

Aiken City Council Minutes

May 9, 2011

EXECUTIVE SESSION

Present: Mayor Cavanaugh, Council members Clyburn, Dewar, Ebner, Price, and Wells.

Absent: Councilman Homoki.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 6:01 P.M. He stated that Council needs to go into Executive Session. City Manager Pearce added that Council will undertake consideration of legal advice regarding redistricting now that the 2010 Census figures are available, and to hear from the City Attorney regarding enforcement of the abandoned vehicle ordinance as contained in-part in the Zoning Ordinance.

Councilman Ebner moved, seconded by Councilwoman Clyburn, and unanimously approved, that Council go into Executive Session. Council went into Executive Session at 6:02 P.M. After Executive Session discussion, Council came back to the Council Chambers at 7:07 P.M.

REGULAR MEETING

Present: Mayor Cavanaugh, Councilmembers Clyburn, Dewar, Ebner, Price and Wells.

Absent: Councilman Homoki.

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Pete Frommer, Kim Abney, Ed Evans, Ben Moore, Larry Morris, Alicia Davis, Tim Coakley, Janis Ladd, Amy Banton of the Aiken Standard, Ryan Calhoun of News Channel 12, and about 30 citizens.

Mayor Cavanaugh reconvened the meeting at 7:07 P.M. He explained that Council had gone into an Executive Session at 6:00 P.M. to discuss two legal matters: 1) potentially redistricting voters' districts to comply with Federal laws since the 2010 Census results are now available, and 2) a longstanding issue with abandoned vehicles. Councilmember Ebner moved, and Councilwoman Clyburn seconded a motion, that was unanimously approved, that Council go out of the Executive Session and move into the regular meeting.

CALL TO ORDER

Mayor Cavanaugh called the regular meeting to order at 7:08 P.M. Councilman Wells led in prayer, which was followed by the pledge of allegiance to the flag.

GUIDELINES

For those present, Mayor Cavanaugh reviewed the guidelines for speaking at the Council meeting. He asked that those speaking respect each other and treat others the way they would want to be treated. Personal attacks and derogatory comments directed to individuals are not allowed. He asked that those who would like to speak raise their hand and be recognized and limit their comments to five minutes.

ADDITIONS OR DELETIONS TO THE AGENDA

There were no additions or deletions to the meeting agenda. Councilman Dewar moved and Councilwoman Clyburn seconded a motion that was unanimously approved to accept the agenda as presented.

## MINUTES

The minutes of the work session with the Planning Commission of April 18, 2011, the regular meeting of April 25, 2011, and the work session of May 2, 2011, were considered for approval. Councilwoman Clyburn moved, seconded by Councilwoman Price, that the minutes of the April 18, 25 and May 2, 2011, meetings be approved as written. The motion was unanimously approved.

## BOARDS AND COMMISSIONS

### Appointments

Catherine Thomas

Arts Commission

Phil Haggerty

James R. Findley

Building Code Board of Appeals

Mayor Cavanaugh stated Council needed to consider appointments to boards and commissions of the city.

Mr. Pearce stated Council has eight pending appointments to boards and commissions. Three appointments are presented for Council's consideration.

Councilmember Ebner has recommended that Catherine Thomas be reappointed to the Arts Commission. If reappointed Ms. Thomas' term would expire April 11, 2013. He has also recommended that Phil Haggerty be reappointed to the Building Code Board of Appeals. This term will expire May 12, 2013.

Councilmember Wells has recommended that James R. Findley be reappointed to the Building Code Board of Appeals. If reappointed, Mr. Findley's term would expire May 12, 2013.

For Council's consideration this is approval of three appointments to the various boards and commissions of the city.

Councilman Ebner moved, seconded by Councilman Wells, that Catherine Thomas be reappointed to the Arts Commission, with the term to expire April 11, 2013, that Phil Haggerty and James R. Findley be reappointed to the Building Code Board of Appeals, with the terms to expire May 12, 2013. The motion was unanimously approved.

There were no other proposed appointments.

## TOWING ORDINANCE 05092011 and 05092011A

Franchise Agreement

Rate Changes

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on ordinances to amend the towing ordinances.

Mr. Pearce read the title of the ordinances.

AN ORDINANCE REVISING CHAPTER 46 OF THE AIKEN CITY CODE TO INCLUDE ARTICLE VI TO REGULATE TOWING FRANCHISES.

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

Mr. Pearce stated the City has had a franchise arrangement, pursuant to a Supreme Court decision regarding involuntary tows, and a contractual relationship with those towing companies inside the city limits for some time. He said with the recent rise in gas prices, we have heard from the towing companies that the existing agreement is not economically feasible for them.

Mr. Pearce stated Aiken Department of Public Safety Chief Pete Frommer and City Solicitor Ben Moore, along with other ADPS staff, have met with the City’s area towing franchisees to discuss possible amendments to the towing ordinance and the existing towing franchise agreement. After these meetings and discussions, a consensus has been reached between these towing company operators and City of Aiken Public Safety Department representatives.

Mr. Pearce stated proposed changes to the rates for towing are compared with current rates as follows:

	<u>Currently</u>	<u>Proposed</u>
<u>Regular Sized Vehicles</u> , Daytime	\$125	\$125
-- Nights, weekends, holidays	\$160	\$175
Storage Fees per day	\$ 25	\$ 25
<u>Larger Sized Vehicles</u>		
Less than 17,000 lbs., Daytime	Market Price	\$150
-- Nights, weekends, holidays		\$200
More than 17,000 lbs., Daytime	Market Price	\$300
-- Nights, weekends, holidays		\$350
Storage Fees per day	Market Price	\$ 40

Other provisions in the franchise agreements remain the same.

City Council approved these amendments at first reading on April 25, 2011. For City Council consideration on second reading and public hearing is an ordinance amending the Fee Rate Schedule for involuntary tows within the city limits of Aiken, approval of the modified towing franchise agreement, and a one-year term for these agreements.

The public hearing was held. No one spoke.

Councilwoman Clyburn commented she would like to make sure the towing facilities understand that they must adhere to policies that are set. One towing facility has not adhered to City policy in the past.

City Manager Pearce replied that has been a concern in the past, however, that concern has been directly dealt with. The towing company that was out of compliance was placed on suspension for a period of time, and understanding the city’s policy is no longer a problem with them. Should the public incur a problem with towing, they should contact the Department of Public Safety, who will investigate the problem for appropriate action.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that Council pass on second and final reading an ordinance to amend the Fee Rate Schedule for involuntary tows within the city limits of Aiken and approval of the modified towing franchise agreements with the franchise agreement being based on an annual basis. The motion was unanimously approved.

CONCEPT PLAN – ORDINANCE 05092011B

Murphy Oil, USA  
WalMart Center  
3575 Richland Avenue W.  
Shoppes at Richland  
WRS, Inc.  
U.S. Highway 1 South  
TPN 087-19-03-011

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to approve a concept plan for Murphy Oil, USA on Richland Avenue W.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING THE CONCEPT PLAN FOR PROPERTY LOCATED AT 3575 RICHLAND AVENUE W.

Mr. Pearce stated that in 2006 City Council approved a concept plan for the development of the entire tract for the Shoppes at Richland. The ordinance tonight for first reading is the approval of the concept plan for a particular parcel that is part of the development. He said Council could amend the concept plan for the entire tract because the subject parcel is a portion of it, or could consider approving a concept plan for this particular parcel.

Mr. Pearce stated Murphy Oil, USA is requesting approval of their Concept Plan for a convenience store at 3575 Richland Avenue W. on a 1.35 acre site. The gas station will consist of 12 fueling stations and will locate on an outparcel at the Shoppes at Richland at the entrance to the WalMart campus. There are no external driveway cuts onto Richland Avenue to this parcel. The property would be accessed from the WalMart parking lot and the western entrance drive into this shopping center. He said Murphy Oil came before Council on January 24, 2011, with a proposed plan, and City Council did not approve the plan on first reading. Since that time Murphy Oil, who owns the parcel, has prepared a new proposal. The new proposal is significantly different in the number of pumps, the car wash being removed from the plan, and the design of the building being more in-keeping with the design of the WalMart retail store located on the developed tract. Planning Director Evans reviewed the plan and considered its significant changes and treated this as a new application which has been before the Planning Commission. City Attorney Gary Smith has advised that this proposed use is allowed by right under the Zoning Ordinance; nevertheless, Council can place conditions on this proposed use.

The Planning Commission unanimously approved this request at their April 12, 2011, meeting with the following conditions:

1. that the access onto the center's entrance drive on the western boundary be right-in/right-out only and constructed so that left turns are not possible;
2. that the gas station canopy have a green standing-seam peaked roof and red-brick columns to mimic the detail of the WalMart building, and that the design must be approved by the Planning Director;
3. that a revised Concept Plan will be submitted listing all conditions of approval within 60 days; and
4. that proof of recording at the RMC Office of an agreement signed by the applicant listing all conditions of approval be provided within 60 days.

For City Council consideration, this is second reading and public hearing of the Concept Plan for Murphy Express Gas Station located at 3575 Richland Avenue W.

The public hearing was held. No one spoke.

Councilman Ebner moved and seconded by Councilwoman Clyburn that Council pass on second and final reading an ordinance to approve a concept plan for Murphy Oil, USA at 3575 Richland Avenue West. Approval is conditioned as follows:

1. that the access onto the center's entrance drive on the western boundary be right-in/right-out only and constructed so that left turns are not possible;
2. that the gas station canopy have a green standing-seam peaked roof and red-brick columns to mimic the detail of the WalMart building, and that the design be approved by the Planning Director;
3. that a revised Concept Plan will be submitted listing all conditions of approval within 60 days; and
4. that proof of recording at the RMC Office of an agreement signed by the applicant listing all conditions of approval be provided within 60 days.

Councilwoman Price commented that there are still 16 pumps being proposed at this site (12 conventional and 4 diesel). Previously, the site cited 20 pumps. Sixteen pumps is still a large concentration of pumps at this location.

Councilman Dewar said that he previously asked the attorney whether Council had control of the hours of operation. Attorney Smith replied that he understands the only hours of operation Council would have any impact on are bars and nightclubs, since the ordinance requires that all bars and nightclubs must close at 2 A.M. Murphy Oil, USA could have a concern about being singled out as the only gas station in the City of Aiken that is been given special hours of operation. Attorney Smith advised that it may be unwise for Council to make that exception. As far as restricting the sale of cigarettes and alcohol, those are governed by State Statutes, and Council does not have the ability to make those restrictions. Council could pass an ordinance stipulating closing hours for all convenience stores within the city limits.

Councilman Dewar commented that he was sensitive to the concerns of the neighbors.

In that regard, Mayor Cavanaugh stated that a Murphy Oil representative did say that this business would close at midnight.

Rod Abney, with the firm GreenbergFarrow, who represents Murphy Oil, USA, replied that the anticipated hours of operation for this store are from 5 A.M. until midnight. There is no plan to operate 24 hours a day at this time.

Mayor Cavanaugh asked if they were going to stick with those hours.

Mr. Abney introduced Tom Bentley who is with Murphy Oil. Mr. Abney said, to his knowledge, Murphy Oil, USA does not have a 24-hour store in operation. Murphy Oil has approximately 1,100 stores, and none operate 24-hours a day. There are no plans to operate 24 hours a day. Mr. Bentley concurred.

Councilwoman Clyburn asked what does "at this time" mean. Mr. Abney replied that was his knowledge right now. She asked if there are plans to later change the hours. Mr. Abney replied there is no plan to open 24-hours a day.

Being very protective of this area, Councilwoman Price questioned why there are 16 pumps in this area. She was not aware of any other station having 16 pumps. Mr. Abney clarified that she was referring to 16 fueling positions. He reasoned that only 14 vehicles could be serviced at one time. There are 6 pumps for regular fuel (serving 12 vehicles) and 2 pumps that would offer diesel. As mentioned before, should Council feel better with a 3 plus 1 offering, that could be done. In fact, it would be less expensive. There have been instances where customers accidentally put diesel fuel into a vehicle that should use only regular fuel. By having a separate diesel fuel station, those errors are reduced. Installing the 3 plus 1 pumps would reduce the number of pumps by eliminating the 2 diesel pumps on the end. The canopies, or the number of lanes, would not be reduced.

Councilwoman Price said she was proud of how this area has turned out in its attractiveness, and so far this project does not deter from the appearance. That is what she is asking of Murphy Oil.

Councilman Dewar commented that, after listening to the discussion of the 2006 meeting, he did not hear any concern about the projects going into that area. But, once again, the

Council is considering approving another project in an area that is not an ideal location for the traffic perspective. One day in the near future, attention will have to be focused on the impact of traffic at intersections.

Councilman Wells said to the representatives of Murphy Oil that the major concern Council has had is from the neighbors across the parking lot. It is his desire that this station not add to any of the trouble they have experienced with the Shoppes on Richland. Mr. Wells also asked that staff look at the buffer, its planting and the buffer's present condition in protecting these residents from the shopping area. The city should do everything it possibly can to ensure the residents are protected from noise, pollution, light pollution, and whatever this project may bring.

Councilwoman Price concurred then added that the long-term residents made their concerns known at the last meeting that they felt they are being infringed upon. So, the most Council can do with the way this is proceeding is to ensure that all these protective measures are being properly retained.

City Manager Pearce added that any citizen feeling that concern may contact the Zoning Official for enforcement investigation.

Councilwoman Price injected that many times the residents feel powerless. This development is not going in the direction they desire(d). They come to the public meeting and express their feeling that they do not want this in their neighborhood, and then contrary to their requests, Council may vote to approve the project. The least the City can do is consider some of their wishes.

Mr. Abney replied that Murphy Oil would do their best to build the project as presented and keep it well maintained. They want to be a good neighbor to the best of their ability. He added there will be no music being played on the outside. The only speakers are on the pumps. Those speakers enable the customer to speak to the clerk inside the convenience store and vice-versa.

Mayor Cavanaugh called for a vote on the motion by Councilman Ebner, seconded by Councilwoman Clyburn, that Council pass on second and final reading an ordinance to approve a concept plan for Murphy Oil, USA at 3575 Richland Avenue W with the conditions recommended. The motion was unanimously approved.

#### TAX MILLAGE RATE – ORDINANCE

Millage Rate  
Budget 2011-12  
66 Mills

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to set the millage rate for fiscal year 2011-12.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAXES FOR ORDINARY CITY PURPOSES AND FOR CAPITAL DEVELOPMENT PURPOSES IN THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, SET THE MILLAGE THEREFOR AT SIXTY-SIX (66) MILLS, AND TO PROVIDE FOR THE EXPENDITURES THEREOF.

Mr. Pearce stated every year City Council adopts a budget for the following year, as well as a separate ordinance to establish the millage rate to meet the budget needs. Council reduced the millage rate in 2008 from 71 mills to 66 mills. This year, by maintaining the millage rate at 66 mills, we realize 23 consecutive fiscal years without a millage rate increase. Over that period of time, the millage rate has been reduced on 5 separate occasions, from 120 mills to the current 66 mills. The millage rate has decreased in spite of revenue losses during tough economic times. Pearce said that the 66 mills provides the City about 7.2 million dollars in revenue in the General Fund.

We are happy to have been able to control raising taxes, and we contribute the success to the careful stewardship of these funds by Council and staff alike.

For City Council consideration, this is first reading of an ordinance to set the FY 2011-12 millage rate at 66 mills.

Mayor Cavanaugh commented that he was so proud of the staff, the leadership of the past and present City Manager, and everyone who has worked together on the budget. It takes all departments working together and coming together. This does mark the 23<sup>rd</sup> year Council has not increased the millage rate on city property taxes. This is a slim budget. As found out when going through the zero-based budgeting process, there was nothing major to correct. Services to the public have not been reduced.

Councilman Ebner moved, seconded by Councilwoman Clyburn, that Council pass on first reading an ordinance to set the FY 2011-12 millage rate at 66 mills. The motion was unanimously approved.

### BUDGET – ORDINANCE

#### FY 2011-2012

Mayor Cavanaugh stated an ordinance had been prepared for first reading to approve a budget for fiscal year 2011-12.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE ADOPTING A BUDGET PROPOSED BY THE CITY MANAGER, CONTAINING ESTIMATES OF PROPOSED REVENUES AND EXPENDITURES BY THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2011, AND ENDING JUNE 30, 2012, AND DECLARING THAT THE SAME SHALL CONSTITUTE THE BUDGET OF THE CITY OF AIKEN FOR SUCH FISCAL YEAR.

In a work session on May 2, 2011, the proposed City of Aiken budget for July 1, 2011, through June 30, 2012, was presented to Council for review. Our zero-based budgeting sessions from fall 2010 and earlier this year have provided the basis for us to plan for next year's revenues and expenditures.

City Manager Pearce briefly reviewed and commented on the need for expenditures in each of the major sections as well as the projected revenues and Capital Improvements. As we have done in past years, the budget consists of three major sections:

- General Fund
- Enterprise Fund (Water and Sewer Utilities)
- Other Funds:
  - Aiken Theatre
  - Stormwater Fund
  - Local Accommodations Tax
  - Sunday Alcohol Sales Fund
  - Victim Services Fund
  - Aiken Municipal Airport
  - Community Development Block Grant
  - Ventures Industrial Park
  - Northside Redevelopment
  - Crosland Park

Our total budget expenditures for these funds is \$49,496,233. Total expenditures in the FY 2010-11 Budget were \$46,899,538.

The main increase in this year's expenditures will be \$3,950,000 for a new well and water plant on Silver Bluff Road. This project has been on the Capital Projects list, and expenditures were included in last year's budget for site acquisition and design work. This design work is expected to be completed this year. We have sufficient holding accounts to borrow funds to cover this expense and then repay these borrowed funds through annual system depreciation.

Comparing the proposed FY 2011-12 Budget to our peak budget FY 2007-08, subtracting expenditures to be made with depreciation or special holding funds, we propose to spend \$38,455,578 next year, versus the \$39,330,325 we spent in FY 2007-08, or \$874,747 less. Our actual budget, when considering our rising cost of living, is shrinking, not expanding.

In addition to the proposed water plant construction, a phase in replacement and upgrade of city department and division radios is proposed. The FCC is undertaking the process of splitting existing radio band frequencies to provide more radio bandwidths. We propose covering approximately one-half of the total anticipated costs this year, and the other half in FY 2012-13, or approximately \$190,000 each year.

Some of our other major purchases include:

Airport Glideslope Path Completion	\$1,000,000
Fourteen (14) ADPS vehicles	333,500
Twelve (12) firefighter self-contained breathing apparatus	75,000
Recycle rear loading trucks	160,000
Electric vehicles	40,000
Street sweeping equipment	160,000
Trenching safety equipment	16,000
Mowers, landscaping equipment	125,000
Other department vehicles	30,000
Utility heavy duty service trucks	80,000
Succession Management Training	4,000
Smith-Hazel security cameras	20,000
Total	\$2,043,500

Depending upon revenue receipts, and any carry over surplus funds from FY 2010-2011, we have a small potential salary increase for our employees of 1%. As we have done in past years, we will be reviewing the health insurance benefits to see what increases may be needed.

City Manager Pearce said, for Council consideration, this is the first reading of an ordinance approving the proposed FY 2011-12 Budget. To have compliance with State Law, there will not be a second reading on the Budget until the first meeting in June. Mr. Pearce echoed the Mayor’s remarks in recognition of the staff’s hard work in preparing the proposed budget.

Councilman Dewar had questions concerning certain line items. Questioned was the pension contribution increase on page 95; the rollover of the entire contribution of the city on page 95; expenditures for Smith Hazel pool on page 126; depreciation fund transfer on page 133; Crosland Park sales of property on page 211; water plant and well on page 229; and Toole Hill recreation center on page 240. Finance Director Abney and City Manager Pearce satisfactorily answered the concerns.

Councilwoman Price commented that some time ago Council voted on looking at the zero-based budgeting process. The staff spent a considerable amount of time with this process in terms of going line-by-line and in great detail. As the City Manager has stated, it is evident that the departments are spending taxpayer’s monies wisely. She believes that as an elected official and as a voting body, all aspects of the impact of making a budget request to Council must be considered. The Council should feel very comfortable with what City staff is doing in terms of looking at the impact of what is requested. She thanked staff for their commitment in what they do.

Councilman Dewar concurred. He said the zero-based budget process has been very worthwhile.

Councilman Wells moved that Council pass on first reading the approval of the FY 2011-12 annual Budget as proposed by the City Manager. Councilwoman Clyburn seconded the motion.



The motion was unanimously approved.

### AREA CHURCHES TOGETHER SERVING

#### ACTS

#### Parkway

#### Park Avenue

Mayor Cavanaugh acknowledged that Area Churches Together Serving (ACTS) has a 25 year anniversary celebration coming up in August.

Mr. Pearce stated that he has received a letter from ACTS Executive Director Vicki Bukovitz requesting City Council permission to hold their 25 year anniversary celebration in the Park Avenue parkway, immediately across from their facility located at 340 Park Avenue SW. The celebration is slated for August 4, 2011, at 10:00 A.M. It is anticipated this event will last one hour. ADPS Director Frommer will be providing assistance for the safety of the attendees crossing the street. A tent will be erected in case of inclement weather.

For Council consideration this is approval of a request from ACTS to hold its 25<sup>th</sup> anniversary celebration program in the Park Avenue parkway across from their facility at 340 Park Avenue SW for one hour on August 4, 2011, starting at 10:00 a.m.

Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council approve the request from ACTS to hold its 25th anniversary celebration program in the Park Avenue parkway across from their facility at 340 Park Avenue SW for one hour on August 4, 2011, starting at 10:00 A.M. The motion was unanimously approved.

### CITY COUNCIL CHAMBERS

#### Audio Update

#### Visual Update

City Manager Pearce drew Council members' attention to a hole in the desk by the microphone stands. In this year's budget, funds were allotted for an upgrade to the City Council Chamber to install a new audio system, and the projector for display will be raised. In order to help Council review documents that are in the Agenda packets, monitors will be installed at each Council person's station for their viewing, rather than having to look at the screen on the wall. He asked the Council members if they would prefer the monitor to be on a pedestal and sit on top of the desk or be placed below the top of the desk. The consensus was that the monitor should be placed below the top of the desk, enabling the Council members to have an open line-of-sight with the citizens.

Wade Brodie asked to address Council. Mr. Brodie stated that if the Chambers was to be upgraded, the sound system should also be upgraded. It was very difficult for citizens attending the Council meetings to hear Council members' comments, other than Ms. Price. If a new sound system is not to be installed, new microphones need to be considered.

City Manager Pearce replied that modern microphones will be installed, as well as technology for folks who would like to enhance the signal in their ear.

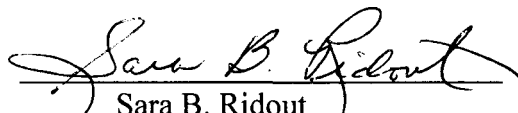
### RECOGNITION

#### Boy Scout

Councilwoman Price acknowledged a student who intently listened and made notes during the meeting. Ricky Cain introduced himself as being from Scout Troop 421 and working on his Citizenship merit badge. Council welcomed him.

ADJOURNMENT

There being no further business, the meeting adjourned at 7:55 P.M.

  
Sara B. Ridout  
City Clerk

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