

Aiken City Council Minutes

WORK SESSION

November 9, 2020

Present: Mayor Osbon, Councilmembers Brohl, Diggs, Girardeau, Gregory (via phone), Price, and Woltz.

Others Present: Stuart Bedenbaugh, Gary Smith, Kim Abney, Sara Ridout, Charles Barranco, Gary Meadows, Kym Rooks, Jessica Campbell, Mary Rosbach, Pam Royal, Susan Yates, Mike Przybylowicz, John Poole, Ryan Bland, Daniel Williams, Landon Stamper of the Aiken Standard, and 15 citizens.

The work session was held in the Council Chambers at 214 Park Avenue SW; however, the number of citizens that could attend at one time was limited because of the COVID-19 virus and social distancing.

CALL TO ORDER

Mayor Osbon called the work session of November 9, 2020, to order at 4:08 p.m. He stated there were four items on the agenda for discussion: proposed amendments to the stormwater ordinance, Hitchcock Woods stormwater project, a presentation of Audited Financial Statements for Fiscal Year 2019-20, and discussion of proposed amendments to the tourism ordinance.

STORM WATER

Mayor Osbon stated the first item was a presentation regarding the storm water ordinance.

Mr. Bedenbaugh stated City staff has been working with consultants from Thomas and Hutton and Brown and Caldwell to update our storm water ordinance. Council has made this a priority. It has been necessary to work with firms having specific expertise in this area due to existing federal EPA and state regulations that prohibit jurisdictions with storm water permits to modify rules to a less stringent status than rules in previously issued permits. We believe our proposal for Council to consider allows for incentives for developers while improving water quality along with addressing erosion and flooding issues.

We have worked with stakeholders in the development community and other local residents during this process.

Ms. Susan Yates, Stormwater Administrator for the City of Aiken, stated we are here to talk about where we are in the process of updating our Stormwater Ordinance. She said they would review the stakeholder outreach as well as the constraints to updating our ordinance. She introduced the consultants that have helped with the process of updating our Stormwater Ordinance: Jane McDonough with Brown and Caldwell, and William Lamb with Thomas and Hutton. Ms. McDonough is a licensed professional engineer and has 30 years of experience providing municipal clients with regulatory compliance support for water and stormwater programs. She is an Aiken native and has degrees in Environmental Science and Environmental Engineering and is a Senior Manager with Brown and Caldwell, which is a national firm that is 100% focused on water and environmental engineering. Mr. Lamb is a license professional engineer in South Carolina and Georgia and has over 15 years of experience in a broad range of water resource disciplines. He has a BS in Biosystems Engineering from Clemson University and is a Senior Project Manager with Thomas and Hutton, which is a multi-disciplinary engineering firm in the southeast United States.

Ms. McDonough stated the City's current stormwater ordinance was implemented by Council in 2008 and is more stringent than DHEC requires in some ways and more stringent than other jurisdictions in South Carolina. It is overly burdensome to

developers in some ways because it requires very large stormwater ponds. This has prevented some projects from going forward in the past, including the Dairy Queen, Lidle grocery store, and some others. It also is not as effective as it could be. It is inadequate to protect Aiken's watersheds and burdensome to developers. Through this program these issues will be addressed and some additional items which include incentivizing economic revitalization, improving water quality, erosion, and flooding issues, and also providing consistent long-term maintenance of stormwater facilities.

Ms. McDonough explained how stormwater works in different conditions depending on the runoff and amount of time. She stated controlling the peak is how to manage the stormwater. She explained the intent of stormwater management. By installing a pond, you hold some of the water during a storm so it is not going straight to the stream, but is ponding for a little while. Then you release it slowly to the stream. We try to get the peak down to being more similar to a natural condition. That is called peak matching. That is one of the important aspects of what is being done in stormwater management to reduce the intensities. She pointed out what is required in Aiken. Instead of doing what they call peak flow matching, the City of Aiken's requirements require that the peak be pushed down further. That is what requires the very large ponds. That is one of the problems that they want to address. The groups intent is to push the stormwater standards in a direction that would give something more similar to a natural hydrology and that would make the pond size smaller and result in greener development that would have smaller stormwater practices integrated into the design rather than having the large stormwater ponds that Aiken has now. This will be good for developers because it will be a better use of land, and it will also be better for receiving water in the watershed. The City of Aiken has a MS4 Permit, which is a municipal separate storm sewer system permit. Aiken is one of 70 small MS4 permit holders in South Carolina. The City is required by DHEC to have permit coverage and DHEC is required by the EPA to have the permit for them. The City has to comply with all aspects of the permit in order to avoid civil and criminal penalties. She stated the EPA and South Carolina law have backsliding provisions so the City cannot take the current standard and replace it with something that is less protective. Per the permit, the City must require the developers to control stormwater from construction and the existing standards can be revised, but they have to be replaced with something that is equally or more protective than the current standard has. This means that since Council approved this standard in 2008 that was more restrictive than what DHEC requires, the City cannot go back to basic DHEC requirements.

Mayor Osbon asked what the penalties would be if the City went back to match all other municipalities in South Carolina. Ms. McDonough stated that would be a discussion with DHEC on whether they would allow that or not. Mayor Osbon stated it doesn't seem like a second mistake by not letting the City do it is a right response to the first mistake of the City putting them in place the first time. Ms. McDonough stated she cannot comment on the legal provisions, but will advise City Council on what they are proposing.

Councilwoman Lessie Price stated there are 271 cities in South Carolina and Ms. McDonough mentioned 70 cities have the MS4. She stated it is odd that there are 200 cities that have not conformed to this stringent requirement. Ms. McDonough stated the requirement to have a MS4 permit is based on census size and there are also several large permit holders and Aiken is one of the 70 small ones.

Ms. McDonough stated they propose to take the existing standard and replace it with a suite of standards that will address anything from small to very large storm events. They will have a provision to control the pollutants from the water quality storms. In addition, they will address intermediate size storms which cause a lot of the stream channel erosion. They will address flooding, and will also have a provision to address extreme flooding conditions. Aiken's current standards address two of the levels. There is a water quality provision, but it does not currently incentivize preservation of green space or reduction of impervious surfaces, so she feels improvements can be made on that provision. The top provision is the one causing the very large storms. They would propose to replace that with something that would be more typical of what would be seen in other communities in South Carolina. She stated what they would then do is address all four levels so they would be looking at the water quality streams. They would change

the current provision the City has, and also have a provision to address the intermediate size storms. They would replace the large storm provision that is currently in place so that the City would have smaller pond requirements. They would also propose to require downstream analysis which would help downstream flooding and also will help developers be protected from litigation due to downstream flooding events. The benefit to Aiken with this proposal is this suite of a more holistic approach will help reduce the pond sizes, allow better use of land, and also be an improvement to environmental protection. She stated to date they have been creating the framework and also coordinating with several stakeholder groups to get their input. They met with developers and land designers and talked to them about the current standards and what they were proposing, and the consensus was that the current standards cause the ponds to be too large, and they cause some development projects to be infeasible or too expensive. They also agree that the proposed changes are long overdue. They think that what is being proposed will encourage greener development and will improve the aesthetics and marketability of their projects. They also had several priorities they would like addressed, including redevelopment incentives, design credits, and coordination with some other existing policies. For example, the current parking requirements were mentioned as one they would like to coordinate to make sure that the existing policies in other areas mesh well with revised stormwater standards. They also asked for guidance and some design aids for both developers and contractors to help ease the revision process. They asked for clarification on maintenance responsibilities for the stormwater ponds or facilities once constructed.

Ms. McDonough stated they met with a group of environmental representatives and residents. They also agreed that the current stormwater standards are not beneficial. They felt the large ponds are not consistently well maintained. They were supportive of the proposed changes and also supportive of policies to incentivize redevelopment. They also had some priorities, including coordination with other related policies. They brought up the issue of parking requirements. They had some questions on how prescriptive to be for the developers in their BMP selection for their site development. They also had some questions about grandfathering projects that are already in the process and also about redevelopment incentives. She stated in addition to the framework just presented, they have some other topics they would like to address through this initiative. Redevelopment is one of the most important ones. The standards they are proposing to change only address new development. They will not impact currently impaired watersheds. They will help prevent similar problems from happening in other watersheds as development continues. They can work on the redevelopment requirements within the ordinance because Aiken currently has a lot of large underutilized strip malls and other areas that have absolutely no stormwater management on them at all. By incentivizing redevelopment, they can help get a little bit of stormwater management into those sites, which will help. Those sites are also now very hard to develop because of the current standards. They can make them easier for redevelopment. The stormwater design credit topic is very important in that this is what can be used to help green up some of the development projects that will be good for the developers and also beneficial environmentally. They have spoken about a Stormwater Advisory Board to help in overseeing compliance and other issues. They are going to modify some of the stormwater BMP maintenance and inspection requirements. The City is required to have maintenance and inspection requirements in the ordinance but they feel they can be clarified. Also, they will be working on some design aids and guidance for developers and contractors to help ease them through the transition.

Ms. McDonough reviewed the time frame. She stated to date they have been developing the framework and coordinating with stakeholders. They are presenting to Council at this meeting, and plan to, with Council's approval, move forward on developing some of the additional details so they can continue coordinating with the stakeholders and work out some of the details that will go into the ordinance. They will also will need to do some coordination with DHEC and the City Planning Department along with others, and then once all of that is complete, they will start working on the ordinance revisions and working on coordination with those other policies and come back to Council at key milestones. They expect the ordinance will be finalized in the fall next year and ready to implement by the end of next year. In summary, the proposed changes to the ordinance would be good for development because they will improve the ordinance and cause a

better use of land and will provide some redevelopment incentives. The changes will be better for the environment because more green stormwater practices will be used. It will be better for aesthetics, so it will be good for citizens and it will be better for the City because it will help incentivize economic revitalizations.

Councilwoman Price stated her questions and concerns were covered in the presentation.

Ms. McDonough stated they plan on adopting provisions similar to North Augusta, Lexington County, and Georgia. They will not be reinventing the wheel. Mayor Osbon stated it would address issues outside of that to make it a more encompassing package. Ms. McDonough agreed. She stated it is a modern approach to managing stormwater. It is very similar to the direction that many other communities are doing across the country. Mayor Osbon stated that seemed to satisfy our development community. Mr. Bedenbaugh stated that Mr. William Lamb worked with Lexington County recently on a similar effort. This is something that has been done before and there is a path forward. It meets a lot of the objectives of Council. Councilwoman Price stated the presentation was very clear and comprehensive. It was easy reading and easy to understand. She wanted to make sure the entire community understands what is going on.

Mr. Bedenbaugh stated if Council likes what they heard, staff can continue some coordination and work to get a draft amendment to the stormwater ordinance based on these principles to Council in early calendar year 2021, most likely in the January/February time frame. They would have a work session to go into the details. They would move it forward to get the stormwater ordinance updated and some internal land development regulations would need to be done to coincide, or match, what the stormwater ordinance says. If all is approved, it would go into effect. The goal is to not cause any harm downstream, but also not to dissuade development, as mentioned when speaking about the projects that did not come to pass because of the existing stormwater ordinance. He stated he will bring an ordinance back to Council with these criteria and if Council approves it we can implement it or make any changes they see fit.

HITCHCOCK WOODS STORM WATER

Sand River Stormwater BMP Implementation Project Funding

Mayor Osbon stated the next item was an update on the Hitchcock Storm Water Project.

Mr. Bedenbaugh stated after the September 28 presentation to Council, staff was tasked with presenting several funding options for Council's consideration for this \$11.3 million stormwater project for Hitchcock Woods, the preferred option from the Task Force and the consultants McCormick Taylor. He said Council was very interested in the project and wanted to pursue the project. Before we bid the work out, we need to know where the money will come from. He said he and George Grinton had worked with staff to come up with a recommended path forward for funding for the project. He said there is a preferred option and a fall back option.

At Council's request, we added 5% to the estimated cost to account for landscaping that would be placed on top of the two large concrete vaults proposed to be placed near the entrance to Hitchcock Woods at South Boundary Avenue SW.

Mr. Bedenbaugh stated the path forward would be, if Council is comfortable with a funding option, staff would put the project out to bid. The package is almost ready to go. Approximately 60 days would give us time to get bids in. Hopefully they will come in at or under budget. He would then bring back to Council the formal project for funding approval since it involves Capital Project Sales Tax money and a potential loan from the State Revolving Fund which need Council approval. He said this is a project that has been on the books for some time.

Mr. George Grinton, Project Manager, stated since he last presented to City Council, they have isolated the road maintenance fund opportunity. There is \$120,000 in the original budget for restoration of the road. We would expect work on the road, because of the

heavy construction. We have received the state road into our system, and we would want to replace it with something in appropriate condition for the site that will be there. There is also recognition that the Hospitality Tax fund, because of the new State law the Governor signed, allows tourism projects to fund stormwater related projects. Hitchcock Woods is certainly a draw for the equestrian community. There will be a certain amount of environmental tourism. People will be interested to see how the work was done. This is a first for South Carolina in size and in the OPTI system that is to be installed. The site enhancements will provide an educational opportunity and draw tourists to see the site and learn more about Hitchcock Woods. It is an opportunity for the City to draw on tourism for groups that would like to see Hitchcock Woods.

Mr. Grinton reviewed the recommended funding path:

- \$6,200,000 CPST (II, III, IV). We will need to borrow ahead \$2 million via an interfund loan to use CPST IV funds
- \$195,000 319 Grant
- \$4,000,000 SRF (State Revolving Fund) Loan at 1.3% interest rate over 30 years. Repayment source is stormwater fund revenue. No rate increase will be required to repay the SRF Loan.
- \$120,000 Road Maintenance Fund (reconstruct South Boundary SW between Laurens Street SW and entrance into Hitchcock Woods after construction traffic)
- \$785,000 Hospitality Tax Fund for landscaping

The alternative recommendation would be to repay the \$4,000,000 SRF loan with Hospitality Tax funds, but that is much less preferred as it would encumber over 10% of our annual anticipated revenues from the Hospitality Tax fund for 30 years.

He stated the recommendation is to proceed with the funding as listed and this will allow us to immediately go out for bid once the packages are finalized and approved by the City engineering group. Request for bids should be in January. We would then receive the bids, analyze them, and come back to Council. Once approved, and funds allocated, the bid would be awarded and go out for construction as early as the May/June time frame of 2021. They would hope to be finished by the first part of the following year.

Mr. Bedenbaugh stated the City’s financial planner that advises the city on borrowing, stated we have sufficient cash flow in the Stormwater fund to pay for this project over the 30 years at 1.3% without having to have any type of rate increase.

Mayor Osbon asked what percentage to pay back the 1.3% of the Stormwater Fund revenues would be committed for 30 years. Mr. Bedenbaugh stated it would be about \$170,000 a year. The fund is about \$2 million a year, so it’s well within the comfortable threshold. Councilwoman Brohl stated she feels that is important information that there is enough in the cash flow that it would not require the rates to be raised. She stated she knows Mr. Grinton has been working a while on this project and storm drainage in Hitchcock Woods, and the City has been working for years to come up with a solution to this problem. This project makes sense, and using the OPTI system is going to give cutting edge to be able to do this correctly and really solve the problem this time. She feels that doing this project will bring in so many other avenues of people being interested to see what has happened in the Woods and a great resource will be saved.

Mr. Grinton stated he feels this is doable and will achieve an important objective for the City.

Councilwoman Price stated she is cautiously optimistic about what to expect for this project. She had an inquiry regarding Hitchcock Woods. She said she was excited about what is being proposed with education and tourist attraction to Hitchcock Woods. She was asked if she had looked into this in detail. She asked if Hitchcock Woods would be restricted as to who they can and cannot let in the woods based on their policies. She stated she did not have an answer. Mr. Grinton stated that was discussed briefly at the last work session. He stated the property is approximately 45% Hitchcock Woods and 55% City of Aiken property. There will be an easement that will be brought to Council

with the agreement for the shared properties and construction, and it will have on it the things that Council and the Hitchcock Woods Foundation would like to state in writing for perpetuity. This is a solution that will last long after we are gone. That will be defined. Council will have the opportunity to provide input. At this point, his understanding is the policy that Hitchcock Woods has is that anyone in the public is welcome during daylight hours and that would be the policy the City would provide for the site that is shared between the City and Hitchcock Woods Foundation. There may be a conservation easement so the land will not be changed from a park. Councilwoman Price has advised people that it is a partnership.

Mr. Bedenbaugh stated it is a shared solution and partnership. That was one of the goals when we started the process with the stakeholders four years ago. Mayor Osbon commended Mr. Grinton and all the members that served on the original committee, the Hitchcock Woods Foundation, and all others that have since been working on the recommendation. Councilwoman Price commended Mr. Grinton on his work with this project. She thanked the Hitchcock Woods Foundation for their input as well.

Mr. Grinton stated if Council feels this is a reasonable approach, then he and the consultant with McCormick Taylor will complete the designs and bid package. They will put it out for bid to get final documentation of cost and will complete any of the easements and permits that need to be completed. Then that will be presented to Council for approval. At that point they will be able to proceed with construction.

Councilman Ed Woltz asked for a timeline. Mr. Grinton stated they are targeting to have the design completed and reviewed with the bid out in January. It will be a 45-day type of review so by the end of February they should hopefully have the bids in and analyze them in March. He hopes to have it back to Council in March. A lot of it depends on if costs have gone up or if they are still in the range of their estimates or if they have to do some value engineering discussions.

Councilwoman Price asked if they should expect completion by the end of the year. Mr. Grinton stated the end of the year (2020) or the beginning of the next year. He would like to get the project finished in 2021. Councilwoman Price asked how the project would impact the use of the Woods. Mr. Grinton stated they will look at the prime times of use for the Woods and make sure that can happen. They normally have fundraisers in the spring, so they would do their work after the fundraisers and before the next ones in the fall. Those details will be laid out in the bid documents and once the contractor is selected, they will discuss their ideas and condense time frames. They will not look to shut down access to the Woods during construction.

Mayor Osbon thanked Mr. Grinton for his work on this project.

AUDIT

Fiscal Year 2019-20

Miller Edwards

Mauldin and Jenkins

Mayor Osbon stated the next item was the presentation of the Audited Financial Statements for Fiscal Year 2019-20.

Mr. Bedenbaugh stated Mr. Miller Edwards, of Mauldin and Jenkins, is present to review the audit with Council. A copy of the Audit Report was provided for Council's review.

Mr. Miller Edwards stated everything has been complete for the most part. They are still waiting on a few things relative to the single audit itself. There were some major programs that needed a single audit in accordance to the Federal guidelines. Additionally, they are waiting for some final things from the City to put together the complete CAFR. They will provide Council the Auditors Discussion Analysis, which is a summary. He stated he was pleased to have clients that didn't miss a beat when it comes to getting them what they need. He stated there were no problems or issues due to COVID. He stated when looking at the financials, looking at the General Fund, which is the heart and soul of the City, it's stronger than it's ever been since he's been conducting

the audit for the last five years. The City has a cash position of about 250 days. There is a tremendously liquid fund balance. The City is in a position that they can keep on doing all the things that they want and need to do without missing a beat. From his standpoint as an objective third party, Aiken is one of the stronger communities of this size and nature that they serve. He stated in looking at the overall operations, everything looks very strong. The State pension plan is a little better funded than it was last year. For the last several years it has been around 59%. It is now up to about 62.5%. The single employer plan came down in funded percentage this year by a little bit. It came down from about 90% funded to about 85% funded. It is still a great place to be. He stated the City did not take in the same kind of revenues from contributions and the valuations did not go up as much as they have historically gone up. The City had to pay out more than they earned. The City did not have the same kind of investment returns as in the past. He pointed out the City's pension fund is better funded than most places. Mr. Edwards stated overall the City has an overall strong operation. The City does a good job, and he likes how proactive the City is and the vision they have. He said this is the best year he has seen since they started doing the audits a few years ago.

Mayor Osbon asked if there were any recommendations towards the enterprise funds. Mr. Edwards stated no specific recommendations for improvement. There are a lot of standards out there. They have talked to the City's management about a lot of things that are coming that will need to be addressed in the coming years, but nothing specifically to say there is a problem. He stated they have a great relationship with the City. When the City changes something, they call the accounting firm and talk about them and instead of being reactive, the City is proactive with having to put things in place to take of this the right way.

Councilwoman Brohl stated the City is blessed because the unemployment rate in Aiken is not what it is in some other places. That figures into a rosier outlook. Mr. Edwards stated when COVID started, the experts were expecting a bad recession, but in the months that have followed June, there has been much improvement. He stated that globally it appears we are right where we need to be with unemployment, sales taxes, and other things. Councilwoman Brohl asked if there was anything the City needed to pay attention to. Mr. Edwards stated if they felt the City needed to work on something, they would already be discussing it and Council would have probably heard about it before this meeting.

Mayor Osbon stated the City has a development commission that is looking to do some business development and economic development. He asked as the City looks for places for economic funds, other than General Fund, is it a practice that he sees municipalities using some of the enterprising funds. He asked if enterprise and utilities funds were used to fund that. Mr. Edwards stated yes. Most governments have utility funds that distribute to the general fund. He stated that the City's funds that are called enterprise, such as airport, stormwater, and solid waste, are not usually the most enterprising of enterprise funds. They are doing their job, but they are not something that will be able to contribute toward the other initiatives being discussed.

Councilman Ed Girardeau stated the good shape we are in is reflective of Mr. Bedenbaugh and his staff and their work. Mr. Bedenbaugh thanked Kym Rooks and Summer Gagnon for their work. Mayor Osbon agreed with Councilman Girardeau. He stated staff does a great job with the budget. Councilwoman Brohl stated it is evidenced by the awards the City receives. Mr. Bedenbaugh stated first reading to accept the financial statements is on the agenda for this meeting and second reading would be held on November 23 so the financial statements can be submitted to the Controller General by the end of the calendar year.

TOURISM ORDINANCE

Mayor Osbon stated the last item is discussion of the proposed amendments to the Tourism ordinance.

Mr. Bedenbaugh stated at the work session on October 26, 2020, City Council reviewed and discussed proposed amendments to the tourism ordinance. Council asked that

the proposed ordinance be reviewed again in this work session before going forward with first reading of the ordinance. He said there had been an inquiry earlier this year as to where in the Tourism Ordinance bicycles were addressed. After reviewing the ordinance with staff and the City Attorney we could find no mention of bicycles in the ordinance. Staff wanted to be pro-active regarding bicycles. Mr. Day, owner of Pedego Electric Bikes, is a good corporate citizen who has been conducting bicycle tours in the Historic District. We wanted to make sure that if anyone else were to want to conduct bicycle tours in the Historic District that we have some rules and regulations to follow so there would be no issues. Staff wanted to address that matter. While we were looking at the Tourism Ordinance we thought we wanted to streamline the ordinance because it currently is addressed in three different code sections. We wanted to have the Tourism Ordinance all in one code section.

Mr. Bedenbaugh stated that Mr. Smith, City Attorney, had addressed the matter of a federal court case that we need to make sure we are following regarding tour guides and the freedom of speech. We also wanted to streamline the Carriage ordinance. In 2015 we added the Carriage Tour Ordinance to our Code. We discovered that the inspections were not being done to our satisfaction or we lacked the capacity to do them. There are alternatives through a national standard that is more incumbent on the entities or vendors that want to do the tours via carriage. We feel that meeting a national standard is more appropriate. The proposed ordinance addresses routes for the various types of tours, such as walking, biking, trolley car, and motor coaches. One of the main issues that Council asked for the proposed ordinance was to go back to the old time of 11 a.m. to start bicycle tours in the Horse District. The time had initially been listed as 12 noon in the proposed ordinance which was done because of a comment received from a member of the Equine Committee. Council felt that 11 a.m. was a better time. He said there had been other questions. There has been a lot of interest in the proposed ordinance, especially from individuals who make their living and reside in areas where tours could be held. We are sensitive to that. That is why we had the work session two weeks ago, and then again at this meeting before having first reading of the ordinance.

Mr. Bedenbaugh asked if there were any comments or questions from Council.

Councilwoman Brohl stated we are very proud of the Horse District in Aiken, and we want people to know about it, but we also want to be sure that we are mindful that what is someone's tourist destination is someone's livelihood. What makes Aiken special in the equestrian area, we don't want to "kill the goose that laid the golden egg." She noted that a couple of people had contacted her, and they were concerned about having motor coaches in the area. She pointed out that as she reads the proposed ordinance, there would not be motor coach tours in the Horse District.

Mr. Bedenbaugh stated there are some definitions for motor coaches. Staff felt motor coaches needed to be spelled out and regulated more. The ordinance does allow for certain exemptions. As the ordinance is currently written, the City Manager can give exemptions to entities that would like to take a touring bus through the Horse District. He said he had been designated with that task for about six years, including his time as City Manager. He said he had only been asked about a motor coach tour for about three or four times. He said a motor coach tour is not a regular occurrence. He felt having the ability to allow a motor coach tour in the Horse District on a limited basis is needed on occasion. He noted that several of the exemptions had involved visiting dignitaries from other federal DOE sites. He said he did not feel the spirit of the exemptions was a back doorway for a touring company to regularly come in do tours.

Councilwoman Brohl stated the exemptions for motor coach tours in the Horse District would be few and far between at the discretion of the City Manager. It would not be people on a regular basis showing up with motor coaches for a tour in the Horse District. She pointed out talking about economic development or dignitaries coming through is different from just having motor coach buses come through for hire tours. She pointed out also that another call was regarding bicycle tours. She noted that in the current ordinance there is nothing that addresses bicycle tours. In adding bicycle tours, we were trying to cover that item in the ordinance so there would be regulations for bicycle tours where there presently are no regulations for bicycle tours.

Mr. Bedenbaugh stated from the city's standpoint we were not trying to limit the ability to do bicycle tours, but we did want to address that matter. While the current bicycle tour is low impact, from what we have heard, from all accounts from residents and the equestrian community, but there is no guarantee that future entrepreneurs may not be so sensitive. We did want to address bicycle tours. Also, it is a balance for us. We recognize the "goose with the golden egg" analogy that was mentioned earlier, but also the roads are public roads. That is a balance we have to take into account. The Horse District is not gated like Woodside or Kalmia Landing. Our tax dollars go to maintain those roads. It is a delicate balance that we walk. We try to be sensitive. That is why we incorporated input from the equestrian community and the Equine Committee as well as talked to some of the vendors.

Councilman Woltz noted that most of the tourism takes place in his district so he has had a lot of comments. He said there had been a lot of talk about motor coach tours. He said he would suggest that we take motor coach tours out of the ordinance and make a note that motor coaches are only allowed to tour with permission or approval from the City Manager's Office.

Councilwoman Price stated that is what she thought the ordinance said, that motor coach tours had to be approved by the City Manager. She pointed out the roads are state roads. She said she recognizes what the horse community is feeling. She pointed out, for example, this is Masters Week. During Masters Week we would normally have folks coming to town every year. In Augusta there is a motor coach of business persons wanting to tour the area. They have seen North Augusta. She said they may want to come to Aiken to see what is in Aiken. These are business persons and investors. Are we going to say no that they cannot ride down the road because we are not going to allow traffic down the road? Are we going to say that to 40 some business people?

Councilman Woltz stated he felt we were not saying no, but that they had to get permission from the City Manager. Councilwoman Price stated she thought that was what was in the ordinance. Mr. Bedenbaugh responded that there is the ability for the City Manager to grant permission for a motor coach tour. He asked Ms. Campbell to respond to the question.

Ms. Campbell, Parks, Recreation & Tourism Director, stated she understood that it is difficult to read through and interpret the ordinance. Ms. Campbell stated the ordinance is for stop and go site seeing tours. They are not regulating what is on the city streets that are here to go to a restaurant or to stay at a hotel. The ordinance is a tour ordinance for vehicle for hire for stopping and going site seeing. In the current ordinance there are no motorized tours in the Horse District. It does not matter if it is a motor coach, a mini-bus, or a mini-van, the new proposed ordinance does not allow them. However, the ordinance gives the City Manager the authority for a special exception if he does want to allow a motorized tour.

Mr. Bedenbaugh stated he felt some of the confusion is that we talk about routes and the route goes through certain areas. There was concern about turning down Dupree and Berrie Road. To a lay person it seems as though it would be a difficult thing to turn a large vehicle to go down those streets. According to the professional literature we found, those vehicles are designed to make those type turns. The amount of traffic through the area is very limited.

Mayor Osbon stated he had a question on the routes defined. He noted that if the routes change in two years for some reason would the ordinance have to come back to Council to address the change in the routes with two readings. Mayor Osbon asked if the routes could be referred to as the routes approved by the City Manager, Public Safety and Parks, Recreation & Tourism departments. He said if a route changes in a year why should the community have to wait for Council to go through two readings if it is just common sense to change the route. He said he equates the routes to the hours on the tennis courts. He noted that Council does not vote on the hours that the tennis courts are open. Staff knows the hours, and they handle it.

Mr. Bedenbaugh stated with the proposed ordinance the exhibits are a part of the ordinance.

Councilwoman Gregory stated she appreciates the time, effort, and the thought process behind putting the Tourism Ordinance together. She said she had spoken to a few residents with concerns about the proposed ordinance. She said they want restrictions. She agreed with what the Mayor said that changes in the routes could get tied up with ordinance readings. She felt that when we attach numbers and have official certified walking tours, bike tours, and motor coach tours, that we begin to restrict so many areas when we start putting so many restrictions on. She pointed out that Aiken is not overflowing with tours now, and she does not see that happening. She felt the numbers and the streets should be up to the city's discretion.

Mayor Osbon stated he would agree with Councilman Woltz in regard to motor coaches. He felt that Councilwoman Price brings up a good point, if Council is having discussion on the matter and Council is not certain about the interpretation, he could understand why the neighborhoods and community are having the concerns they are.

Councilman Woltz noted one thing Council talked about was training of tour guides, but the City Attorney said the training could not be required for the tour guides. He said the question is can we tell them what not to say. He asked do they have the right to give a tour and say this is where Mayor Osbon lives; this is where Councilwoman Diggs lives, and just go down and point out where everybody lives and what they do, etc. He asked if we can tell them what not to say on a tour.

Mr. Gary Smith, City Attorney, stated they are asking if it is okay to regulate somebody's right of free speech. He said the Constitution and the Supreme Court would say they could not tell the tour guides what they can and cannot say on the tour.

Mr. Bedenbaugh stated for the ones that the city pays, it is permissible for us to regulate what they say. They have a tour script guide to follow. Mr. Smith stated the tour guides that the city pays are essentially city employees, and they can be regulated.

Ms. Campbell noted that in Section 46-123 of the motorized tours, item d, we do require a voluntary certified tour guide to board the vehicle. We have paid staff tour guides that we know have been trained for the right things. If a vehicle, a mini-bus, a van, motor coach, etc. comes into Aiken, we have a tour guide step on the vehicle. We can't mandate them to take a test, but we know that our voluntary guides have been given the information. They know the routes, and they know what they should and should not say. Unless it is a tour that we are unaware of, we do ask that a paid voluntary tour guide board the vehicle.

Councilman Woltz stated another question was the maintenance and care of horses and how we regulate that on the carriage tours. He said he would suggest that since we are not experts on horses, that we would refer that to the Equine Committee and let them look at it first before it comes back to Council. He noted that there are national standards of what happens. He asked if the city were to write our own standards, do we take on more liability for having our own standards versus following the national standards.

Mr. Smith, City Attorney, stated to have our own standards, the City would take on more liability. He said the reason is that any time a lawsuit is filed, whether it is a car or truck accident, a carriage accident, etc. once lawyers get involved one of the first things they do is if the carriage had an accident because it was not properly maintained, is to decide what is proper maintenance. If we have our own set of regulations for maintaining and inspecting the carriages, then we will look at those regulations. We would have an expert witness who would compare our regulations to the national standards. If we have a contrary regulation from what the national standards are, then the expert will say the regulations are okay, but they are not readily acknowledged national standards that the industry normally uses. When you have a rule in contrast to accepted national standards, then that would work against us.

Councilman Woltz stated that is what he thought, and he felt that when the ordinance is sent back to the Equine Committee, we need to be sure they understand that.


CITY MANAGER COMMENTS

Mr. Bedenbaugh reminded Council that there is a Special Meeting on Thursday, November 12, 2020, at 5 p.m. to discuss whether or not Council wishes to extend the mask ordinance.

Gary Meadows will be in touch with Councilmembers. There will be a virtual awards program. The program will be a lot different this year due to COVID 19. Usually we gather for lunch at the Weeks Center for the Awards Program in December for all employees. We will still gather, but there will be multiple gatherings by departments because we don't have a facility big enough to socially distance. The food serving is also difficult with the regulations which the Governor has with his executive orders. Since we can't all be together, we would like to film brief remarks from Councilmembers and staff will put together a video to play at each of the department gatherings. The employees will still get their recognition for their years of service, and the employees who retired in 2020 will be invited and be awarded their retirement plaque and watch. The event is scheduled for December 11, 2020. Councilmembers are invited to come to one of the events if they wish. He said he wanted to make Council aware of the change in the Awards Program this year.

Mr. Bedenbaugh stated there will be information on the Chesterfield Street building at the November 23, 2020, meeting of Council. He said presently they are doing demolition and are in about three weeks of an eight-week process. At that time, we should also have information about the structural analysis of the balcony on the building.

There being no further business, the work session ended at 5:34 p.m.


Sara B. Ridout
City Clerk