

Aiken City Council Minutes

May 1, 2013

WORK SESSION

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

Absent: Councilman Homoki

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

Mayor Cavanaugh called the meeting to order at 4:00 P.M., and stated the purpose of the meeting was a worksession to discuss the proposed budget for fiscal year 2013-14. He thanked Mr. Pearce and staff for all their work on the proposed budget.

BUDGET 2013-14

Mr. Pearce stated he had provided Council with a memorandum pointing out the highpoints of the proposed budget. The total budget is \$51,565,642 which is \$1,228,242 less than last year's budget or about a 2.3% reduction from last year's budget. He reviewed some of the highlights of the budget. We have the wells in place for the Silver Bluff Water Plant. There was a bid contest for the water plant construction so that will be rebid. We did not spend the water treatment plant in the 2012-13 budget. That will be a carryover project. We did bid the Shiloh Springs Filtration system for the Shiloh well that had the radium report. That bid came in at \$1.3 million from the apparent low bidder. We will begin that project this year and complete it in next year's budget.

As part of the Horizons Retreat goals we have the Recycle Center Redevelopment for \$2,700,000. The Greenways and Open Space which has been renamed by the Planning Commission as Natural Resources Preservation is listed for \$1,000,000. Also, Stormwater Infrastructure Projects are listed for \$421,000, and money for the Senior/Youth Center site selection/preparation at Eustis Park for \$1,000,000. These are items from the Capital Projects Sales Tax funds.

Some of the major purchases in the budget include the Smith-Hazel roof replacement at \$250,000, the Virginia Acres Park walking track at \$175,000, and replacement of the Tourism Trolley at \$100,000. There are some significant purchases for equipment, including 9 Public Safety vehicles at \$253,000 and firefighter self-contained breathing apparatus at \$50,000. The Public Services Department wants to try leaf vacuum trailers at a cost of \$100,000. It is felt with the equipment the Department can better keep up the enormous piles of leaves. They also want a roll off truck at \$160,000 that will move the big long dumpsters that we use at events. For the leaf trailers we have two Ford F-750s in the budget to carry the leaf vacuum trailers. They would also pull the regular trailers for yard trash.

Mr. Pearce stated Council had had some concerns about salaries. The City has not paid a Cost of Living for several years. Salaries have been adjusted 1%. In the proposed budget for 2013-14 we are proposing adjusting all salaries 1/2%. The national publications that we consulted consider an average family to be a family of four. Based on that average, a salary of \$24,000 or less would be considered at poverty level. For the workers at \$24,000 or less annually we propose the 1/2% salary adjustment plus an additional \$500. Effectively that would be about a 2.2% salary adjustment. We feel that would have a major impact on their salary. Depending on the availability of money we would like to have the option of a merit review for deserving workers who would be worthy of a merit increase if funds are available.

Mr. Pearce pointed out his budget message in the proposed budget, including some charts and graphs. He pointed out the expenditures are about the same level, with some being

reduced. He pointed out there is a reduction in Public Safety expenditures. He said Public Safety had been very resourceful in replacement of vehicles, looking at the condition of the vehicle rather than the age in making the decision to replace a vehicle. Another great resource has been the Federal 1033 program, where Public Safety has been able to acquire surplus military equipment at very little cost. He said to date it is estimated that \$700,000 worth of equipment has been obtained through the 1033 program. There is a significant increase in the Parks, Recreation and Tourism Department expenditures which include work at the Doll House at Hopelands, the Virginia Acres walking track, replacing the Smith-Hazel roof, and some upgrades to the Smith-Hazel pool house. Replacement of the trolley at \$100,000 is also included in the budget.

Councilwoman Diggs asked if the Smith-Hazel Center would have to close during the roof replacement at Smith-Hazel. Mr. Parker responded that the center should not have to close for very long, but there may be some days it may be closed. He said the whole process will take about 6 to 8 weeks. The work will probably be scheduled for late fall, since the work will also include moving the air conditioning units from the roof.

Mr. Pearce pointed out that including the capital projects, plus the equipment needs, maintaining Citizens Park, and staff to maintain the facilities puts their capital projects and equipment at about \$1.1 million.

Mayor Cavanaugh stated he had received some calls about concerns regarding the soccer fields and the maintenance of the fields. Mr. Parker stated from the turf maintenance standpoint they do the same thing to the areas that are primarily used for soccer and open play as they do for the fields inside the fenced complex. He said the problem is control. He said inside the fence staff can close the gates if there is no event so they get some down time. The open area along Banks Mill and between Citizens Park I and II, where most of the soccer is played, sees a lot of use. He pointed out the USCAiken Soccer team uses it some, as well as South Aiken High and some private clubs. He pointed out the area gets used a lot more. He said in the budget a verticutter was requested, which may help with maintenance of those fields. They are maintained the same as inside the fenced area. He said there is a crew for maintenance of Citizens Park only. He pointed out a few years ago some citizens complained because their children could not play baseball and soccer because of the overlap, so the schedules were adjusted so they could play both.

Mayor Cavanaugh also stated a concern for the area was lighting. He pointed out Council had discussed lighting for the area.

Councilman Dewar pointed out soccer is one of the most popular sports in the country, but Aiken does not seem to reflect that. The complaint is that the field is not good enough. It is bumpy and there are no lights. There's not the opportunity to have a soccer program they can develop. There is a great program that the city has nothing to do with which uses the polo fields. He pointed out there is a challenge, especially with limited fields, of giving the fields a break so you don't wear them out.

In response to a question by Councilwoman Diggs, Mr. Parker stated the fields at Perry Park were used primarily for practice.

Councilman Ebner asked about the matter of lights. He pointed out that in 2009 or 2010 he thought there was money for changing lights or for new lights. At the time there was talk about a walking track at Citizens Park, some lights and a fence. Mr. Parker responded lights were installed at Stewart Field. There has not been money in the budget for lighting of Citizens Park III, which is the open area. It was pointed out lights are expensive and would probably cost about \$100,000. He said in order to maintain the flexibility of the fields being referenced you need perimeter lighting, which would be very expensive.

Councilman Merry stated he could appreciate wanting lighting for the fields. He said he had coached on the fields and played both baseball and soccer on the fields, and he did not think the fields were that bad.

Mr. Pearce stated in the Utility Fund we have budgeted the filter at Shiloh Springs and the new Silver Bluff Water Plant.

Councilman Ebner asked if the proposed \$500 increase for employees would go on the W-2 or be a bonus. Mr. Pearce stated it would be an adjustment to their salary and would be on the W-2. Councilman Ebner asked if the bonus which was given at Christmas was a bonus or added to the salary. Mr. Pearce responded the bonus was an additional week's salary. That showed up on the W-2, and deductions were made from the bonus. It did not increase their salary. The proposal for next year is a 1/2% increase in salary. The bonus at Christmas was one week's extra pay. It did not raise their hourly rate. He pointed out there was a 1% salary adjustment in the current budget year, and that did affect their hourly rate.

Councilman Ebner asked should we be hiring people at the poverty rate. Mayor Cavanaugh stated he felt we should have no one at or below the poverty level.

Mr. Pearce stated staff surveys one-fourth of our workforce every year to see what the market is for the positions. He said we look at what the position pays for local governments. He pointed out that Council had shared that positions have a certain value. He said we don't want to pay people at the poverty level, but we also want to pay the value for the position as well.

Councilman Ebner pointed out the new employees hired for maintenance of the water leaks and the water meters are paid at \$10 per hour.

Mr. Pearce pointed out the poverty level depends on the number of people in the household. He said the proposal for the new budget is to take people at the lower end of the pay scale, where 1/2% may not make as much of an impact for them as paying \$500. He said this has been done in the past. He said staff was trying to address the concern that Council had shared over the past few months by looking at what other cities had done and looking at the pay level at the lower end of the scale and thinking what salary adjustment would have the best impact. He said just a percentage does not do it. A percentage with \$500 does have a bigger impact.

Councilman Dewar stated the discussion came when Council discussed the extra week's pay. He said he made the comment that if we are to give an extra week's pay, we should give something extra for the people at the lower wage scale. He said Council did not vote on the gradual issue of 2% with more going to the lower wage people rather than the higher wage people.

Mr. Pearce stated what we are talking about for the proposed budget is trying to take the lower level salary into consideration for the salary adjustment.

Councilman Merry asked what the 1/2% cost of living adjustment would cost for all employees. He also asked what the history had been for raises for employees over the past few years. He said he doesn't remember hearing much about raises for city staff in the last few years. He said there are a lot of things we want to spend money on, but not much on staff. Mr. Pearce stated we are proposing money for staff based on the salary surveys conducted. He said the city employees are the most valuable asset. He said salaries are a big portion of the budget—not quite half of the General Fund and about one-fourth of the Utilities Fund. Since 2008 we have been able to give a 1% pay increase per year. He pointed out this is in a time when other cities and businesses have been reducing their staff and giving furloughs. The City of Aiken has not had to do that. He pointed out many employees were very grateful for the one week's pay bonus.

Councilman Merry pointed out in the last five years the cost of gasoline had doubled, but staff has only received a 1% increase per year. He said he had always had a lot of contact with people in the city. He felt they could probably make more money working in private enterprise. Many employees are very qualified, very conscientious and very dedicated. He said he is concerned when we are not rewarding them for their dedication.

He pointed out the cost of living had gone up, but salaries had not. He said he was not saying the city has the money to do it, but that was one of his concerns.

Mr. Pearce stated for a 1/2% increase in salary the cost would be about \$60,000 in the General Fund, about \$13,000 in the Utilities Fund and \$741 for Stormwater Fund. In addition to that you would need to add \$500 for about 53 people, which would be about \$25,000, for a total increase of about \$98,700. A 1% salary increase would be double the \$98,700 or about \$150,000.

Councilman Dewar stated the city had not given a COLA since he had been on Council. A salary adjustment had been given but not a cost of living.

Councilwoman Price thanked the Councilmembers for their interest in what the city pays employees who are on the streets every day, up early collecting garbage, etc. She said we talk about market rate. She said in talking about rate you have to look at skill sets required to do some of the jobs. She pointed out industry does tend to pay much more than government or state employees. It is just the way government operates. She said she feels that if a person is doing a good job, they should be rewarded and not look so much at the market rate and the minimum wage. She said we tend to look at minimum wage versus living wage. She said we don't look as much at the value of the employees and what it takes to live on and set up our own standards for what they should be paid rather than compare with other cities.

Councilman Dewar stated you have to look at the standard wage. He pointed out there is an obligation to the taxpayers as well. We have to spend the money as wisely as we can. He said a comparison with other cities is an indication of what others are paying. He said he felt the focus should be that we are not way below other salaries for similar positions. Councilwoman Price pointed out we will lose good employees if we don't reward them for their work. Councilman Dewar pointed out the turnover last year was 54 employees.

Councilman Merry stated he was looking at this from a business point of view. He said he had never worked in an HR Department. He said he didn't really care what other municipalities are paying. He said he felt the wages are driven by the market. He said once employees are here, and we train them and we know they have other options, if they are worthy you should give them the raise they deserve. He said another city may be able to pay an employee more than Aiken. He said he did not want to just pay an employee a certain amount just because another city pays that amount. He said if an employee has been working with us for five years and does a great job, but he has not received an increase he will leave. When the employee leaves you then have to go through a process to find and then train a new person. He said the cost to the city becomes greater than just the cost of a salary. He said in the insurance business there is an extremely long learning curve with an extremely high cost of paying them. Once we get someone trained the last thing we want to happen is for them to leave us. When we train them they have a marketable skill and can go to another insurance agency. In order to keep them we have to pay them what they are worth. He said he was in favor of performance evaluation raises. He said we have to give people credit if they are good employees and have some seniority. He said he understands the tightness of budget. He said the city has some really good people, and they do a good job. He would hope they are not still making the same amount of money they were making five years ago, as he knows the cost of living has increased. He felt we should try to reward employees based on performance. He said once we have a good, competent, reliable and trained employee we need to give them fair compensation for what they do.

Mr. Pearce pointed out the turnover rate includes retirements, seasonal and temporary workers. He also stated in talking about salaries, that is part of the compensation for a city worker. He said there had been extensive discussion about the city's pension plan and how that is funded. He said some work places don't have a pension plan any more. He said the city's pension plan is funded, and it has over \$25 million in the fund for retirees. He pointed out there is also a wellness program and health insurance. He felt we have to look at the total compensation package, the uniforms we supply for our law enforcement officers, the equipment they are given, advancement opportunities, a tuition reimbursement program, etc. He said if we just focus on salaries that is a little short

sighted. He said there had been numerous discussions about several aspects of the city compensation package and why we do certain things. He said we do it to retain employees. He said we have a good plan in place, and that is what retains our employees. He said sometimes employees don't necessarily need a check, but want time off or a certain benefit. He felt we need to keep that in mind in talking about salaries. There is a lot more than just the salary.

Councilwoman Diggs asked about the city's tuition reimbursement program. It was pointed out that employees in all departments had used the tuition reimbursement program. Council asked for information on the program, qualifications to apply for the program and how much was spent on the program last year.

Councilman Merry pointed out that the figures shown for a 1/2% increase and a 1% increase are a small number in a large budget.

Mr. Pearce pointed out in looking at the budget there are all kinds of expenditures. There are fixed costs that have to be met. Equipment purchases are big dollar items. He said even though there is a projection of a little under \$500,000 increase in the General Fund, the revenues are staying constant and not increasing. He said if we keep increasing salaries that will affect other parts of the budget. He pointed out salaries are a huge portion of the budget. He pointed out there are designated funds for some expenditures which can't be used for salaries such as the Capital Projects Sales Tax money, depreciation funds, etc.

Councilman Merry asked for a summary of the budget process, since this was his first time in the budget process.

Mr. Pearce stated he had prepared a proposed budget for FY 2013-14 for City Council's consideration. The budget is presented to Council in a worksession for discussion and to point out the highpoints and look at what has changed from last year. If Council has questions or needs additional information, staff will provide that information. First reading of the ordinance to approve the budget will be on the May 13, 2013, agenda, with second reading on June 10, 2013. He said a budget needs to be in place on July 1, 2013, as that is required by state law.

Councilman Dewar asked about the columns in the budget, pointing out there are columns for actual YTD, current budget, department request, manager recommend, and approved by Council. He wondered if there could be a column not YTD but what was spent for the entire year last year for comparison purposes. He pointed out Council was being asked to approve a budget, but they don't know what was spent last year. He said there were some items in the budget last year for certain items, but it was not all spent. He said Council was being asked to look at nine months data and project what to spend for the next twelve months. He said usually there is a carryover from the budget for items not spent.

Mr. Pearce responded that would be available in August at the end of the fiscal year. He pointed out the fiscal year runs through June so there is no way to know the total expenditures and revenues until the end of the fiscal year. He said it takes the month of July to get the final invoices and make the payments. He said in August we will know what was actually received and what was spent in 2012-13 FY.

Councilman Dewar asked for information on the City Recycle Center Redevelopment in the budget for \$2.7 million. Mr. Pearce responded that was for development of the landfill on Beaufort Street. He said it was the Capital Projects Sales Tax item adopted by Council at the Horizons Retreat. He said it was the concept plan presented to Council in January a year ago. It includes developing the landfill into a recreation facility.

Councilman Dewar stated he thought that was not to be developed because it had not been capped properly. Mr. Pearce stated the landfill is old and grandfathered. It is capped and dormant. He said there had been a Phase I and II on the landfill and there is no migration of anything at the landfill. He said the information from DHEC was that when we touch the landfill then the regulations that are currently in effect for landfill

closures would apply. He said we received an estimate of \$10 million for remediation of the landfill. The question is where we get \$10 million, and do we need to spend \$10 million. He said we have been in contact with people who work with landfill closures. They estimated the \$10 million. We have contacted a legal team, and they are working on some idea of how you can take the landfill and stabilize it. There are areas of the landfill where trash is not buried, but where some trash is accumulated until they are able to carry loads to the landfill. He said we are looking at how we can best use \$2.7 million at the landfill. He said that was the concept in looking at the Willow Run Industrial Park and potentially purchasing it to have an entrance from Prosperity Way. He said there was additional Northside recreational facility money in the Capital Projects list. If we pooled resources there may be a way to have some additional fields for soccer practice and take an empty building and repurpose it. He said it is very apparent that any kind of development on the deeply buried areas of the land would be cost prohibitive. He said a few months ago the City of Spartanburg finished their project of 20 acres, and they spent \$7 million. He said for the \$2.7 million we will be looking at the landfill to see what we can do to make sure that what is buried stays buried and does not migrate and find out the best use of the property and whether there is a chance to buy some additional property so it could be a usable facility. He said several things had been mentioned such as walking trails, practice fields and possibly community gardens there.

Councilman Dewar stated he felt Council needed to have a meeting to talk about the major projects. He pointed out there is \$2.7 million, but he was not sure how it was to be spent. Mr. Pearce stated the capital projects are not in the budget but are separate because they are multi-year by the nature of the collecting of the money and the spending of the money. He said Council could have a worksession on the Capital Projects Sales Tax. He said there is an Attorney General's Opinion on the capital projects sales tax money and how they are used that Gary Smith has been reviewing, and he can discuss that with Council.

Councilman Dewar asked about the self-contained breathing apparatus purchase in Public Safety, how many were purchased last year, and if those purchased last year are being replaced. Chief Barranco responded that 12 were purchased last year. The ones proposed to be purchased will continue the replacement of the oldest apparatus to bring the whole fleet up to standard.

Councilman Dewar asked about the walking track at Virginia Acres. Mr. Pearce pointed out the funds are for repaving the walking track at the Weeks Center. The track is about a mile long.

Councilwoman Price asked how many Public Safety vehicles were purchased last year. It was pointed out that 11 were budgeted, but the department purchased 9 vehicles last year. Councilman Dewar asked how many vehicles the Public Safety Department had. Chief Barranco stated there are about 54 patrol vehicles. Councilwoman Diggs asked how often the patrol vehicles are replaced. Chief Barranco responded the vehicles are on different schedules. The vehicles that are used more frequently on the shifts are on a three year rotation. The ones assigned to individuals are on a seven year rotation. He said, however, staff looks at the condition of the vehicle and sometimes the replacement time is extended. Councilman Ebner asked if Captain Shelley was happy with the replacements. He said we don't want to repair a vehicle then in two years buy a new one. Mr. Pearce stated Captain Shelley had done a very good job in purchasing vehicles. He has been able to negotiate with vendors and get the price below state contract price, and at times save as much as \$500 per vehicle. In other departments, by using the state contract as a starting price, we have been able to save as much as \$2,000 per vehicle. In response to a question, Chief Barranco stated currently the Public Safety Department is purchasing Dodge Chargers rather than Crown Victorias.

Councilman Merry stated he had a few questions regarding the major purchases. He asked about replacement of the trolley and how it is determined it is time to replace the walking track at Virginia Acres. Mr. Parker responded the walking track has not been paved in about 15 years. The track was originally not quite a mile. It has been patched in some areas, and an area was extended on the end near Leverette's to make the track a mile. He pointed out the roots from some of the trees planted around the track have

grown and made the track crack and uneven. He said it is a safety hazard for walkers and runners, and for rollerbladers the track is almost unusable. He pointed out part of the \$175,000 is to help alleviate the problem of tree roots growing underneath the track by placing a barrier down each side of the track to keep the roots from penetrating the track.

Councilwoman Price stated she felt the track needed to be resurfaced. She said she had received many complaints about the track and the safety hazard involved. She pointed out that people with wheelchairs go around the track, and they have a difficult time trying to get over the areas where the roots have grown under the track, especially along Price Avenue. Councilwoman Diggs asked if the city could be sued if someone falls over the tree roots and gets hurt. Mr. Smith responded the city could be sued. Councilman Ebner pointed out there are ADA requirements that have to be met.

Councilman Merry stated he had walked the track recently and did not find it in that desperate need of paving. Councilwoman Price stated she disagreed, especially in the Price Avenue area. Councilman Ebner pointed out the ADA requirements need to be met.

Councilman Merry stated he had never been on the trolley, but he wondered why it needed replacement. Mr. Pearce stated the outside appearance looks okay, but there have been some mechanical issues. The trolley was refurbished about five years ago. The problem is the trolley is aging out and it is difficult to find parts for repair of the trolley. Mr. Parker stated the trolley is used for the Saturday tours, and people prefer the trolley for the tour. Councilman Ebner asked about funds being placed in holding for the trolley. Mr. Pearce responded there is a little over \$19,000 in a depreciation account for the trolley. He said there was \$30,000 in the 2012-13 budget for the trolley, and he would anticipate that Mr. Parker would want to carry that forward, plus there would be the depreciation money and the \$100,000 for the trolley in Accommodations Tax funds.

Councilman Ebner asked if the city pays for required training, travel and lodging for city employees, such as for the police and fire employees who have to have special training. He pointed out that George Grinton will probably have to have some special training to meet EPA requirements. Councilman Dewar asked if the public safety officers who travel to Columbia for training get mileage. Chief Barranco stated they typically don't get mileage as they drive a city vehicle. Mr. Pearce stated the city does pay for required training, travel and lodging. Councilman Ebner asked if any depreciation and holding funds were being used in the budget. Mr. Pearce stated depreciation funds and holding funds are used as revenue in the budget to be used for specific purchases in the expenditure section of the budget. Councilman Ebner also asked about reserve funds. Mr. Pearce stated the depreciation funds are used to purchase particular assets, such as vehicles, etc. The special holding is money set aside in good times to be used in bad times. He said we are in bad times so we have used special holding money to help balance the budget. Councilman Ebner asked if the special holding funds get replaced in a good year. Mr. Pearce stated, for example, that Council approved a loan to the Aiken Corporation, and that loan was repaid. If the loan money came out of a special holding account the repaid loan money would go back into that account.

Councilman Ebner stated there are some items from a previous City Manager that he will discuss with Mr. Pearce to see how we need to budget some of the items or if they even need to be done. He said Mr. Pearce would decide whether to put them in the budget or bring them to Council as individual items. He said some of the items have to do with the walking trails in Woodside.

Mr. Pearce stated there was some land about 25 feet wide which was deeded to the city for a trail. Mr. Morris stated he had met with Alan Karten regarding the trail and walked some of the area. He said he had discussed with Mr. Karten what would have to be done. The first thing is to determine the exact location of the property. Funding for some survey work was included in the proposed budget. Mr. Pearce asked if the Chamber was working on trails. Councilman Ebner stated he had checked with the Chamber, and that trail is in the County along Horse Creek. Mr. Parker stated they are looking at the entire county for walking, biking, and equestrian trails. Mr. Pearce stated this could be part of the Greater Aiken Integrated Trails (GAIT). He pointed out there is also a bike pathway

study that was done county-wide between North Augusta and Aiken. Councilman Ebner stated the issue is that the ordinance states land was deeded to the city and there should be money to build the trail.

Mr. Pearce stated there is money in the budget to survey the land and identify where the trail could be. The other issue was to have citizen involvement. The Chamber group seemed to be an appropriate place to start to have input on what would be appropriate. He said he understands the way the property was deeded was as an equestrian easement. What is done for an equestrian trail is different from a rails to trails program. He said there are varying degrees of how you install the trail. He said possibly some could be done in-house by purchasing materials. He said there is pathway money in the Capital Projects Sales Tax funds. Mr. Pearce stated the trail being discussed is an easement that has been granted to the city in Woodside. Mr. Morris stated he had walked the trail, and part is gulleys, part is deeded to the city and part is an easement. The survey is needed to determine what is deeded to the city. Councilman Ebner asked who has the money to build the trail once the area is surveyed. Mr. Pearce responded there is no money in the budget to build a trail in Woodside. Councilman Ebner asked how we could get money in the budget to build the trail. He said a past City Council had agreed to build the trail. Mr. Pearce stated we don't have an estimate to know the cost for the trail. He said there is money in the Capital Projects Sales Tax for pathways and money in the budget for materials and a labor force. He said we have to identify the city's portion of the trail, as a great deal of the area is in the county. Identifying where the trail would go and the potential cost would be brought back to Council before anything is done. Money is in the proposed budget for the survey work so we can identify what is city owned.

Councilman Ebner stated he was talking about a special agreement that was made in 2007 that he felt should not have been made. He said he would talk to Mr. Pearce about the trail and place it on the agenda.

Councilman Merry asked if Councilman Ebner was saying that Council voted to build a trail along an easement and deeded property through the gulleys in Woodside. Mr. Pearce stated there is some city-owned easement and land that is proposed to be surveyed.

Councilwoman Price asked that Mr. Pearce explain the Equestrian/Natural Resources Preservation. Mr. Pearce stated in the Capital Projects Sales tax there was an item called greenways and open space and it has been renamed natural resources. He said the ballot says greenways and open space and not equestrian. It should be greenways and open space.

Councilman Merry asked if this was the \$1 million that has been hashed around with relation to the Open Space Element of the Comprehensive Plan. Mr. Pearce stated the Planning Commission is now calling it Natural Resources.

Councilman Dewar stated when the \$1 million was put in it was for open space and greenways. He said it was not related to anything having to do with the Open Space Element. It was money set aside to acquire open space that would enhance planning for the city.

Mr. Pearce stated the Open Space Element was discussed and the money was discussed as part of that because acquisition of greenways and open space was the intent with the Capital Projects Sales Tax.

Councilman Ebner stated you have to read about 40 pages to figure the trail out. There are about 120 pages trying to put all the trails and what was promised together. He said there are about seven subdivisions in the area of the proposed trail with some in the city and others in the county. The citizens were promised that the trails would intertwine, but they don't. He said he was trying to get the piece started that the city had agreed to do. It was pointed out that Sidewood Development was involved in the proposed trail. Mr. Pearce stated there is money to survey the city-owned portion of the trail. He said he did not know about surveying the whole area and the areas in the county as that would be budgeting public funds for something on private land.

Councilman Ebner stated Council had discussed at Horizons the Northside Redevelopment Fund. He pointed out the revenue comes in only if some property is sold. He said that is not real money. Mr. Pearce stated the exception for revenue is the Operating Transfer from 016 Capital Projects Sales Tax. The \$600 for revenue is when people pay \$200 for demolition of a building. Councilman Ebner pointed out for expenditures that money won't be available or cannot be spent unless there is some revenue. Mr. Pearce stated we would need the revenue to justify the expenditure. Councilman Ebner stated this had to do with Edgewood. He pointed out at Horizons Council discussed the drainage issue in Edgewood. He said we don't have money in the proposed budget to address the drainage issue in Edgewood. Mr. Pearce stated there is money for the problem. It is in Capital Projects Sales Tax for Stormwater Infrastructure. Councilman Ebner asked if the project would include the area from the Sheriff's Department on Hampton all the way down to the Pacer's Run Apartments and then goes under the road at that point. Mr. Pearce stated there is Capital Projects Sales Tax money for stormwater. He stated the stormwater projects listed were not the project in Edgewood. He stated there is a pot of money so a plan could be developed to handle the stormwater. He said they were looking into building houses in the area last year, but the water issue has to be addressed first. Councilman Ebner stated if money is not available for the project this year, it will be delayed another year. He said if the project is not in 2013 -14, then we won't do drainage work until 2014-15.

Mr. Pearce stated Mr. Gary Smith, City Attorney, could comment on this. He said we do have Capital Projects Sales Tax money that could be spent on stormwater. That project could go forward, as money is available for the project now. He said if Council would like we could focus on that area immediately. He said money for the project does not need to be included in the proposed 2013-14 budget. He said we can talk about Capital Projects Sales Tax projects, and if Council wants to vote to proceed and go forward with the stormwater issues in the Edgewood area, staff will do that and bring a proposal to Council for approval. Councilwoman Diggs stated she was making a special request that the city proceed with working on stormwater issues in the Edgewood area.

Councilman Ebner stated when work is done in Edgewood, Jake Road would need to be included. He said when work is done in Edgewood, Jake Road will need some work also. There are some 20 to 25 year old trees in the ditch. Councilwoman Diggs stated a lot of clearing of land needs to be done, and it probably also has a lot of flooding issues. She said people have been asking why houses have not been built in that area like what was done in Asheton Oaks. There are probably about 12 lots in that area.

Councilman Ebner then asked about the Northside Crosland Park Fund. He pointed out for revenue the only real money is the \$183,500 from the Weatherization Grant. Mr. Pearce stated that grant would be from EPA and would be the third and final year of the grant. He pointed out the other amounts listed for revenue require that property be sold to get the revenue. Councilwoman Diggs stated she would like to see the plan that the realtors have to market the homes. Mr. Pearce stated that would be coming to Council in the summer.

Councilman Ebner pointed out the only available money to spend is the money from the Weatherization Grant. Also, the \$1.750 million from Capital Projects Sales Tax II has been spent. Mr. Pearce stated it was spent with the exception of \$15,950, which is included in revenue for account 111. Councilman Ebner stated in Capital Projects Sales Tax III there is another \$1.75 million to spend. He pointed out in Fund 112 the only money that can be expended, unless a house is sold, is the \$183,500. He said he just wanted to point that out to Council.

Councilman Ebner stated that in November, 2013, a plan will be brought to Council. One is a strategic plan of how and where to develop the other housing along with a marketing plan, seeking new grants which he feels are just about non-existent. Mr. Pearce stated grant money is available from the Palmetto Affordable Housing Group, and Ms. Wilcher will be attending that seminar. Councilman Ebner stated he is proposing that in November we talk about setting up an account that controls the revenue and expenditures, except the infrastructure on the street right of ways, to know what we have going. He

said the infrastructure is a different issue. Mr. Pearce stated we are doing the roads and sewer lines in phases, and the money comes from the Capital Projects Sales Tax.

Councilman Ebner stated another thing we need to do is get our actual investment in the houses versus what we think they can sell for and estimate the net gain or loss per house to be sold. He said it probably is not a gain. He said we also have an open ended loan for \$1,500,000, which the City made as the seed money to get started. We have spent \$1,499,000. He said part of what we need to do is to see if that loan can ever be repaid.

Councilman Merry asked for clarification on the statements about a loan. Mr. Pearce stated the \$1,500,000 loan was advanced from the Water and Sewer Equipment Replacement Fund. It was used to build houses. It was a loan.

Councilman Dewar stated when it was approved the minutes reflect that it was a temporary thing, and we had every intention of paying it back by the end of the year the loan was advanced, which was 2009. He said the theory was that we would use the money to buy houses, upgrade them, and sell them.

Councilman Ebner stated it had a sunset of \$1 million for four years, but it also had a caveat that it could be renewed.

Councilwoman Price stated you have to consider the economy at the time.

Councilman Ebner stated we are coming up with a plan in November. He said he would be talking with Mr. Pearce regarding the matter. He said the other thing he thinks needs to happen is that the City and Aiken Corporation need to have independent roles. Presently there is a callable loan of \$328,000 from the City to Aiken Corporation. He said actually the City owes Aiken Corporation money against that for \$78,000. He said one of his proposals in November is that we need to separate the City's role and the role of Aiken Corporation in Crosland Park. It is all city money that Aiken Corporation is using. It is not independent money that has come from URS, sale of land, or anything else. That is a City loan to Aiken Corporation.

Councilman Ebner stated those were his items to talk about in November to realign from the economy and all the other things we have done, and see what we need to do in the future to make this successful.

Councilwoman Price stated the point is well taken, but we recognized where we were with the communities with the high rate of crime that was taking place and the issues regarding Public Safety with calls. She said she did not know that we were looking for a huge return except to make the communities safe. She said one could argue that it might not be the best investment for our taxpayers money. She pointed out she was stopped on the way to this meeting by someone asking why we spent \$900,000 for the property on the corner of Newberry Street where the Public Safety Building is and then go and buy a building on Laurens Street, and now we are talking about renovation of the Municipal Building on Park Avenue. Individuals are talking about being good stewards of taxpayers' money. She asked how do you evaluate the return on investments. She pointed out there was a serious problem with gun fire and people being afraid to walk down the street in their communities. She said we had to do something. She said Aiken Corporation borrowed \$1.5 million. Councilman Ebner stated the \$1.5 million was from the City that the City spent. He felt one of the things that will come out is that the city needs to write off \$1.5 million and that we need to put more money in to accomplish what needs to be done in the communities. He said this is a socio-economic venture. He said we need to say that really is what it is. He said the \$328,000 is a loan from the City to Aiken Corporation to use in Crosland Park for housing. He said he was saying that the City has been doing everything for Aiken Corporation. Aiken Corporation bought three houses. They gave the houses to the City. The City renovated them and keeps them up. The City sells them and the City then pays Aiken Corporation back. He said he did not feel that was a good way to spend our money. He felt the City needs to do it. The money will still be spent in the neighborhoods.

Mr. Pearce stated that Aiken Corporation got the three lots because the city was limited on the number of houses that would qualify for the Home Grant money. He said as far as writing the loan off, that is problematic. He pointed out the money is for water and sewer equipment replacement. He said you don't have cash, but have assets. He said the policy question that Council will need to consider is whether we want cash or the assets. Do we want to sell homes or do we want cash money in the bank. Councilman Ebner stated when we do the economics, you will see that the money can never be paid back until you get \$100,000 to \$110,000 for houses. He said that is the economic side. He said once we do the numbers we have to decide what to do. He said maybe we have to keep the loan out there, but he said he had been through the numbers. The numbers don't add up over the next 10 to 15 years to ever pay the \$1.5 million back. He said he was saying it is a write-off to say it is a socio-economic venture.

Councilman Dewar stated Council needs to have a discussion on the subject. He did not know why we would wait until November to discuss the issue. Councilman Ebner stated the employee is new and does not know about all these things.

Councilman Dewar stated he was not sure he agreed with what Councilman Ebner said. Councilman Ebner stated it is a socio-economic venture. Councilman Dewar stated he did not vote for it as a socio-economic project. He voted for it because he was led to believe that it was a good faith effort to revamp Crosland Park. Councilwoman Diggs stated there was no way to predict the outcome of the sale of the houses because of the economy. It changed dramatically. Councilman Dewar stated we got carried away with it. He said he was under the assumption that if the city sold anything in Crosland Park for a loss, that Council had to approve it. Mr. Pearce stated if the housing sells for less than the appraised value, it needs Council approval, according to the ordinance. Councilman Dewar stated he thought the ordinance said if it sells for less than what the city put into the housing. Mr. Pearce stated staff wanted to bring the marketing plan to Council this summer and that will be an appropriate time to have a full discussion on Crosland Park. The value of the assets may be something for discussion. Looking at the vacant homes, the renovated homes, the vacant lots, and the occupied city-owned homes, it is arguable that the assets are worth about \$1.5 million. He said as part of presenting a marketing plan to Council, that will be a great opportunity to discussion the matter in detail.

Councilwoman Price pointed out also that we had talked about a 60 year old house being sold in Crosland Park for over \$100,000 versus a Trolley Run new home with more square footage selling for less and in a better neighborhood. She said the houses were not moving, and the price had to be reduced. Councilwoman Diggs also pointed out you have to take into consideration the other houses in the neighborhood. She said the house would not appraise for very much if the houses around it are appraised for less. Councilman Dewar stated at one point Public Safety was going to identify all of the houses in Crosland Park that were rental. Mr. Pearce stated that was done. Out of the 550 homes in Crosland, the rentals were approximately 350.

Councilman Ebner stated he was trying to account for the taxpayers' money. He said it will take more energy from Council and all staff members to keep the project going. He said he wanted Council to be up to date on accountability for the money. He said it is going to take more to do what we want to do in the neighborhood.

Council then got back to discussing the proposed budget. Councilman Dewar asked about overtime in Public Safety compared to last year. He asked if there was more overtime due to the loss of personnel. He asked how many patrols are on duty. Chief Barranco stated the department is within budget as far as overtime. He said they looked at the 24/48 hour shift for fire personnel to accommodate the time. He said there are 9 patrols on duty.

Councilman Dewar stated he had been told that the City of Aiken will provide fire service to Sam's Club. Chief Barranco stated he was not aware of the city providing fire service. Mr. Pearce pointed out Sam's Club is not in Aiken's fire district. He said Aiken County assigns fire districts and Sam's Club is in Graniteville's fire district.

Councilman Dewar stated he had looked at budgets from all over the state, and some do a really good job with a narrative that goes to Council. He said he would like to have a narrative on the Public Works projects. He pointed out at times there are emergency and major repairs which have to be made on water lines, sanitary sewer lines, and stormwater lines. He wondered if there was money in the budget allocated for such projects in the budget. Mr. Pearce stated money is in the budget for maintenance and repairs.

Councilman Dewar asked if any of the new water meters had been installed, and staff responded that some new water meters had been installed. They ran into some issues with the hand held units communicating and being able to download the information, so not as many meters had been installed as had been anticipated. Mr. Pearce stated there had been some software issues and this has been fixed. He said another issue is that the battery in the meter unit has a life span of about 10 years so there are some units where the unit is coming close to being 10 years old.

Councilman Dewar asked if he could assume that when the contract was approved for Clemson University to gather data regarding the Sand River watershed that we would not be spending money in the proposed budget for anything related to Hitchcock Woods. Mr. Pearce stated it is hard to make that commitment because something may come up. He said the proposal, which will take two years to complete, would be the root information as far as where the money would be best spent in the Hitchcock Woods remediation. He said the One Cent Sales Tax was reimposed with some Hitchcock Woods money. He said there was about \$3 million. He said some money had been spent on the green infrastructure project and some other work. Mr. Larry Morris stated we had to reroute a good length of sewer pipe in Hitchcock Woods because the ground had collapsed too close to it. The City worked with the Hitchcock Woods Foundation Trustees to reroute the pipe. It was at the memorial gate. Councilman Dewar said unless something extraordinary happens we are not planning to spend anything in Hitchcock Woods. Mr. Pearce stated the idea of the proposal was to make sure that where the money got spent in Hitchcock Woods has the best effect of abating the force of the headwater stormwater runoff into the Woods.

Mr. Gary Smith, City Attorney, was present to discuss with Council an opinion issued by the Attorney General on April 23, 2013, regarding the Capital Projects Sales Tax. Mr. Smith distributed a copy of the opinion to Council. He referred Council to the "Conclusion" of the letter. He pointed out that Director Blume is the Director of the Department of Revenue, and had initially issued an opinion for Florence, SC. At some point someone in the legislature got involved and sent a request to the Attorney General's Office. Mr. Smith read "In the opinion of Director Blume, the reimposition of the tax must be for the same projects that the initial referendum approved which were not completed during the seven year timeframe of the project, and that any extension of the current Capital Project Sales Tax would have to involve only those projects initially approved by the electorate in 2006."

Mr. Smith stated Florence County had a CPST I. He said CPST's are allowed to extend for a period of seven years. The referendum is passed by the county governing body after it goes to the board that reviews the whole process. He pointed out Aiken had been through this process for three times. State law says the tax can run for seven years. State law has a specific provision in it that says what happens if you get to the end of CPST I and there is money left over. It says that if you pass CPST II then the left over funds from CPST I are to be used to fund projects in CPST II. The question that was addressed in this opinion is what happens if you get to the end of CPST I and there is not enough money left to fund all the projects that were approved by the voters in CPST I. The Attorney General tries to answer that. Mr. Smith stated he had told Council before that state law does not address what happens if the tax does not bring in enough money to fund the projects listed. He said state law is silent and does not address that issue about what happens when there is not enough money raised by CPST I to fund all the projects that the voters voted to approve. They draw the conclusion that if there were inadequate funds in CPST I to fund all the CPST I projects that if you were to reimpose the tax you could only reimpose CPST II to fund the projects of CPST I. He said that was their opinion.

Mr. Smith stated he disagrees with that opinion. He said the Attorney General's opinion is not the same thing as a Supreme Court decision or Court of Appeals decision and not the same thing as state statute. He said state statute is the law that the legislature gives to us and tells us it is the law of the State of South Carolina. We follow that law to the letter unless we are told for some reason some of it is unconstitutional or it is modified in the future by the legislature. He said we call the Court of Appeals opinions and the Supreme Court opinions legal precedence. They have precedential value. They guide lawyers and City Council or clients as they try to make decisions as to whether something is right or not. The Attorney General's opinion has no precedential value. He said a sitting Circuit Court Judge can use the Attorney General's opinion as guidance in making a decision, but he is not obligated to. A Circuit Court Judge that does not use a Supreme Court opinion or a Court of Appeals opinion as guidance in making his legal decisions does not stay a Circuit Court Judge for long because he is not following the law. The same standard does not apply to an Attorney General's opinion. He said that does not mean their opinions are not valid. He said he was just suggesting that they are not the law of the State of South Carolina. He said they are trying to do something that is difficult to do. They are trying to fill in a blank. The state legislature does not tell us why they left that blank. He said it would have been easy for the legislature to have said if there is not enough money this is what you should do..... He said they chose not to answer that question. He said he does not know why they chose not to answer that question.

Mr. Smith stated the reason he does not like the Attorney General's opinion is that Council and staff have spent more time dealing with the Capital Projects Sales Tax as a practical matter. You understand how the process works. You have lived through the process of determining which projects to put on the list. You have lived through the process of presenting the projects to the people that are appointed by the County and by the City to evaluate the projects to see if they are proper or not. You have lived through the process where some projects on the list may have been more questionable. Some of the projects were removed such as the YMCA, Fusion. He said the Attorney General's office has not lived through that. He said the opinion to him comes off as very "ivory tower."

Mr. Smith stated if you follow what they are saying in their opinion, the process would be that CPST I would be easy, as there is no history. You list the projects and estimate the revenue from CPST I and assign an amount to the projects. You wait to see what comes in. As the money comes in you start funding the projects in the priority on the ballot. In order to comply with the Attorney General's opinion you would have to get all the way to the end of CPST I and then look at the money that came in and the money that was spent and the projects done. You would have to see if you had any money left over and if you got all the projects done. Only at that point would you be able to pass CPST II. He pointed out the lag that is affiliated with implementing another round of sales tax. He said Aiken has passed the third round of CPST. He said CPST II was passed two years before CPST I was finished. He feels the Attorney General's opinion says that can't be done. He said unless you wait until the previous CPST is finished how would you know what to put on the list of projects for the next CPST. He said to go by the strict letter of their opinion, you have to first determine if all the projects have been funded in CPST I before you can create the CPST II list of projects. He said if you didn't have enough money under CPST I to complete all the CPST I projects the only thing you can fund in CPST II is the projects that did not get completed in CPST I. He said that is said in his opinion. CPST II can only apply to the several projects that did not get completely funded by CPST I revenue. He said that is impractical, and he felt that it was an absurd result. As a practical matter you keep the tax going so it never runs out. In order to do that you have to start preparing two years in advance of CPST I running out by preparing the list and putting it before the voters so it is ready to go the day CPST I stops. To do that requires two years planning. He said the Attorney General's opinion says you can't do that. He said hopefully every CPST I, II, or III ends with excess revenue at the end of the cycle, but that may not necessarily be the case. The only way you know that is to wait until the end of the cycle. Another impractical result that the Attorney General's opinion has is that two years before CPST I expires we go through the referendum process and CPST II is ready when CPST I expires. Then, once all the revenue has come in from CPST I, you discover that you were not able to fund two projects because you did not get enough revenue. He wondered what that does to the CPST II ballot. He said if

you go by the Attorney General's opinion, you have an invalid CPST II, because according to the Attorney General the only projects you can fund in CPST II are the two projects that did not get funded in CPST I. He said he felt the opinion leads to an absurd result. He said in their opinion they say you have to look at the statute that the legislature passed and you have to strictly follow that language. However, they conclude the opinion by creating language that they say should go into the statute to fix the issue that the legislature left us with, which is what happens if CPST I does not have enough money to fund CPST I. The legislature did not answer that question for us. The AG tries to insert language into the statute, and he really doesn't have the authority to do that. But he is trying to answer the question.

Councilman Dewar stated he understands what Mr. Smith is saying, but he is not sure he agrees with him. He said the issue that Florence County was addressing is that they were doing transportation projects and did not get enough money to finish them. That is where the Attorney General says if you reimpose the tax and you ran out of money in CPST I, then when they start with CPST II you have to use the money that comes in to finish what was not finished in CPST I. He said that makes sense because they focus on doing the projects in priority order, and that is said in several places. He said we should not do CPST III until we do CPST II and when we do CPST II we need to go with CPST I all the way to the end. He said he thinks the opinion recognizes there may be a valid reason why you can't do a project and you can move to the next project. He said Aiken has valid reasons for not doing some of our projects.

Mr. Smith stated he called the Florence County attorney to ask him about this. He said apparently their CPST I is mostly transportation projects. He said according to the attorney about project number 3 they were surveying the road, they discovered an Indian burial mound. Mr. Smith stated the Attorney General says that before County Council puts all the projects together which amounts to millions of dollars, City Council and County Council have the opportunity to know everything about those projects. He says if the projects are not shovel turn ready, they should not be put on the list. Mr. Smith said that is not a practical approach to the capital projects sales tax in his opinion.

Councilman Ebner stated we have the same issue between CPST II and CPST III. He asked if Mr. Smith would get to that issue and how it affects Aiken.

Councilman Dewar stated the reason he surfaced the issue is that he feels there are two or three things that he thinks are major and that affect Aiken in this Attorney General opinion. He said he could not make the comment that we should dismiss it or not pay any attention to the opinion. He read from the letter: "It would appear that the appropriate interpretation in this situation would be that the funds collected pursuant to the reimposed tax could not be spent on new projects until the original projects are fully funded and completed." He said we approved CPST III well in advance. He said we don't have to spend any money from CPST III. We are not collecting any money from CPST III. He said it is not a conflict to us. We stated we went through a priority order, and we do the priority order for a reason. The law says do the projects in the order they are listed. He said we have almost ignored that. We have not only not done the projects in the order they are listed, but at one point had discussion on whether or not the City Manager had the authority to change the priority. The opinion says clearly that the voters are in charge of the process.

Mr. Smith pointed out that if the referendum says that the priority can be modified by City Council as they deem fit, then that is what the voters voted for.

Councilman Dewar stated he would submit that the City Attorney and the County Attorney allowed us to put an item on the ballot that should not have been there because the law says the projects are to be done in the order listed.

Mr. Pearce stated the ballot says "which projects shall be completed in the order determined by Aiken City Council."

Councilman Dewar stated the Attorney General's opinion says that is not correct and should not have been done. He said it is the same thing on another issue where it says

“Generally, public funds may be expended only for designated purposes as authorized by the General Assembly. As stated in an opinion dated October 1, 2001, it is well recognized that public funds may be expended only for their designated purpose. Consistent with such, it does not appear that funds could be used to acquire only land for a recreational facility where the actual construction of the improvement would be budgeted from a different source of revenue or at a different point in time.” He said it doesn’t say we can’t buy land, but it says we can buy land if it is part of the package to build a building. He said Aiken is not doing that. There are several items in our list of buying land in advance to do something. We even have two items to buy land for open space.

Mr. Smith pointed out then if you follow the Attorney General’s opinion using that example, if the city owned 25 acres of land and the city had intended at some point to build a recreational facility on that land, they are saying you could not use CPST money to build a recreational facility on land that the city already owned. He said the part that Councilman Dewar had read says you can’t use CPST I money to build a building on land we already own. He said he was trying to point out where there are things that the person who wrote the opinion did not understand about how Capital Projects Sales Tax works.

Mr. Pearce stated, for example, in the second round of the Capital Projects Sales Tax we have land acquisition for a Senior/Youth Center at Eustis Park. In the third round we have money to build the center on that land.

Councilman Dewar stated what he read says you can’t do it that way. Mr. Smith responded he thinks that is absurd. Councilman Dewar stated are we going to tell the Attorney General not to send any more opinions to Aiken because we don’t like them. Mr. Smith stated the Florence County attorney told him that Florence County intends to press on the way they have been doing.

Councilman Ebner pointed out that in Capital Projects II we are short of money. How are we going to fund the items that we don’t have money for.

Mr. Pearce suggested looking at the reimposition language in the Attorney General’s opinion. He said, for example, there was money in CPST II that said we would do a Public Safety Building expansion for \$600,000. Below that was Public Safety Training Ground improvements for \$100,000. What happened is that the money was spent. He presented Council with a listing of projects and expenditures as of April 29, 2013, as to where the money had been spent. He said \$837,000 was spent. He pointed out the reimposition language from the Attorney General’s opinion. He said in the third round there is \$900,000 for Public Safety Building expansion. Taking the Attorney General’s logic, to the extent we over spent by \$137,000, that third round money has to make up that shortage.

Councilman Ebner asked what makes up the rest. We are still several millions short of money to finish the rest of the other projects in CPST II. Mr. Pearce stated it depends on how you look at what needs to be finished. We have spent money out of other items, some items we have under spent. He pointed out the Bee Lane landscaping was listed as \$200,000. We finished Bee Lane and spent \$57,000. You will see that Bee Lane Landscaping has \$142,598 available. If we have a project that we finish under budget, that creates a surplus. He pointed out Mr. Smith had mentioned that in his starting remarks. He said the surplus would obviously go to other items on the list.

Councilman Ebner asked that a list be put together for CPST II giving the information which Mr. Pearce had stated. He pointed out we were authorized \$28 million. We have received \$30 million. Mr. Pearce stated that was not necessarily all, because, to the extent that additional money would come in, Aiken County Council decides what to do with the surplus. Aiken City Council would be within their rights to ask for a prorated portion of any surplus money that may come in. They won’t know for several more weeks whether there will be any additional money received from CPST II. Mr. Pearce pointed out that the city got some extra money from CPST I.

Councilman Ebner stated there are a number of projects on the list that have not been accounted for in the timeline. Mr. Pearce stated an example for that would be the Public Safety Building. He said he had just stated that would be included in CPST III because the CPST II money was spent on the Public Safety Training Grounds. He pointed out Open Space for \$1 million. He said we don't have in place a strategy for identifying and acquiring the greenways and open space land. Councilman Ebner asked about the Downtown Streetscape and the Whiskey Road Streetscape. Mr. Pearce stated there is about \$49,000 for the Downtown Streetscape. He said the Whiskey Road money is designated. He said staff is in the process of discussing with DOT what we can put on Whiskey Road. Councilman Ebner asked Mr. Pearce to take everything on the list and account for it. He said in Mr. Morris' presentation he made at Horizons he did not have all the projects listed. He said they may fall in the category of being funded in some other way. Councilman Ebner stated we need to account for all the projects and all the money. Mr. Pearce pointed out the list he had distributed gave all the projects and all the money. Councilman Ebner stated he did not have it on the timeline schedule. He said if he can't schedule the \$1 million to buy open space or trails, that is okay but it should be on the list. Mr. Pearce stated staff has brought some projects to Council for open space, but there had been no interest from Council to spend the money. He said he had understood that we were looking for the final resolution of the element to the Comprehensive Plan to help guide Council in the acquisition process. Councilman Ebner stated there are 26 or 28 projects on the sheet. They need to be on a timeline with the best information available to date, such as to be determined. He said there are other projects, such as the bicycle path and Dougherty Road to the Aiken Mall. All the projects need to be on the list with the money allotted to them. We need to account for the other \$1 million or \$750,000 for the Pawnee/Neilson road.

Councilwoman Price asked who is accountable on a day to day basis following the projects that are being worked on every day. She asked who has that responsibility. Mr. Pearce stated he is that person. Councilwoman Price stated Mr. Pearce can't do that and his job and what Council asks him to do. Mr. Pearce responded that he was not doing it all, but the person is ultimately him. He said the projects are parceled out among the departments. For example, streetscape would typically be something that Tim Coakley would work on. Infrastructure for the water lines and sewer lines would be George Grinton's responsibility. Councilwoman Price pointed out the information she had shared with Mr. Pearce regarding a person being responsible daily for capital projects. Mr. Pearce stated that would be a Projects Manager. He said with the revamping of the Engineering and Utilities Department there would be a person responsible for project management.

Councilwoman Diggs asked how the \$39,918 for Eustis Park was spent. Mr. Pearce responded a strip of land was purchased from the School District. He said it included a survey and appraisal of the land as well.

Councilman Ebner stated that at Horizons a list was distributed listing 25 Capital Projects Sales Tax projects. He said there are 34 projects on CPST II. He said he needs a list of the 34 projects, with the funds reconciled, giving the source of the funding. He said he wants a list accounting for all 34 projects. He said he thinks we will not have enough funding to do those jobs. He said we need to figure out how we will fund those projects. He said he thinks \$30 million does not cover all the projects. He said he wants a spreadsheet that covers 34 jobs accounted for schedule-wise and money-wise.

Mr. Pearce stated on the handout he had distributed there was about \$10,864,000. For projects that are not done, but for which we are holding money for is about \$11,500,000. He said staff would look at it again and add the additional information. He said the scope of the projects may need to be considered.

Councilman Merry asked about \$900,000 "hanging loose" for Pawnee/Neilson. Mr. Pearce responded that the total cost for the Pawnee/Neilson project was about \$3.5 million. In the list it shows about \$700,000 for the project, but it shows that we have money from fund 015 for \$713,463. That was designated to the Pawnee/Neilson project. Then in 2006 we underspent the budget, so there was about \$325,000. Council voted to designate that to the Pawnee/Neilson project. Then in 2010 there was a budget under run

of \$716,829. That amount was designated to Pawnee/Neilson. The difference between actually spent and the remainder was \$943,000. He said we are looking for funding. There could be surplus monies that could be applied to that project from 016 that the County is holding. Possibly there could be money from other projects with cost under runs that could be applied to the project.

Councilman Ebner stated he needed the information on a spreadsheet. He said there are 34 jobs. We need to account for all 34 jobs financially and schedule-wise. Mr. Pearce pointed out that financially he already has that information. Councilman Ebner stated he wants that information on the spreadsheet and also intermingled between CPST III and CPST II where one will cover the other.

Councilman Dewar asked that Council get back to the Attorney General opinion. He said he wanted to make it clear that Council has an Attorney General opinion that says the projects are supposed to be done in priority order. There is an Attorney General opinion that says we are not supposed to buy land unless it is part of the process to build a unit. He asked what he was hearing from Councilmembers. He wondered if Council feels that we just are not going to worry about what the Attorney General says, but we will press on and do what we have been doing.

Mayor Cavanaugh asked if it was a criminal offense if Council presses on. Mr. Smith stated he felt it was not. Mayor Cavanaugh stated he felt we need more opinions on the matter. He said he would like to get opinions from other cities. He pointed out the citizens knew what we were doing.

Councilman Dewar pointed out he did not know why, but an Attorney General's opinion is just his opinion on who would likely prevail.

Mr. Smith stated there were lawyers who said his opinion does not mean any more than their opinion.

Councilman Dewar stated it is a sad day when we will just ignore the Attorney General opinion. He said the citizens knew what they were doing. It is just that we are mismanaging it.

Mr. Pearce stated he did not agree that we are mismanaging anything. Councilman Dewar stated we are not complying with the law. He said the projects must be funded in priority order. He asked how anyone could get away from that when we are not doing it.

Mr. Smith stated Council is funding the projects in accordance with the priority by the ballot that the voters voted on. He said the ballot says the order will be as City Council dictates.

Mr. Pearce pointed out what the practical effect would be if you are collecting money over a seven year period. He said, for example, there was a ladder truck for the southside station for \$700,000. He pointed out a truck was bought and more than \$700,000 was spent. We spent \$856,523. He said what if no one made ladder trucks, and you could not buy a ladder truck no matter how much money you had. He said he heard Mr. Smith say, according to the Attorney General's opinion, the entire process would stop.

Mr. Smith stated the opinion states "the ballot question approved by County Council and presented to the voters clearly states that the proceeds of the tax will be distributed to projects in the priority listed in the question. Later in the same paragraph the question does state that the priority is subject to change, but that disclaimer appears to justify only changes based on typical unexpected complications of acquisition and construction or "other unforeseen circumstances." In our opinion, a reprioritization of the projects based on different criteria, which could have been accomplished before submitting the question to the voters, would violate the spirit of the ballot question, if not the exact letter."

Mr. Smith said if the Indian burial ground shows up for project 3 you can't do anything else until project 3 is completed. He said that is what the Attorney General says. Councilman Dewar stated he reads it the opposite. He said he reads the paragraph as

saying there are situations such as Mr. Pearce had pointed out when you obviously can't do the project.

Councilman Dewar pointed out that much of what is in the Attorney General's opinion comes from the Department of Revenue. The Attorney General very clearly says he will not get into what the Department of Revenue says. He said the Department of Revenue is the agency responsible for this. Some information in the opinion is the opinion of the Department of Revenue. He said if we have these questions that are confusing, we should contact the Department of Revenue and ask them what they think.

Mr. Smith said there is nothing in the CPST state statute which says the Department of Revenue has any oversight authority on the City of Aiken or Aiken County.

Councilwoman Price asked for clarity for the Northside Neighborhood Renewal for \$1,750,000. Mr. Pearce stated for accounting purposes it was broken out. Impact fees were \$40,000. There is a small balance left, which has been placed in the budget. The \$1,730,000 was spent for acquisition of properties in the northside, including Crosland Park, Edgewood, Asheton Oaks, Toole Hill, etc. Councilwoman Diggs pointed out that Toole Hill and Asheton Oaks were successful projects. Councilwoman Price pointed out Chestefield North was another successful project.

Councilman Ebner stated the conclusion then is that we are going on down the road with CPST II and CPST III just like we have been doing.

Mr. Pearce stated he was not saying that. He was saying as the staff has projects that are ready we will bring that to Council for approval. In response to a comment from Councilman Ebner that we would continue to borrow from CPST III, Mr. Pearce stated that was a Council decision, not his. Councilman Ebner stated these are coming up quickly, like May 13 possibly. He said he wanted to be sure he was in gear as to what our process is. He said it seems we are going to keep on doing the same thing we have been doing, bringing the projects to Council for approval, whether they are in order or not is immaterial.

Councilman Merry stated he thought it was a Council decision whether or not we keep doing it that way.

Mr. Pearce stated the ballot says that Council will determine the order of the projects.

Councilman Merry stated he did not know that we had asked for an Attorney General opinion. He said he had only had a few minutes to review it. He said he did not have an opinion one way or another until he has had a chance to study it. He said he was listening, but he had not made a decision in any respect.

Mayor Cavanaugh stated he would like to ask that staff check with other cities that have the One Cent Sales Tax to see what they are doing. He pointed out the letter received was an opinion, not a law.

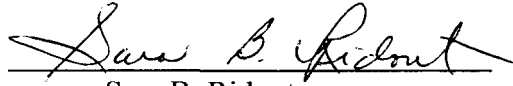
Mr. Smith stated the opinion had just come out. He said he was involved with the Municipal Attorney's Association so he could see what others think.

Councilman Merry asked about the information on the ballot. He said he wanted to know what people saw when they voted.

Councilman Ebner stated the sentence was put on the ballot specifically because there was a problem on CPST I. It was specifically put on the ballot so Council could change the order of the projects, not the City Manager as has been done in the past. Since Mr. Pearce has been City Manager that part is under control. Councilman Ebner stated CPST III is under control. CPST II is still out of control until we get the money straight.

ADJOURNMENT

There being no further business the meeting adjourned at 6:55 P.M.

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

Sara B. Ridout
City Clerk