjoining Woodside Plantation would have enough dense vegetation to block the view, then the other 25 feet would be available for the equestrian trail. He said he would hate to get on anything and come down some of the slopes. He said some of the slopes are extremely steep. He said he did not know what the developer could do to make the area a horse trail. Presently there is a ditch in the northern area of the trail. He said for the ditch to be turned into a horse trail a tremendous amount of something would have to be hauled in to level it off. It was felt it may be a safety concern for the horses and for the person riding the horse. He wondered what the solution would be, as removing the horse trail would not be a solution. He said trying to modify the ground to make it available as a horse trail is another problem.

Mr. Ron Monahan stated he was the developer of The Ridge at Chukker Creek. He said there was a lot of misinformation and a lot of accusations made mostly at him. He said it is hard to try to do the right thing. He pointed out that the city had inspected his work,

and he had always done everything necessary and gone beyond. He said he has a group of neighbors to the north that are very involved. He said he had been before Council several times and he was sorry to have to come before Council again. He said about a week ago the matter of removing the northern portion of the equestrian trail was presented to him as a possible way to solve an issue. It was suggested that perhaps the trail could be closed as an equestrian trail and kept as a buffer. He said he did not want to keep appearing before Council, but just do his business, which is helping Aiken and all of us.

Mr. Monahan stated aerial photographs will prove that when he first started about five years ago and put up a fence along the Woodside border there were natural gaps in the buffer. He said he told the machine operators many times don't step over the fence. He said there were gaps in the first 25 foot border with Woodside. He said at the direction of Planning he filled those gaps in the last round. He said he did not create the gaps, but they were a natural buffer as it was when he bought the property. He pointed out he bought the property from a timber company as it was timbered. He said it was not a forest when he bought the property. He said the 25 foot buffer has never been disturbed. He pointed out Ms. Miller took a photo from her house and she took a photo of a 75 foot Santee Cooper transmission line right of way. He stated they recently cleared the area. He said Woodside had planted some magnolias and Santee Cooper cut them down as well. He said he has no control over that. He said Tom Rapp suggested the ligustrum plants that were planted in the last round of trees and bushes he planted. He said it cost him \$14,600 for the round of planting the trees. He said they were planted the right time of year hoping they would thrive. However, it has been unusually hot and dry. He said some of them had died, and he will replace them. He said those trees were chosen for their hardiness. He pointed out Woodside is beautiful and looks like the Garden of Eden. It is highly maintained, highly irrigated, highly fertilized with open space and common grounds, but that is not The Ridge at Chukker Creek. The Ridge is a natural area, with trails, natural trees, etc. He said he did not want to create that buffer and pay to maintain it with water and fertilizer when that is not what The Ridge is about. He said he paid more to put the right plants in the area, however, some of them died. He said he would get the plants established. He said he did not feel that he was supposed to block the view of The Ridge. He felt the view was a nice view and that it was not that bad to see through some of the buffer. He pointed out that Mr. Haggerty had stated he was on the Architectural Landscape Review Board and he approves Woodside residents building in the open space right up to the fence. He said his point is that Woodside doesn't have much of a buffer and he is required to have much more. He pointed out the satellite dish in the pictures and wondered where it fits in with the plantings. He said he was trying to do everything he could. He said he would agree to eliminate one section of the equestrian trail if it would stop bringing him before City Council or he would be happy to put the trail in. He pointed out it will be difficult to put that section of the trail in because they had a severe erosion issue and engineers recommended big rocks to stop the erosion. He said he had to do it because the erosion was affecting his homeowners. He said the riprap cost \$18,000. He said it was done within a couple of days of the incident. He said someday when he puts the horse trail in it will be expensive to remove the rocks. He said a lot of dirt may have to be brought in. He pointed out it is on the concept plan which was done six years ago. He stated the land is teaching him. He said he was not trying to get away with anything or cut any corners. He said he would do whatever Council asks him to do.

Councilwoman Price asked from a safety perspective of the horse and the individual would the horse trail be safe. She also asked about the original design of the property. She asked if the plan showed the area as a ditch or as a trail.

Mr. Monahan stated it would not be safe today, but it is not open as a horse trail today. He said he does not plan to open the trail in 2012. It would be a trail to nowhere, as he has not developed the rest of the property. He said it is still in his plans to build the trail. He said this matter has come up several times. He said it is not in his business plan to address the trail yet. He said he would build it. In answer to what the plans showed as mentioned by Councilman Ebner, Mr. Monahan stated he was looking at "as built." He said that was an engineering drawing and it did not show the horse trail. He said it did

not get eliminated. It just does not show on that type drawing. He said it was misinterpreted.

Councilman Ebner stated the construction drawings have the symbol for a ditch, and he had confirmed that with Mr. Morris. He said for some reason the trail disappeared on the design drawings.

Councilwoman Price stated years ago Mr. Monahan gave her a tour of the property, and they discussed the trails. She was surprised they were not shown on the plans.

Mr. Monahan stated 61 acres with a lake which adjoins the property was designated as a conservation easement. He said this was done with Dacre Stoker and ACOL. He said this property will never be built on. He said he has over five miles of trails that he can put there and people can use them. He said he was not going to put an equestrian trail through a busy construction site. He said it will probably be two years before the trails are open.

Mayor Cavanaugh stated he wanted to get back to the matter of the buffer at this time. He asked how he would keep the trees and bushes alive and how he planned to water them.

Mr. Monahan stated his plan was to plant species that they do not have to supplement with water. He said Tom Rapp's recommendation was to plant the shrubbery that he planted. He said some did die. He said he would replant the trees when he is told it is time to plant them. He said he was told by Tom Rapp he would not have to artificially water the shrubbery once they are established. He said when they are first planted they do have to be watered until they are established. He said he would speak with Tom Rapp again and he would establish whatever watering schedule he recommends. He said he has a watering truck and a landscape crew on site as well. He said the plantings would be on a maintenance program.

Mayor Cavanaugh stated he felt if Mr. Monahan could get the buffer looking nice that would satisfy a lot of concerns. Also, if the horse trail is left on the concept plan that will satisfy concerns of some others who spoke about keeping the horse trails.

Councilman Homoki stated he had a question about meandering into the 25 foot buffer, which is supposed to be untouched. He asked if we are going with the assumption that is still valid or would we try to prohibit the "meandering." It was pointed out the meandering is to save trees.

Councilwoman Diggs asked Mr. Monahan what he could do for both the residents of Woodside and The Ridge to satisfy their concerns.

Mr. Monahan stated he would do whatever he could to try to satisfy the concerns. He said he had not done anything illegally or immorally, but had done everything he was supposed to do.

Councilwoman Price asked if there was a way the residents could meet with Mr. Monahan if there is an issue and if they knew how to contact him. She pointed out the residents had made an investment in their property and they want great scenery.

Mr. Monahan responded that his cell phone is the same number he has had for years. He said he would be happy to meet with the Woodside group at any time. He said this had been a good year, and they had sold a lot of homes and have a lot of new residents. He said there is only one more property available joining the Woodside area and then they will be moving in another phase of the project.

Councilwoman Diggs asked Mr. Monahan if he had delivered the items promised in the original concept plan, did he think he would be here tonight discussing issues.

Mr. Monahan responded that he did feel he would be before Council. He pointed out there are issues from six years ago that are brought to the table every time. He said a group of people were upset that he bought the land next door as they were apparently told that the land would never be developed. He said he never said the land would not be developed. He said he had the misfortune of buying some property next to an established neighborhood where some people thought no one would ever build there. He said he can't get out from under that. He said he thought there was nothing he could do to make some people in the room happy, but he would try. He said he felt he had done everything responsibly on his concept plan, except that he had not built the horse trail, but he was not ready to build it now. He pointed out he did have a setback with erosion and there is some ugly rock there where the horse trail is to go. It is not a horse trail now, but it will be. He said he felt he had done everything by the book and gone beyond. He said he is very accessible. He said he got a phone call five days ago that the matter was going to be on the Council agenda and he is here. In response to a question by Mayor Cavanaugh, Mr. Monahan stated he would commit that he will plant what needs to be planted in October or November in the buffer area and he would have a plan to water the plantings until they are established.

Councilman Ebner stated the concern about the trail started about March, 2011. He stated the plantings have been done and will be redone. He said he was one of Mr. Monahan's supporters. He said people ask about The Ridge at Chukker Creek being an equestrian community. He said he says if he had built another equestrian community in this area he felt he would be in trouble. He felt that what Mr. Monahan had done by changing the appropriate roads and the way the houses are being built, it is a very nice neighborhood. He said he had talked to three or four homeowners, and they are proud of it. He said it is not only a very nice area, but it also creates a good tax base. He pointed out Mr. Monahan is selling homes where other developments are not. He felt that was very important. He said his engineering background comes out sometimes. He felt the real issue is the administrative decision about meandering the trail without saving any trees. He felt that is a real problem to put in the trail without that. He said he would not back off that position, and he did not know how to deal with the city. He said their beef is with the city and not with Mr. Monahan. He said that is what he stated when he sent his email to discuss the taking out of trees in the 25 foot buffer. He felt there is a discrepancy between him and the East Pleasant Colony people in interpreting item 4 of the original concept plan. He said that is between them and the city. He said right now it is an administrative decision that they disagree with, and that does not affect Mr. Monahan.

Mr. Alan Karten stated he thought what the people from Woodside would like to hear is that a sprinkler system would be put in. He pointed out despite the fact that he may plant in October everything will need water. He felt the people from Woodside would feel better if there was a sprinkler system. He said he wanted to point out a couple of things. As pointed out in the original concept plan, there was never an intention of a 25 foot horse trail and 25 foot buffer. There was a 50 foot buffer of which the horse trail would run through. That is number 4 in the concept plan. He felt there were no two separate buffers. It was a 50 foot buffer. The second point is Mr. Monahan is a horse person and has been extremely friendly to the horse community. He said, however, the notion that his trails were going nowhere and there was never an intention of going anywhere, Mr. Karten read from Mr. Monahan's own concept plan – "The four miles of trails on site are intended for use and enjoyment by all. The goal is to link these trails with adjacent land owners in an expanding network which will extend from Chukker Creek to Anderson Pond to Chimebell Church Road." He said the trails are an integral part of what was intended in 2006 and what they hope to conclude in the next year or two. He said he felt this was an important issue and he would ask Council to table or withdraw the proposed ordinance.

Mr. Bill Kolarek stated that in the letter submitted from Mike Randall in December, 2005, asking for annexation, the conclusion says – "Our proposal creates a unique Equestrian Community in which the enjoyment of, and responsibility for, the land and facilities are shared equally among the homeowners." He said having been a developer and looking into the future for this development, eventually every developer wants to leave, and the homeowners take over the amenities. He said the horse trails will have to

be maintained by the homeowners association. He said the expense of maintaining them, the responsibility for maintaining them, and the buffer would be the homeowners responsibility. He said he did not know what tools the City of Aiken has for making a homeowners association maintain a horse trail. He stated the community started out to be an equestrian community with 270 homes. The density will probably be two-thirds of 270 homes, as the lots are much bigger than originally conceived. He said the homeowners association will have less income and more responsibility. He felt it was in everybody's best interest to look into the future and ask if the equestrian trail is something that these homeowners want. He said they have polled the 40 to 45 homeowners who live there now and nobody wants to be burdened with the equestrian aspect of the subdivision as originally conceived. He pointed out concept plans change. He said if Mr. Monahan had been two years earlier, he would have been done with the subdivision, and it would have been a grand equestrian community, but it is not an equestrian community any more. He said he realizes what the marketing materials say, but in actuality this is a private community with private trails that the homeowners will have to maintain someday. He felt some thought should be put into how do we prepare for that in the future. He said in about five or six years the city will have people coming to Council complaining about the developer being gone and the trails are not being maintained. He said he did not think it was the responsibility of the city, but the homeowners association. He wondered who forces the homeowners association to maintain the trails. He said the homeowners association could say they want to leave the trails as open space and not maintain it as a horse trail. He asked who has the authority to tell the homeowners association that they have to maintain the horse trails. He said seeing the property in the future it might be worth looking at now to see if the concept trend should be revised to meet how the community is actually being developed rather than how it was proposed.

Mr. Gary Smith, City Attorney, stated the development is expected to comply with the concept plan in the future. The city has ordinance summons which they can use to hold those who own the property accountable that the property be a certain way.

Councilwoman Price asked if the record should state clearly now that maintenance of the horse trails is not the responsibility of the City so that in the future whoever is on Council in years from now will not wonder whether this is a responsibility of the City versus the homeowners association.

Mr. Smith stated we may be confusing issues. He said the issue is whether or not Council will amend the concept plan to delete an equestrian trail. Mr. Kolarek's question is getting into a deep conversation on the future.

Mayor Cavanaugh asked if Mr. Monahan had looked at that question and determined how it would be handled.

Mr. Kolarek responded that he had and had talked to Mr. Monahan many times and pointed out that the present concept really isn't what Mr. Monahan initially envisioned. He said he did not think that anyone who lives in The Ridge now owns a horse. Initially all the property owners would have owned horses, as that is what the concept plan was for.

Councilman Homoki asked if anyone had looked at possibly leaving the 50 foot buffer as written in the original concept plan and maybe rerouting the horse trail to another location.

Mr. Pearce stated if you look at what has been cited previously in condition 4 there is a 50 foot buffer, but 25 feet is designated as undisturbed and 25 feet is designated the equestrian trail. The issue that Mr. Kolarek is raising is the issues discussed last week, and that is the reason the ordinance is presented for Council's consideration.

In response to Mayor Cavanaugh's question as to whether it was mandatory that every homeowner join the homeowners association, Mr. Pearce stated it was and it is in the restrictive covenants.

Councilwoman Price stated then the question is whether Council deletes the equestrian trail along the northern boundary.

Mayor Cavanaugh stated if there is a motion and second Council could vote to deny removal of the northern equestrian trail and that would be denying the change.

Ms. Becky Lorraine stated she lives in Hollow Creek. She said she is Vice President of the homeowners association of Hollow Creek and they have 47 lots. They have a five mile equestrian trail and the homeowners association is responsible for maintaining the horse trail. She said they maintain all the common ground and their annual assessment dues are \$300 each for 47 lots. She said when you say you can't maintain the equestrian trails because the homeowners will have a huge fee to pay, she feels differently. She pointed out there would be 200 or more homeowners in The Ridge compared to 47 in Hollow Creek. She pointed out Hollow Creek has an interest in connecting to the horse trails in The Ridge. She said that is what they were told, and they would like to see their trails connect with the whole system, including the 501(c)3. She pointed out that not all the residents of Hollow Creek have a horse, perhaps half of the residents do. She said they bought into an equestrian farm. They might not have horses but they like the environment and Aiken is an equestrian environment. She pointed out maintaining a dirt trail is not a costly item, but landscaping and irrigation are costly.

Councilman Ebner stated his question was about the administrative decision and meandering the trail and not taking out any trees. He stated Mr. Smith had said earlier that he had waited too long to appeal the decision. He said there are some physical restraints in The Ridge that will be very difficult to overcome. He asked what do we do.

Mr. Smith responded that he felt that was an issue that could be discussed with the city staff at a different time. He said he did not feel it needs to be handled at this meeting.

Councilman Ebner moved that Council deny the request to remove the horse trail and deny adoption of the proposed ordinance. The motion was seconded by Councilman Homoki. The motion was unanimously approved.

Councilman Homoki stated he seconded the motion because he feels the horse trail is somewhere in the future. He did not feel that it would impede setting up the buffer. He said ultimately whether the 25 foot horse trail is going to have 12.5 feet on the right and 12.5 on the left does not matter as long as it blocks out the view for the people on East Pleasant Colony Drive. He said that probably is meandering. He said eliminating the horse trail right now is self eliminating because it can't be built there, but you can't put vegetation in there either with the rocks there. He felt the best plan is to keep the trail as a potential in the future. He said the concept plan could be changed in the future. He asked that the developer try to block off as much buffer as possible by vegetation and then attack the problem with the trail later which will probably be two to three years.

AIKEN'S MAKIN

Chamber of Commerce

Parkways

Park Avenue

Mayor Cavanaugh stated a request had been received from the Chamber of Commerce for use of the parkways and Park Avenue for Aiken's Makin' Festival.

Mr. Pearce stated for the last 35 years, the Greater Aiken Chamber of Commerce has been using the parkways along Park Avenue for the Aiken's Makin' Festival. Last year, booths were actually placed in the Park Avenue right of way. They are requesting City Council's permission to hold the 36th Annual Aiken's Makin' in Park Avenue from Chesterfield Street to Union Street on Friday, September 7, 2012, from 9 A.M. to 6 P.M. and Saturday, September 8th from 9 A.M. to 5 P.M. This has historically been a very successful event for our community. As part of this event the entire west bound lane and half of the east bound lane of Park Avenue will be closed to traffic. Public Safety is

working with Chamber staff to hold this event with the least interruption to surrounding businesses.

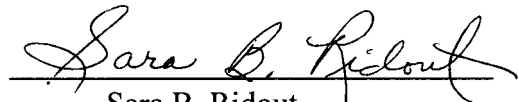
Our insurance carrier has required a written agreement for this event to show the Chamber's position. A draft written agreement was provided for Council's information. It has been reviewed by our City Attorney and Tom Young the Chamber's attorney as well. Buzz Rich, Chair of the Board of Directors for the Chamber of Commerce has also reviewed the agreement. Mr. Pearce stated everyone was in agreement that the revised agreement he had provided to Council at this meeting is something that protects everyone's interest. He pointed out this is the first time Council has had to approve an agreement for use of the street and parkways for the Aiken's Makin'.

For City Council consideration is approval for the Greater Aiken Chamber of Commerce to use Park Avenue from Chesterfield Street to Union Street for the 36th Annual Aiken's Makin' event, with the written agreement to be executed prior to the use.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the use of Park Avenue from Chesterfield Street to Union Street for the Annual Aiken's Makin' event with the condition that the lease agreement be executed prior to the event. The motion was unanimously approved.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:59 p.m.


Sara B. Ridout
City Clerk