

Aiken City Council MinutesREGULAR MEETING

November 9, 2015

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

Others Present: John Klimm, Stuart Bedenbaugh, Gary Smith, Charles Barranco, Jessica Campbell, Alicia Davis, Kim Abney, George Grinton, Tommy Paradise, Tim Coakley, Sara Ridout, Dan Brown, of the Aiken Standard, and about 25 citizens.

CALL TO ORDER

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

GUIDELINES

Mayor Cavanaugh reviewed the guidelines for speaking at the Council meeting. He asked that those who would like to speak raise their hand and be recognized and limit their comments to five minutes. He asked those wishing to speak to come to the podium and give their name and address. Mayor Cavanaugh pointed out the clock on the screen. He said the purpose of the clock was so the person speaking will know how long they have been speaking. He said the 5 minute limit would not apply to special presentations.

ADDITIONS OR DELETIONS TO AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Councilwoman Price stated she had an addition that she would like to add to the agenda. She said it is a presentation by Debbie Mills from Gail's Anatomy. Councilman Dewar moved to approve the addition to the agenda. The motion was seconded by Councilman Ebner, and unanimously approved.

PRESENTATIONGail's Anatomy

Ms. Debbie Mills stated she would like to thank Mayor Cavanaugh and City Council members for their support of Gail's Anatomy and ovarian cancer awareness throughout the years. She said even though this is the end of an era, they look forward to continuing their relationship with City Council, staff and the newly elected Mayor.

Ms. Mills stated she is the founder of Gail's Anatomy, and with her is Alicia Owens, Co-Director of Gail's Anatomy, photographer, Todd Lista with Lista's Studio, and sitting on the back is Connie Rule, of Connie's Frame Shop.

Ms. Mills stated Gail's Anatomy is a non-profit organization dedicated to ovarian cancer awareness. She said it was organized as a one-night Relay for Life team in 2007 in memory of her daughter, Gail Mills, who lost her battle with ovarian cancer at age 30--only 3 ½ months after receiving the diagnosis. She said they found out at the first Relay that most women do not know the symptoms of ovarian cancer. Once thought to be a silent disease, we now know there are symptoms; you just have to be aware of them. Many women think a pap test screens for ovarian cancer. It does not. And many women think if they've had a total hysterectomy they cannot get ovarian cancer. It's rare, but it is possible. More information about Gail's Anatomy may be found on their facebook page and website which is OvarianCancerAwareness4life.org.

Ms. Mills stated here we are nine years later. She asked Mayor Cavanaugh to join her at the podium. Ms. Mills stated our ovarian cancer awareness activities started in

downtown Aiken small—with teal bows on almost every post and tree on Laurens Street, Newberry, Richland, and Park in the downtown area.

One year we turned all of the downtown fountains teal and the one at the Publix traffic circle, too. That was beautiful. But because of the maintenance involved, these past years we only turn the water teal in the Newberry Street fountain—still reaching thousands of visitors and residents yearly.

Mayor Cavanaugh and the City Council members have been supportive unanimously of their mission to save lives and bring awareness to ovarian cancer to our area and beyond.

Ms. Mills stated to Mayor Cavanaugh that it had been an honor working with him. His support has made others aware of this horrible disease, and we know that lives have been extended because of his devotion to the cause. Mayor Cavanaugh has signed proclamations and been their guest at many events. He has even had teal dye on his fingers for days after one of our ceremonies turning the Newberry Street fountain teal. She said they hope that Mayor Cavanaugh will always feel welcome to join them. She said they are grateful to Todd Lista, the photographer, and to Connie Rule of Connie's Frame Shop who designed the matting and frame to go with their gift to Mayor Cavanaugh. Both donated their services so Gail's Anatomy could present him with something that would remind him of them and something that will remind him that he made a difference and positive influence on many people's lives in Aiken and the surrounding area. She said Mayor Cavanaugh is appreciated more than he can imagine.

Ms. Mills stated on behalf of Gail's Anatomy and the support of Todd Lista and Connie Rule, she would like to present Mayor Cavanaugh with a token of their appreciation. She said she hoped Mayor Cavanaugh's retirement will be filled with good health, relaxation, and happy memories. She unveiled the print being presented to Mayor Cavanaugh.

Ms. Mills stated the framed print is a picture of the teal fountains. She said the first year they were not sure what to do, but she asked Todd Lista to capture the beauty of the fountains. Mr. Lista thanked them for allowing him to be a part of this in honoring Mayor Cavanaugh.

Mayor Cavanaugh thanked Ms. Mills for all that she had done over the years. He said she had been so effective in the community, and he was just there to help. He said he appreciated all that Ms. Mills had done, and it is making a difference. He thanked Ms. Mills for the print.

MINUTES

The minutes of the Work Session and Special Meeting of October 14, 2015, and the Regular meeting of October 26, 2015, were considered for approval. Councilwoman Diggs moved, seconded by Councilman Merry, that the minutes of October 14, and 26, 2015, be approved. The motion was unanimously approved.

BOARDS AND COMMISSIONS

Appointments

S. J. Paterniti

Board of Zoning Appeals

Josh Stewart

Design Review Board

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

Mr. Klimm stated Council has 15 pending appointments to fill vacancies on different City boards, commissions, and committees. Two appointments are presented for Council's consideration and vote at the meeting tonight.

Councilman Ebner has recommended the reappointment of S. J. Paterniti to the Board of Zoning Appeals. Since the Board of Appeal terms are for three years, if reappointed Mr. Paterniti's term would expire December 1, 2018.

Councilman Merry has recommended the reappointment of Josh Stewart to the Design Review Board. If reappointed Mr. Stewart's term would expire December 31, 2017.

For Council consideration is the reappointment of S. J. Paterniti to the Board of Zoning Appeals and Josh Stewart to the Design Review Board.

Councilman Dewar moved, seconded by Mayor Cavanaugh, that Council approve the reappointment of S. J. Paterniti to the Board of Zoning appeals and Josh Stewart to the Design Review Board.

Councilman Merry stated he had been asked by a member of the audience if they could make a comment regarding the appointments.

Jane Page Thompson, 240 Knox Avenue, stated she was asking Council to delay appointing any new appointees to the boards and commissions until the next Council meeting. She said there is an opinion coming down from the Attorney General's Office relative to one of the appointees based on some things that happened in one of their recent meetings that might determine whether or not they should serve for another three years. She said that is what she is asking for.

Mayor Cavanaugh stated he needed more information. Ms. Thompson stated that citizens have asked for an Attorney General Opinion on one of the boards and commissions and one of their rulings recently. She felt it would not be prudent for City Council to approve members to boards and commissions that may have gone against what the state regulatory authority says is proper while sitting on that board. She felt the AG opinion should be received next week and certainly before the next Council meeting.

Councilman Dewar stated it is a heck of a time for Council to find out about an issue. Ms. Thompson stated she was sorry and did not realize that she was going to be the messenger. She just thought she was in the loop. With things as they are, it turns out that she was the physical person who could get to the meeting tonight.

Mayor Cavanaugh asked if Council wanted to continue the item. Ms. Thompson stated she just brought that to Council for information.

Councilman Merry stated it was just brought to his attention immediately before the meeting started. He said he would be willing to continue the item. He pointed out that his appointee is one of the appointees in question. He said he would be willing to continue the matter.

Mayor Cavanaugh asked what other Councilmembers have to say about the matter.

Councilman Dewar stated he was frustrated that there is information in the community, and it does not come to Council until all of a sudden when Council is in a position to make a motion. He said he knows the individual she was speaking about. He said he spoke highly of him when he was last in the Council Chambers. He said he knows nothing about the issue at stake.

Mayor Cavanaugh stated he thought this was the first time he had heard anything like this. He said it is not like this happens all the time.

Councilman Dewar asked the City Attorney if the appointment is approved and then subsequently it is determined there is a reason why Council should not have made the approval, what recourse would Council have.

Mr. Gary Smith, City Attorney, stated Council has the ability to remove an appointed member of a commission, board or committee for cause. He said it would be just like terminating an employee of the city which the City Manager can do. He said these are

Council appointees, so if there is cause to remove a particular commission member, Council has the ability to discuss and vote on it how Council chooses. He said he was sorry he could not give a better answer than that. He said this is the first time he had heard of this as well. He said he was not familiar with this at all.

Councilman Homoki stated he felt Council should err on the side of caution in case there is some question and something comes down from the AG's office that affects this appointment. He said he was not sure what the issue is, but he felt it would be wise to withdraw the motion and defer it until the next meeting.

Councilman Dewar stated given what the City Attorney had just said, he did not see anything wrong with approving the nomination and if there is cause, then remove the individual. Councilman Homoki stated it would be a lot easier to wait. He said if Council starts removing people for cause, that really opens up the box. He said he went through this a couple of years ago, and it is not very pleasant. He said it is probably a lot better to never really appoint the individual until all the facts are laid on the table and then with an open book Council can vote it up or down.

Councilman Dewar stated he can't speak for Councilman Ebner, but as far as he is concerned all the facts are on the table. He said we are talking about an individual who has been on this committee for several years.

Mr. Smith stated he was not sure that Council knows which individual is being investigated. Councilman Dewar pointed out that Ms. Thompson said a three year term so it is obvious.

Councilman Ebner stated in the past when we have received Attorney General Opinions that were opposite of what other city employees or city representatives did, they were not removed because of that. Councilman Homoki stated he agrees that once they are appointed, it is much harder and causes a lot more headache to try to remove the person if in fact that is what is warranted. He asked if anyone knows what the hidden agenda is. Councilman Homoki asked if Council could separate the two appointments and vote on one.

Councilman Merry stated he was willing to continue both appointments. He said the only thing he knows is there has been a request for an AG opinion in relation to the interpretation of Board of Zoning Appeals rules on considering business reasons for denial of variances. He said he felt that is a pretty valid question to get answered. He said whether Council wants to wait on the opinion is a decision Council needs to make.

Councilman Dewar asked if we are talking about an issue that was decided on a 4-3 vote where this one person's vote would have tarnished the resulting action. He said he was not aware of any 4-3 votes that came from BZA recently. He said if we are talking about the height issue that was unanimous.

Councilman Merry stated this matter was just brought to him a few seconds before the meeting started. He said that is the request for an AG opinion that he is aware of. He said he did not know if there is anything more to the story. He said that is why he was willing to at least ask Ms. Thompson to step forward and make the request because maybe there is more to know.

Councilman Merry stated he was willing to continue the matter.

Councilman Dewar stated he made the motion to approve both nominations for appointments. Mayor Cavanaugh stated he had seconded the motion. He suggested that Council vote on the motion on the floor. He called for a vote of those in favor of approving the appointment of S. J. Paterniti and Josh Stewart. Those in favor of the motion were: Mayor Cavanaugh and Councilmembers Dewar and Ebner. The motion did not pass with a vote of 3. Opposed were: Councilmembers Diggs, Homoki, Merry and Price.

Councilman Ebner stated he would caution about one thing. Whatever comes out of this, then he is going back in history for the same thing. He said if we have an Attorney General's opinion that goes against a particular member or employee of the city, this is going to get sticky so it really does not matter to him either way. He said there have been a number of opinions that have come out from the Attorney General against the city.

Councilman Merry stated he did not think there was an opinion being generated against any specific person.

Mayor Cavanaugh asked if there was a motion to continue the matter. Councilman Merry stated he would move that the matter of the two appointments be continued. The motion was seconded by Councilman Homoki.

Mr. Smith pointed out that Council had just voted not to appoint the two people listed in the memo to those boards and commissions. He said the motion had been to appoint those two people to those boards and commissions. That motion failed. Mr. Smith stated at this point under the rules for appointing members to boards and commissions, then Councilman Merry would have had the opportunity to present another person to sit in his spot on that board and Councilman Ebner would have the opportunity to appoint another person to sit on his spot.

Councilman Dewar asked if they could reappoint the same people. Mr. Smith stated Council had just voted not to appoint those two people to those two spots. Councilman Dewar stated Council voted tonight not to reappoint those two people. Mr. Smith stated Council could always vote to suspend the rules. He said the current rules regarding appointments to boards and commissions says that in the event that the member that Councilman Ebner or Councilmember Merry would have appointed for that particular spot, if that motion fails then they get to appoint somebody else, but not the same person.

Councilman Merry stated he would rather that not be the case. He said all he wanted to do was to simply try to learn more about the situation.

Mayor Cavanaugh asked if Council could just continue the matter.

Mr. Smith stated he hated to get too technical, but during a meeting, Council can vote to reconsider a vote that Council has taken provided the motion is made by one of the Councilmembers who voted on the winning side of the original action. Then a majority of Council has to agree to move to reconsider. In other words whoever voted against the motion, one of those four members would have the ability to move for Council to reconsider and then Council could move to continue if the motion to reconsider passes.

Councilwoman Price asked the City Attorney from his highest and legal opinion, given the information that was presented, is it his recommendation that he research that, whatever it is, before Council continues this matter.

Mr. Smith stated he has not seen anything that has been sent to the South Carolina State Attorney General. He said he was completely unaware of any of that until it was just presented at the podium. He said, of course, he would need to research something before he could give Council an opinion.

Councilwoman Price stated that is where she thought the direction would go in terms of that question coming to Mr. Smith and as the City Attorney his researching the matter and giving Council his highest and best opinion whether Council should move forward with the appointments or table it for another discussion.

Councilman Merry stated he did not just want to vote it down. He said having been on the side of the majority, he would move that Council reconsider the motion to not reappoint Mr. Paterniti and Mr. Stewart.

Councilman Dewar asked if anyone could second the motion. Mr. Smith stated the rule did not specify who could second the motion. It only says the motion must be made by one of the members that prevailed.

Councilman Dewar seconded Councilman Merry's motion to reconsider the motion to not reappoint Mr. Paterniti and Mr. Stewart.

Councilman Homoki asked what Council would be voting on. Mr. Smith responded that Council would be voting on to reconsider the vote Council took on not appointing Mr. Paterniti and Mr. Stewart to those two boards and commissions on which they serve.

Councilman Homoki stated he was not familiar with what is going on here. He said somehow these two appointees probably should be voted on individually if there is some concern one way or another. He said he was not real familiar with either one of them. He said he knows them, but he does not know what the cause is for the AG opinion.

Mr. Smith stated Council has the ability to vote on the appointees individually, but the motion that Council just took up before the motion to reconsider was the motion to appoint two people to those two boards. He said that motion failed.

Councilman Homoki stated he knew that, and that is why he kept insisting that Council should vote on them separately. Councilman Merry stated Council can, but first Council has to approve the motion to reconsider the previous motion.

Mayor Cavanaugh stated there was a motion made by Councilman Merry, seconded by Councilman Dewar, that Council reconsider the motion to not reappoint Mr. Paterniti and Mr. Stewart. The motion was approved by a vote of 6 in favor with Councilwoman Price abstaining from voting.

Councilwoman Price stated she did not vote because she felt what was being done was ridiculous. Councilwoman Diggs asked when Council would get information on what the problem is. Councilman Merry stated he did not know. He did not know any more than the rest of Council.

Councilman Ebner asked if Councilmembers could abstain from voting. Mr. Smith stated there is no ruling against that. He said an abstention is a negative vote for counting purposes unless the Council person has an ethical reason not to vote.

Councilwoman Price stated in her common sense opinion it would have been easier for Council to have moved this matter to another meeting and another discussion. She said she would hate for someone to get appointed and face embarrassment whoever it may be. She said she had no idea who we are talking about. She felt continuing the matter would have been the honorable thing to do. She was not sure what quagmire Council is caught in right now.

Councilman Dewar stated he agrees with tabling the matter, but Council had already gone to the point of embarrassment.

Mayor Cavanaugh asked if Council could still continue the matter.

Mr. Smith pointed out that Council had moved to reconsider so Council could now revote on the appointment motion however Council decides to do it. He said Council could continue the matter or Council could split the two appointments and vote on one or the other or Council could vote on both appointments. Mr. Smith stated to answer Councilwoman Price's question, he does not know which appointee for which an opinion is to be obtained at this point. He said the name has not been mentioned.

Councilman Homoki moved that Council continue the matter of the reappointment of the two persons listed in the memo until such time as Council receives the Attorney General's opinion that appears to have been requested or Council gets notice there is no Attorney General's opinion that affects either one of the nominees, as the opinion may not be rendered by the next Council meeting, and that Council consider the persons individually when Council votes on the matter. The motion was seconded by Councilman Merry.

Councilman Ebner stated that Council is going down a slippery slope because he is going to bring up some past Attorney General positions against some folks also. He felt we need to consider this rather diligently as we go forward. He said we have not done this on other appointees by Council or members of the staff that work for Mr. Klimm. He said we may be terminating someone or not appointing them because of an Attorney General's opinion. He said he was just making a comment of where we are headed.

Councilman Merry stated nobody's termination came from the Attorney General. He felt the issue is trying to get whatever information is being discussed out there.

Councilman Dewar stated he hoped however it comes out if both individuals are confirmed to their positions that the appropriate apologies for this activity are rendered.

Mayor Cavanaugh asked for a vote on the motion by Councilman Homoki, seconded by Councilman Merry, that the matter be continued. The motion was approved by a vote of 5 to 2 with Councilwoman Price abstaining from voting and Councilman Ebner opposing the motion.

Mayor Cavanaugh asked if Council had any recommendations for appointments for the next meeting.

Councilman Dewar stated he would like to recommend that Mary Anne Archibald be reappointed to the Energy and Environmental Committee.

Councilman Homoki stated he would like to reappoint Lucy Knowles to the Design Review Board.

Mayor Cavanaugh stated he would like to recommend reappointment of John McMichael to the Planning Commission.

Councilwoman Price stated she would like to recommend reappointment of John Wallace to the Recreation Commission.

Councilman Dewar stated he had another comment. He said his appointee, Al Snell, to the Park Commission has elected not to accept reappointment primarily because of a lack of activity of the Park Commission. He pointed out that for years Council failed to have a quorum appointed to the Park Commission. He said he had talked to Mr. Coakley who is the Department Head responsible for that commission, and he understands that he is working with the City Manager to determine whether we should keep that committee or revitalize it.

ZONING ORDINANCE – ORDINANCE 11092015

Amendment

Recreational Vehicle Parks

Accessory Use

Industrial Zone

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to amend the Zoning Ordinance regarding recreational vehicle parks as an accessory use.

Mr. Klimm read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE REGARDING RECREATIONAL VEHICLE PARKS AS AN ACCESSORY USE.

Mr. Klimm stated in February, 2015, the Planning Commission was informed that an equestrian facility was considering annexing into the City, but would like to be able to provide parking for recreational vehicles at the facility. The Planning Commission discussed the possible development of a use that would allow a recreational vehicle park site within the City. The Commissioners, with input from City Council and the City

Attorney, developed a proposed Zoning Ordinance amendment to allow a Recreational Vehicle Park as an Accessory Use in the City of Aiken.

The Planning Commission, at their May 12, 2015, meeting considered the proposal to amend the Zoning Ordinance to allow a Recreational Vehicle Park as an Accessory Use. After discussion the Planning Commission unanimously recommended to City Council that the Zoning Ordinance be amended to include section 3.4.8 Recreational Vehicle Park as an Accessory Use.

At the June 8, 2015, meeting Council considered the proposed ordinance on first reading. At the time Council expressed some concern about the length of stay at a proposed RV park, the park becoming a year round RV park for anyone, and enforcement of the conditions for stays at a RV park. After the meeting the Planning Department prepared two possible options to address Council's concerns.

At the June 22, 2015, Council meeting the ordinance was referred to the Planning Commission for further discussion.

The Planning Commission discussed the proposed ordinance at their July 14, 2015, work session and then scheduled the matter for a public hearing at the August 11, 2015 Commission meeting, but the Commission rescheduled the public hearing to October 13, 2015.

This proposed ordinance was discussed at the October 13, 2015, Planning Commission meeting and, after making some changes in the proposed ordinance, the Commission voted unanimously to recommend the proposed amendment to City Council for consideration.

At the City Council meeting of October 26, 2015, Council continued the second reading on this ordinance to the November 9, 2015, meeting. The concern of Council was that the RV park would become a year round RV park for anyone and Mr. Cram was not present to answer any questions.

City Council approved this ordinance on first reading at the June 8, 2015, meeting. For City Council consideration is second reading and public hearing of an ordinance to amend the Zoning Ordinance to allow Recreational Vehicle Parks as an Accessory Use in the Industrial District zone.

Councilwoman Diggs moved, seconded by Mayor Cavanaugh, that Council approve on second reading an ordinance to amend the Zoning Ordinance to allow Recreational Vehicle Parks as an Accessory Use in the Industrial District zone.

Councilman Ebner referenced page 89 of the City Council agenda packet—Proposed Amendments to Chapter 3, Article 4 Accessory Uses of the Zoning Ordinance recommended by the Planning Commission on October 13, 2015.

Councilman Ebner stated when this first started Mr. Cram made his request pretty well as it is written now. He said this was discussed at the Council meeting and he also talked to Mr. Cram. However, when it was proposed by Interim City Manager Roger LeDuc it was exclusively, and the word "exclusively" was in the recommended amendment for equestrian events, but it has now been marked out. The concern at that time, and still the concern, is that this may become a year round facility and then would this allow other facilities around the city maybe instead of being called "equestrian events" you might call it a "barbecue event." He also pointed out item C.1.b. the part underlined does not match the part underlined in A. He said if you read the underlined "the number and identifying information of the horses stabled at the facility or the purpose of the overnight stay and the date the vehicle entered and left the park." He pointed out the second part b. says you have to have a horse there. The first part says the facility can be used primarily by horses. He felt the two items are in opposition. He said that was what he discussed the last time the matter was before Council. He said Mr. Cram is welcomed to speak, but he has been very straightforward saying what his purpose was for the RV park.

Mr. Richard Cram, 118 Surrey Circle, stated the restriction of exclusively stabled or having horses stored at the equestrian facility was never his intent on this proposal. It was not to be restricted to just equestrian use at his facility, but an equestrian use in the county. He said if an equestrian event happened at a different location than Highfields Event Center was entertaining people that needed housing in RVs or that needed to be housed, then he would be able to accommodate that need. He said he thought that was discussed in the June meeting to change the verbiage so it would be broader and be available to the equestrian facilities in the county and not just restricted to his facility. He said as far as C. The recreational vehicle park shall be maintained in accordance with the following standards. b. the number and identifying information of horses stabled at the facility or the purpose of the overnight stay. He pointed out the word "or" is in that sentence. He said he did not feel that had a reference to the top.

Councilman Ebner stated his concern is that we started out with equestrian events. He felt if we changed it to the point that it is equestrian events in the county, that is not mentioned in the ordinance. He felt we should keep it exclusively for equestrian events as that is what we started with. He felt that would still accomplish Mr. Cram's purpose if it is used for events in the county.

Mr. Cram stated that was discussed in the Planning Commission meetings and identifying what equestrian uses are is a person coming to Aiken for their son to go a soccer match and the daughter is in a horse show and they are staying in a camper. He said the question was if that was permissible. He said it became interesting as to how you can translate what is an equestrian use or how to police whether or not it is equestrian use or a different event that happens in Aiken.

Councilman Dewar stated essentially Council is being asked to approve an RV park in the city which currently is not allowed. He said he thought the Planning Commission was looking at updating our Land Use Regulations. He said he would find it more appropriate for the Planning Commission to review whether or not we should allow RV lots in the city. He said he thought the RV park was just for those using Mr. Cram's facility for the time the event occurred at Highfields park. Mr. Cram responded that would be its primary use. Councilman Dewar stated he knew that, but it was broadened to allow other people. He said his sense is that the Planning Commission should look at that when the Land Use Regulations are reviewed. He said he was not in Aiken when the restriction on RV parks was made in the city. He said he did not know how long ago that was, and he did not know the reason for the restriction to not allow RV parks but perhaps we should take a look at that. Mr. Cram stated he was not familiar with that and did not know if it ever existed. Councilman Dewar stated it does exist. Mr. Cram stated he did not know if the right to have an RV park in the city ever existed. Councilman Dewar stated he knew that an RV park is not allowed.

Mr. Cram stated he knew that a couple of the facilities in Aiken County are full, and they house people year round basically. He said those are not desirable for his clientele. Because of that there is a huge need in the equestrian market to house people in the Recreational Vehicles during their stay.

Councilman Ebner asked the City Attorney if there was a way to write the ordinance to accommodate the equestrian events. He said to him the ordinance does not read that way now, especially for events other than those on Mr. Cram's property.

Mr. Smith stated he thought the word "exclusively" did that. Councilman Ebner stated that was what he thought. Mr. Smith stated he would ask Mr. Paradise for his thoughts since he was primarily the drafter of the amendment to the ordinance.

Mr. Tommy Paradise, Interim Planning Director, stated originally the understanding was that it was a 50 acre parcel to be annexed into the city and the RV park would be exclusively for those using his equestrian facility. He said as they worked through the project, it changed. He said the 50 acres came down to 25 acres. The other 25 acres would remain outside the city. He said as we worked through the process, the use became not only Mr. Cram's clientele staying at the project site, but also other people

using equine facilities throughout the county. Mr. Cram stated to the Planning Commission if he has a space available he wants to be able to rent it to whomever. He said the use had grown during the process. He said the wording could be worded for the RV park to be exclusive for people having horses on Mr. Cram's property.

Councilwoman Diggs asked Mr. Cram how he would be able to monitor the RV park as far as who is coming in for those who may horses with them or those who may own horses but not have them with them or those who may come in not during show time.

Mr. Cram asked if she was asking if it would be permissible for anyone to stay at the RV park. Mr. Cram stated he was going to lock the utilities at each of the sites so they would gain no benefit by arriving unannounced and would not be able to access the water, power and sewer. He said that was his main approach of monitoring that.

Councilwoman Price asked Mr. Cram to refresh her memory with the economic returns for his entering into this arrangement. Mr. Cram stated it was more of retaliation against the competition. He said he was just trying to "keep up with the Joneses." He said there is new development outside of Aiken; North Carolina and Camden have bolstered their amenities to accommodate these RV parks. He said there is nothing here like what he is trying to achieve. He said he is trying to keep up with competing facilities and make this investment. He pointed out the limitation on a person staying over a four month period of time was put in because we were trying to attract people for the winter months and have people actually join us from January to April and uproot from their northern homes so they can enjoy the equestrian activities that happen all over the county all winter long. He said he has several shows at Highfields, but there are activities that also go on outside of his facility and there is not another facility that can accommodate the people with an RV with the amenities that he is going to put in place. He felt the RV park would be an asset to be able to offer this to the equestrian people. He said he had no real objection to leaving the word "equestrian use" but limiting them to the facility use at Highfields Event Center is where he gets confused and why Council would want to exclude people who don't participate at his facility.

Councilman Ebner stated he felt Mr. Cram has a very good point if we could keep it for the equestrian community in the county. He pointed out that most all of the equestrian events take place in Aiken County. He said if we could change the words to "equestrian activities in the county" that would broaden it out like Mr. Cram said.

Councilman Merry asked where Councilman Ebner was suggesting making the change. Councilman Ebner pointed out the proposed ordinance states "The recreational vehicle park shall be used primarily by persons having horses stored or participating in equine events that are currently taking place at the equestrian facility." He said that limits the RV use to those participating in equine events at Mr. Cram's facility. He said what he is hearing Mr. Cram say is that he would like the RV facility to be able to be used by other people attending other equestrian events in the county as well. He said there are a number of other equestrian events in the county.

Mr. Smith stated he may be mistaken, but he thought Mr. Cram was also talking about people who may be traveling the Southeast going to other events. Mr. Smith asked Mr. Cram if he was okay with language that limits the RV use to people attending events that take place in Aiken County. Mr. Cram responded that he was okay with that.

Councilwoman Price stated she can't see anything wrong with the statement as it is. It is an open-ended statement. She asked what is wrong with it.

Councilman Dewar stated the Planning Commission is involved in the Comprehensive Land Use update. He said this is an item that belongs in their discussion not before Council. He said if Council approves this, they would be approving RV parks in the city. He said if Council wants to do that, that is fine. Councilman Merry pointed out the ordinance is specific as to where RV parks can be located. They are to be in the Industrial District and must be 25 acres or more with a limit of 5 acres for an RV park. He said his issue is not about the use, but about the screening. He said there is a lot in the

ordinance about screening. He said he would not just approve carte blanche to RV parks in the city. Councilman Dewar asked how we would say no to the next request. Councilman Merry pointed out that the next one to meet the requirements would have to be in an Industrial District, with 25 acres or more, and meet all the other requirements. It would have to be a recreational vehicle park as an accessory use for an equestrian facility. He said once you start meeting the requirements you may have something that may not be undesirable. He said he was not saying that Councilman Dewar was wrong, but was just saying that the ordinance doesn't just open the flood gates either.

Councilman Dewar stated he just disagrees with it to a certain extent. He felt we are talking about either we want RV parks in the city or we don't. He said he understands we don't. He asked if anyone knows why we don't want RV parks in the city. He asked if anyone on staff knows why we don't allow RV parks in the city. Councilman Merry pointed out there are some places where RV parks just become mobile home parks. They can live in them 365 days a year. He felt that may be why RV parks are not allowed.

Councilman Homoki asked what will keep it from becoming a sporting events facility as opposed to an equestrian events place and what you allow for equestrian. He asked why is it exclusively equestrian events. He said somebody will come up with something else along those lines and use the same rationale. He asked why can't they park their RVs at the sanctioned place.

Councilman Dewar stated if the only enforcement is on the part of Public Safety and our Inspection Division, that is just adding work on their part to make sure that whatever the rules are that Council sets up are complied with.

Councilwoman Price pointed out that we have no penalty or consequences stated if the facility is not being used as an RV park to meet the needs of the equestrian community.

Mr. Cram stated that was one of the bigger concerns of the Planning Commission to broaden it because the policing of the restrictions would be very difficult.

Councilwoman Price asked Mr. Paradise what the consequences were if the facility is not used for the stated purpose as described in the ordinance. Mr. Paradise responded that any violation of the Zoning Ordinance is punishable by a fine or imprisonment for 30 days as a misdemeanor offense. In addition to that one of the changes in the proposed ordinance from when it was before Council previously, is that the Planning Commission added to change it from a use by right to a special exception. He pointed out that a special exception has to go before the Board of Zoning Appeals, neighbors are notified, etc. and it must receive approval from the BZA. If he is found using it contrary and in violation of the special exception approval, the City can take him back to the BZA for revocation of the special exception approval. He said he did not know that that has ever been done. It would be a last resort. He pointed out we always try to work through the problems first. He said that would be something we could use as a tool in the tool box.

Councilwoman Diggs asked if that could be incorporated. Councilman Merry pointed out that is already in the ordinance. He said the part about the BZA special exception is already in the ordinance.

Mr. Paradise stated that is covered in the penalty section of the Zoning Ordinance.

Councilman Merry stated Mr. Paradise is saying that even if Council approves this tonight, Mr. Cram still has to go the BZA. Mr. Paradise responded yes, and he has to meet the 11 criteria for a special exception.

Councilman Price stated that Mr. Cram is trying to meet a need of the city. She asked how long Mr. Cram has been working on the RV concept. He responded since February. Councilwoman Price pointed out that Mr. Cram has been working on this matter for about seven or eight months trying to get something done. Councilwoman Price stated she wanted to see Mr. Cram move along with the RV park. She said February is too long for anybody that is trying to generate business and make money. She said Council needs

to help Mr. Cram along with the process. She pointed out that he knows the consequences if he is not using it for the stated purposes. She pointed out that we don't want RV parks in our city, but for this one there is a stipulation with the acres being established for this industrial use. She called for the vote on the motion.

Mayor Cavanaugh called for a vote on the motion by Councilwoman Diggs, seconded by Mayor Cavanaugh, that Council approve on second reading an ordinance to amend the Zoning Ordinance to allow Recreational Vehicle Parks as an Accessory Use in the Industrial District zone. The motion was approved by a vote of 6 in favor and 1 opposed. Councilman Dewar opposed the motion.

REZONE – ORDINANCE 11092015A

Aiken County Public School District

Hitchcock Parkway

Rhinehart Way

Office / Institutional Zoning

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to rezone property owned by the Aiken County Public School District at Hitchcock Parkway and Rhinehart Way to Office / Industrial (O).

Mr. Klimm read the title of the ordinance

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY AIKEN COUNTY PUBLIC SCHOOL DISTRICT FROM RESIDENTIAL MULTI-FAMILY LOW DENSITY (RML) TO OFFICE/INSTITUTIONAL (O).

Mr. Klimm stated the Aiken County School Board, the owner, and Primary Care Properties, LLC, the developer, are requesting rezoning of 3.0 acres at the corner of Hitchcock Parkway and Rhinehart Way. The request is to rezone the property from Residential Multi-Family Low Density (RML) to Office / Institutional (O). The developer intends to purchase the 3 acre site which is unimproved land that is currently part of the Aiken Elementary School parcel. The developer plans to construct a 14,000 square foot primary care medical office on the property. The current zoning does not allow professional uses within the RML zoning district.

At their October 13, 2015, meeting the Planning Commission considered the request to rezone 3.0 acres from Residential Multi-Family Low Density (RML) to Office / Institutional (O) and unanimously recommended approval of the rezoning request.

City Council approved this ordinance on first reading at the October 26, 2015, meeting. For City Council consideration is second reading and public hearing of an ordinance to rezone 3.0 acres owned by the Aiken County Public School District at the corner of Hitchcock Parkway and Rhinehart Way from Residential Multi-Family Low Density (RML) to Office / Institutional (O).

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve on second reading an ordinance to rezone 3.0 acres owned by the Aiken County Public School District at the corner of Hitchcock Parkway and Rhinehart Way from Residential Multi-Family Low Density (RML) to Office / Institutional (O). The motion was unanimously approved.

CAPITAL PROJECTS SALES TAXTD Bank/George's PondStorm Water ProjectWhiskey RoadMillbrook AvenueFabian DriveOla Hitt Lane

Mayor Cavanaugh stated Council would receive an update on several capital projects.

Mr. Klimm stated staff had been asked by several Councilmembers that they receive an update on a variety of projects. Mr. George Grinton, Engineering and Utilities Director, will give us progress reports on the TD Bank/ George's Pond project and the storm water improvement project for the area bordered by Whiskey Road, Millbrook Avenue, Fabian Drive and Ola Hitt Lane.

Mr. Grinton stated he would start with the Fabian drainage upgrade improvements. He said the preconstruction meeting on that project was last week. The notice to proceed was given today so the contractor will begin as soon as he can mobilize when the weather permits. He said we would be invoicing the Starbucks developer for their share of the cost contributed. That will be done this week. We have obtained a drainage easement through the Reynolds property and the other two property owners have those easements for consideration and we should be receiving those at some point. He said that project is now underway, and we expect it to last a couple of weeks. We will try to get it completed while we still have some warm weather so we can complete the asphalt repair of the parking lot.

Mr. Grinton stated as far as George's Pond and the sanitary sewer for TD Bank, staff met with the Corps of Engineers last Tuesday, but we did not get a clear definition of whether it is a jurisdictional wetland or not. The Corps Engineer who looked at it wanted to evaluate it and consider it as an isolated wetland. If that were the case, it would be declared a wetland, but it would be easier to make modifications to it. If that were the case, they would say it was non-jurisdictional and then we could proceed with what we wanted to do. If it is jurisdictional, then there are a lot of permits and things that would extend the timeframe for placing a clay liner in the pond. You can remove dirt from a jurisdictional wetland, but you cannot place it intermediately or introduce new material into the wetlands. You could still reduce its depth to four feet to create the wet pond structure, but you cannot put the clay lining in. He said he had talked to Mr. John George to explain the issues with that, and Mr. George knows where we are on the project. We are waiting until we get the definition of what our legal requirements are for that, and then we will decide what to do. In the meantime we have concluded that we can start the sanitary sewer work. Our plan right now is to obtain the easements from Mr. George, work with the contractors to get a start time, and then start work on the sanitary sewer. As far as the easement agreement across the MTB property so we can access the TD Bank property with sanitary sewer, we have contacted the owner of the property. They wanted us to gain concurrence with the lessee which is the MTB that this would not disrupt their property. We have gained that agreement with the local manager of the property. He has gone to the corporate office, and we have finally gotten the right person in the corporate office who has sent the legal document back to us. We are reviewing this document and should have sent it back today with a couple of modifications needed after talking with the City Attorney, such that they would effectively say that we can come in and construct a sanitary sewer line across the property as per the easement document. When we have that signed, we will go back to the owner of the property and show them that the tenant is in agreement, and we obviously have proof. Then we can proceed with getting an easement signed by them which will permit the work to be completed. He said we are trying to move that as expeditiously as we can.

Mr. Grinton stated that leads into the study of the commercial properties along Whiskey Road. He said if you go to the other side of the TD Bank there is a desire to kind of investigate what commercial development could be done by providing sanitary sewer and storm water to those properties. We have identified those properties working with Hass

and Hilderbrand. They have come up with a proposal. They gave us the first draft. The sanitary sewer looked fine, but the storm water was creating a problem on the MTB Tire Kingdom property where they were locating it, so we have discussed relocating the storm water to the same easement that we are obtaining for the TD Bank sanitary sewer so there will be no need to go back for additional easements. It would have created some disruption and would have left a section of their property less usable. He said we are confirming through additional survey work that this repositioning of the storm water line and the sanitary sewer line will work within the easement. We are fairly confident that it will, but we still want to confirm that. We will be able to come back and cost that and say what can be done for the development of those properties. He said it looks very positive. The sanitary sewer will be very shallow at the most extended point. People on those properties may have to do some pumping to get to the sanitary sewer, but it be able to be handled by gravity in the city system if we were to extend one there.

Councilman Ebner asked if we would need to put a storm water line behind MTB to take the water away from Ladd Britt. Mr. Grinton stated what they looked at was if they could make a connection for storm water that would carry it up to the storm water line that we put on Oak Grove Road. He said the answer is yes, and the grade will work. This location needs to be worked on a little bit, but it looks feasible.

Councilman Ebner stated it may be feasible today, but if the State or DHEC or someone changes their mind should we put that line in today for future development. He pointed out the Ladd Britt property was up for sale, and there was a letter of intent on it. He said we did this survey to find out what we need to do. He said he felt we need to pursue this under the condition of today's rules from the State, and not wait another two or three years and have to do something different to get storm water from that area. He asked how do we proceed on this. He asked if we should have Mr. Grinton to give Council a proposal to put the storm water line in at the same time.

Mr. Grinton stated we are finalizing the pathway which Hass and Hilderbrand owe us. Then we need a cost estimate for construction. Based on that the information could be used as a budgetary number to come up with how much money would need to be funded. Then we would have to start looking at where we would get those funds. We could look at it and budget it for next year possibly in economic development.

Councilman Ebner pointed out at one time we had a December 1, 2015, date for TD Bank. He asked if that had moved out. Mr. Grinton stated TD Bank is no longer going to be developed as the people originally thought. Now they are looking at an alternate use. They are looking at possibly even using the existing building as it is. He pointed out the current building has a septic tank. The developer has indicated that even if they use the current building, they would still contribute the \$20,000 which they said they would because that would be an enhancement to them. There are other things they would be doing, but as far as this project goes it would still be on track.

Councilman Ebner asked if we are okay for the opening of Starbucks and finishing up in the next couple of weeks or by December 1. Mr. Grinton stated that would be their target to try to complete by December 1. He said he talked with the engineer today for that project. He has not yet scheduled his meeting to come down and review the infrastructure. He has to certify on the completion. That will probably be done in the next week or two.

GEM LAKES EXTENSION ROADSRoadsMoultrie DriveHuronDeep Trench AnalysisSanitary SewerStorm WaterPotable Water

Mayor Cavanaugh stated the City Manager would report on the source of funds for the Gem Lakes Extension deep trench analysis study.

Mr. Klimm stated during the October 26, 2015, meeting, City Council authorized an expenditure of approximately \$8,000.00 to conduct deep trench analysis for sewer, storm water and potable water at two locations on the Gem Lakes Extension roads. He said he was asked to come back to this meeting with the source of funding for these tests. He said he was not asking for any additional appropriation from Council at this time. Mr. Klimm stated we will pay for these tests using money from Engineering's Other Professional Services line item [002-3111-461.32-10].

Councilman Ebner asked who is going to locate the three or four items that he suggested and requested. He said he walked the roads the other day, and he has a couple of points where he would like for the test to be done, but he would concede to Mr. Toole and Mr. Grinton if his locations are not acceptable.

Mr. Grinton stated his plan was once we have funding and plans are approved, he would send out an RFP and when we get them back in, he was going to contact Councilman Ebner to see if he wanted to walk the roads with them and explain what he was interested in seeing with the testing and give him the opportunity.

Councilman Merry stated we had said that Mr. Grinton and Mr. Toole would identify those spots that might be the worst, but they would get input from Councilman Ebner as well. Councilman Ebner stated he would like for them to identify their areas first and then see if they are on the same wave length. Mr. Grinton stated we could do that.

RIGHTS-OF-WAYWhiskey RoadDougherty Road

Mayor Cavanaugh stated staff would update Council on the acquisition of rights-of-way.

Mr. Klimm stated earlier this year, City Council authorized staff to contract with WR Toole Inc. to procure necessary easements and rights-of-way for the Whiskey-Dougherty Road project. Most of the necessary acquisition has gone well with the exception of a small piece of property in the existing right-of-way adjacent to the intersection of Whiskey Road and Dougherty Road and the bowling alley.

Mr. Grinton, Engineering and Utilities Director, will update City Council on the progress of this project.

Mr. Grinton reviewed with Council two drawings of rights-of-way needed for the improvements at Dougherty Road and Whiskey Road. He pointed out the area marked in green is the square footage needed for the project. He pointed out the curve line of the radius that would go on that property. He said the curved line creates the need to buy the area marked in green. That area is 140 square feet. He pointed out the temporary construction easement is marked in yellow. He said we are going to be creating a sidewalk, have some grass, and make sure that water slopes away from the building so there will be no issues with the construction. The total of those two areas was appraised by our realtor subcontracted to WR Toole who is doing the overall project. The total came to about \$4,000. The individual was presented that information, and they had a

concern. Mr. Grinton then showed another drawing. He pointed out the green and yellow areas. Then he pointed out a red hatched area on Whiskey Road in front of the building where there is parking. He stated part of the parking which you can see by the blue line is the right of way owned by SCDOT. Part of that parking is on the owner's property and part of the parking is actually on the state right of way. Mr. Grinton stated they had presented the fair market value which is what they are authorized to present, and the owner said they would have a lot more problems because of the loss of parking up front. Mr. Grinton pointed out the curb goes to about where the black line is. He said we would be stopping the radius of the curb and would be bringing it down to ground level at that point. It is debatable as to whether or not one or two parking places are lost or that entire front section is lost. The reason for the radius change from the way it is now to the way it is shown in the drawings is that SCDOT, in order to grant an encroachment permit to do this work, which is on state roads, that is the minimum radius we could talk them into. SCDOT would like to have seen a bigger radius. They look at 18 wheelers making the turn, and they want something bigger as they say GPS brings strange vehicles to different places these days so they are very concerned about that. However, that is the encroachment that was granted. He said our discussion right now is to make a counter offer for the right of way. The approach that we are taking is that if this was a SCDOT project they would be faced with the same problem and what would they do. They normally would take the yellow and green areas and convert the yellow to right of way. They would not do a temporary construction easement. They would just say they are making it right of way and buy it. They would use eminent domain. In the worst conditions they get fair market value for all those properties. They don't deal with temporary construction easements. They just convert it to right of way so you don't have to get in an argument over acquisition. There is some credibility or some merit to the potential for damages and that would need to be evaluated also by the real estate company to come up with fair market value if in fact they have legal standing for parking places that are in the right of way and part of their property. He said we are turning that over to the real estate firm to do the fair market assessment for those three elements—damages, the property and converting the construction easement into right of way. Then that would be our counter offer. They have been working on that for some time now. He said he tried to get an update for today, and he does not have it. They have not given us that information yet. He said as soon as we get it we will put it in an official letter assuming it is somewhat reasonable.

Councilman Dewar asked how much the property owner originally wanted. Mr. Grinton responded that they wanted \$176,000 for the impact to their business. Councilman Dewar stated what he was hearing is that we will do our work, and then are we going to do eminent domain. Mr. Grinton stated he was going to offer them what effectively we would have to pay for eminent domain. He said he is trying to get that as a number. He said if we went to court that is what we would reasonably expect the court to award. Councilman Dewar asked if some of the land that we want is in the state right of way. Mr. Grinton pointed out that the areas marked in yellow and green on the drawings are the bowling alley owner's property. He said those areas are not on state right of way. He pointed out that part of what's in the red hatched box is state right of way. They are using part of the state right of way for their parking. He said we are not saying they can't use it anymore, but potentially the state might. He said when you look at the curve of the radius, the cars would be close. He said technically that property is in the county. Councilman Ebner pointed out that the bowling alley property is in the county. Mr. Grinton said he was not sure what rights we have, but Whiskey Road is considered in the city. Councilman Ebner asked if we are really dealing with the yellow and green areas and not the parking area. Mr. Grinton stated the parking area may come into play as damages.

Councilman Ebner asked if there was a lease on the property. Mr. Grinton stated they bought the bowling alley property. He said as far as the right of way in front of the building, he thought they are just using the right of way for parking. He said he was not sure they realized exactly where the property line was until we went out and did the surveys and staked things so we could see where the right of way is. Councilman Ebner stated it has probably been there for 50 to 60 years.

Councilwoman Price stated based on what she can see, she felt there is not much to that corner if you are making a right turn headed towards the mall. She said for \$176,000 for

that piece of property is ridiculous. Mr. Grinton stated they are assessing the damages for the parking in front of the building. He said the parking in front becomes somewhat of a legal issue because they are obviously applying it to the property we want to purchase. He said we have not told them they can't park in front. They are kind of drawing the conclusion based on the radius of the curve that they probably won't be able to park there. He said certainly one or two of the spots are going to fit that category because they would be right next to the curve and you don't want a car sticking out half way beyond the curve.

Councilman Dewar stated we don't have the authority to tell them they can't park there. Mr. Grinton stated we have not told them they can't park there. He said it may be the practical effect of the construction. Councilman Dewar stated he assumed that if we end up in some kind of litigation, the fact that half of their parking spots are not on their property would come into consideration. He asked that Mr. Grinton keep Council updated on the matter. Mr. Grinton stated he wanted to see what a realtor would say damages were in this situation. He said he had not seen that yet. It may be \$176,000 or it may be \$1,700.

SCHOOL RESOURCE OFFICERS

Councilman Dewar stated he had two questions regarding School Resource Officers. He said we had a recent national issue regarding School Resource Officers. He said he would like to make sure there is clear clarification that we are not there to run the school; we are there to protect the students. He asked if our officers might be called to a classroom to deal with unruly students.

Chief Barranco stated they are working with the schools and have over the last couple of years to clearly define the role of the School Resource Officers and the difference in taking law enforcement action and administrative action which would be taken by the schools. Councilman Dewar stated then our officers would not get into that situation that was on TV where the Resource Officer was called into a classroom to deal with an unruly student. Chief Barranco could not say they would never be called to a classroom. He said there are a lot of variables there, and he could not say they would never be called to the classroom. He said we do training with our School Resource Officers to take law enforcement action.

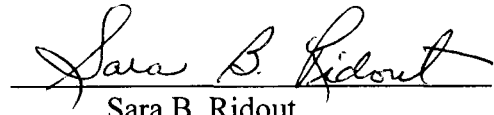
Councilman Dewar stated we have three School Resource Officers. He asked if the amount that the School District would reimburse the city would be \$121,000. He said that is all these officers do. He asked if the \$121,000 is the total that we pay these three officers. Chief Barranco stated it is not. He said until last school year we were only paid \$71,000. With the arrangement of adding another School Resource Officer the School District added an additional \$50,000 toward the cost. He said that was a negotiated price ahead of time; when brought forward last year, they said they would give us \$50,000 for adding one school. He said, in talking with the City Manager at the time, it was felt it was positive for us. We did not add any personnel to our force. Councilman Dewar asked how much the city's budget is for these officers as opposed to what the School District reimburses the city. Chief Barranco stated the reimbursement covers the officers' salaries, but not the benefits.

UPDATE ON PROJECTS

Councilwoman Price stated she would like to request several updates at the next Council meeting. She said she would like an update on the status of the concession stand and bathrooms at Perry Park, the status of the Senior/Youth Center, and the entranceway improvements to Crosland Park.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:24 P.M.

A handwritten signature in cursive script, reading "Sara B. Ridout", written over a horizontal line.

Sara B. Ridout
City Clerk