

Aiken City Council MinutesREGULAR MEETINGApril 11, 2011

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Pete Frommer, Kim Abney, Ed Evans, Ben Moore, Larry Morris, Alicia Davis, Tim Coakley, Sara Ridout, Warner Anthony, Chip Powell, Amy Banton of the Aiken Standard and about 40 citizens.

CALL TO ORDER

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

ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Mayor Cavanaugh stated he would like to add an item regarding guidelines for participation at City Council meetings as the last item under Old Business. Councilman Wells moved, seconded by Councilwoman Clyburn, that the agenda be approved as amended. The motion was unanimously approved.

MINUTES

The minutes of the work session of March 21, 2011 and the regular meeting of March 28, 2011, were considered for approval. Councilman Ebner moved, seconded by Councilwoman Clyburn, that the minutes of the March 21 and 28, 2011, meetings be approved as submitted. The motion was unanimously approved.

BOARDS AND COMMISSIONSAppointmentsRoyal RobbinsBear WoodrumGeneral Aviation Commission

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

Mr. Pearce stated Council has thirteen pending appointments to boards and commissions. One appointment is presented for Council's consideration.

Mayor Cavanaugh has recommended that Royal Robbins be appointed to the General Aviation Commission to fill the unexpired term of Bear Woodrum, who has resigned. If appointed, Mr. Robbins' term would expire September 1, 2011, and he would be eligible for reappointment.

For Council's consideration, this is approval of the appointment of Royal Robbins to the General Aviation Commission.

Mayor Cavanaugh moved, seconded by Councilman Dewar, that Royal Robbins be appointed to the General Aviation Commission to fill the unexpired term of Bear Woodrum who has resigned. Mr. Robbins' term would expire September 1, 2011. The motion was unanimously approved.

Councilman Homoki stated he would like to nominate Dr. Kent Cubbage for appointment to the Housing Authority.

Councilman Dewar stated he would like to reappoint Patricia Andringa to the Arts Commission and Robert Besley to the Building Code Appeals Committee.

Mayor Cavanaugh stated he would like to recommend the reappointment of Kristin Brown to the Arts Commission.

ANNEXATION – ORDINANCE 04112011

Dent Moore

Jane Moore

127 Cedarwood Park

Westwood Hills Subdivision

TPN 105-18-10-003

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex property at 127 Cedarwood Park.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 0.7 ACRES OF LAND, MORE OR LESS, OWNED BY DENT AND JANE MOORE, AND LOCATED AT 127 CEDARWOOD PARK AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-15).

Mr. Pearce stated Dent and Jane Moore, owners of a 0.7 acre lot at 127 Cedarwood Park, are requesting annexation of a single family dwelling under the RS-15 zone. The owners are interested in obtaining lower in-city rates, as well as other city services. The proposed RS-15 zone is compatible with the size of the property, and the zoning in the area meets or exceeds the minimum standards.

The Planning Commission voted unanimously to approve the annexation of this property at their March 16, 2011, meeting.

City Council approved this ordinance on first reading at the March 28, 2011, meeting. For City Council consideration is second reading and public hearing of an ordinance to annex property at 127 Cedarwood Park under the RS-15 zone.

The public hearing was held and no one spoke.

Councilman Dewar moved, seconded by Councilwoman Clyburn, that Council approve on second and final reading an ordinance to annex property owned by Dent and Jane Moore at 127 Cedarwood Park under the RS-15 zone. The motion was unanimously approved.

PEDDLER – ORDINANCE 04112011A

City Code

Permit

Background Checks

Criminal History

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the City Code regarding issuing permits to peddle or solicit in the City of Aiken.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE REVISING CHAPTER 28 OF THE AIKEN CITY CODE TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO CHECK CRIMINAL HISTORIES PRIOR TO ISSUING A PERMIT TO PEDdle OR SOLICIT IN THE CITY OF AIKEN.

Mr. Pearce stated staff is recommending that Section 28-1 of the Aiken City Code be amended. This section requires persons not having an established place of business in the City of Aiken to register with the Director of Public Safety before they may go upon private property in the city for the purpose of peddling or selling goods, services or soliciting donations for any purpose. The current ordinance does not give the Public Safety Director the authority to deny the issuance of a peddler/soliciting permit regardless of the criminal history of the person seeking a permit.

The proposed ordinance would allow the Department of Public Safety to check criminal histories of applicants prior to issuing any peddling or soliciting permits. Our Director of Public Safety would have the right to deny a peddler/soliciting permit to applicants who have been convicted of a felony or violation of any law or ordinance involving dishonesty. The proposed revisions are geared toward the safety of our neighborhoods and to keep known felons from going on private property in our city to sell merchandise, services, or soliciting donations for any purpose.

City Council approved this ordinance on first reading at their March 28, 2011, meeting. For City Council consideration is second reading and public hearing of an ordinance to amend Section 28 of the Aiken City Code, allowing the Department of Public Safety to check the criminal history of all persons prior to issuing them a permit to peddle or solicit in the City of Aiken.

The public hearing was held.

Mr. John Wade stated he had several questions regarding the ordinance that he would like clarified. One question concerned 28.1 (a) and (b), regarding it being unlawful for a person not having an established place of business in the City to peddle or solicit. He wondered if it should be worded to state it would be unlawful for a person not having a city business license to peddle or solicit. He pointed out people have businesses in the county that have a city business license. He said otherwise he felt it reads that only people who do not have a business in the city have to obtain a permit for peddling or soliciting.

He also pointed out that in (e) it states it shall be unlawful for any person whether or not "he" has an established place of business in the city. He wondered if the "he" had reference to women also.

He was concerned about the wording of Exhibit A Sec. 28-2 (7). Also, in (8) and (9) he wondered at what level the criminal activity is determined and how far in the past would the check cover. He was concerned about (10) and what is considered a felony.

Mr. Wade stated he understands the reason for the proposed ordinance, and is not opposed to it, but wanted some clarification on some items. He said he wanted to make sure some of the items did not limit some people who have good intentions.

Mr. Ben Moore, Staff Attorney, addressed Mr. Wade's concerns. He stated by felony we are looking at the definition under South Carolina law. He said a 30 day offense would not be considered a felony. He said we are looking at what would be considered a felony under South Carolina law. He said in South Carolina one has to look at the individual crime to see if it is classified as a felony under South Carolina law. With individuals from other states the crime would be looked at to see if it is classified as a felony in South Carolina. Different governments consider different crimes as felonies or misdemeanors.

Mr. Moore stated language in (e) is what has been in the ordinance and was not changed. He said "he" is considered to apply to all people, both genders. He pointed out that the language in 28-2(7) would not apply to someone going door to door, but would apply to someone wanting to use a private parking lot or property to solicit in front of the business there or shopping center.

Mr. Moore stated regarding the wording of 28-1(a) concerning people with business licenses, as opposed to an established place of business in the City, is a policy to be set by Council. He said the wording could be that any person with a business license would not have to get a permit, or it could be that only those with a business located inside the

city would not have to get a peddler's permit. He said Mr. Wade's comment was not to require a peddler's permit from anyone who has a City of Aiken business license, regardless of whether they are inside or outside the city. He pointed out that anyone could get a business license, and then they may not get the peddler's permit to go door to door. It was also pointed out there are out of state business licenses for temporary work, and if there are issues it may be harder to deal with them. As the ordinance is written, a business from outside the city can do business in the city, but if they want to solicit from door to door they need to get a permit. The permit is free. A peddler's permit is not required for an established place of business located in the city. This is the way the ordinance has been since 1980. This has not been a problem in the past. Councilman Dewar stated he had never had a business that is licensed in the city to knock on his door soliciting.

Councilwoman Price asked if the problem was severe enough to warrant modifying the Code, and what the consequences are for someone in violation of the peddling law. She pointed out these solicitors target certain neighborhoods and know the people to prey on. She wondered if a law is required to handle the problem.

Mr. Moore responded those in violation would be issued an ordinance summons and it would carry the same penalties as any violation of the City Code, which is 30 days or a fine up to \$500. He said Public Safety Director Pete Frommer believes the issue of people with criminal histories peddling in the city is a problem. He said presently Mr. Frommer gets information to run the criminal checks. He has been running the checks, and many of them come up with bad records. However, the wording of the current ordinance prohibits him from denying the permit to peddle, even though they have a criminal record. Mr. Moore pointed out that without the ordinance change, Director Frommer does not have the authority to deny the permit.

Councilman Wells pointed out that Chief Frommer shared at the last meeting that in doing some research on backgrounds, there have been pedophiles that have been allowed to solicit in the City of Aiken. There have been some with criminal histories such as burglaries. He pointed out those people are walking through a neighborhood, casing the houses. He said they have the opportunity to know when people are home or not. He said Public Safety was trying to get a handle on this before it becomes a problem in the city. He said he did not think this has happened with businesses located within the city or the county. He pointed out, however, people come in from out of state during the summer and start canvassing the neighborhoods. He felt it was a matter of concern for the safety of our citizens.

Councilwoman Price stated she had people to solicit in her neighborhood when she was growing up, and she still has people knocking on her door. She said times have changed, and we are more conscious of the dangers than a few years ago. She pointed out with the present economy people are hungry, and they resort to possible violence to get something to feed their families. She said she just wondered about the penalty.

Councilman Homoki asked if there was a time limit on a permit that is issued. Mr. Frommer responded there is no time limit on the permit. Mr. Moore stated having a time limit is a good point, and that is something Public Safety could do administratively.

Councilwoman Clyburn stated she has people to come to her door soliciting. She said she has the right to open her door or not. She said her concern is that someone may come to her door and state they are working for a business in the city that is licensed, but that may not be the true. She wondered if we would be accomplishing what we want to by not requiring a permit for businesses within the city. She pointed out the citizens would have to make a call to Public Safety if they were concerned about someone soliciting.

Councilman Dewar stated the ordinance would not be perfect, but the focus is on the people who are going into the neighborhoods. He felt the citizens should understand that if they want to solicit they should have a permit. He felt Public Safety should be able to tell people who have bad records that they cannot solicit in Aiken. He felt the proposed ordinance seems fine. He did think possibly there should be a time limit on a permit.

Mr. Moore stated that at the last meeting there was a question about someone running for public office going door to door in neighborhoods. The proposed ordinance would not apply to candidates for public office or religious organizations handing out materials. They have a right to do that.

Councilman Homoki asked if a permit is issued for a team or group or by individual. Mr. Moore responded that the City of Aiken issues a permit for each person, so each individual can be checked.

Mayor Cavanaugh pointed out that citizens will have to call Public Safety when they have someone come to their door soliciting, or Public Safety will not know they are in the neighborhood.

Mr. Frommer stated they depend on the citizens to call when people are soliciting in their neighborhood. He said they inform those who are soliciting of what is required for a permit.

Council continued to discuss the proposed ordinance and some items that need to be clarified. After much discussion Council asked that Mr. Moore add wording to the ordinance to clarify item 7, what is meant by a felony, and add a timeframe of six months for a permit.

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council approve the ordinance on second and final reading with Mr. Moore to add language to the ordinance to clarify item 7, definition of a felony, and a timeframe of six months. The motion was unanimously approved.

GUIDELINES

Conduct of Council Meetings

Mayor Cavanaugh stated he had asked to add an item to the agenda at this point. He stated the item has to do with guidelines for participation at City Council meetings.

Mayor Cavanaugh stated Council always wants citizens to have discussions on agenda issues that are important to all of us. In order for everyone who wants to comment and get their message heard in an orderly fashion and in a reasonable time period, we must have guidelines and structure to the meetings that we all, Council and citizens, work within and abide by. We have had guidelines for participation at Council meetings for many years on the table as one enters the Council Room. They are also on the back of the agendas which are in the chairs of the Council Room. However, we have not always used all of the guidelines. Based on the last two public meetings and at various other public meetings in the past and also comments and thoughts expressed recently by City Councilmembers, it is time to put our meeting guidelines into full effect. He said Councilmembers have copies of the longstanding guidelines with their agenda. Mayor Cavanaugh read the major points in the guidelines so we are all clear and for the record we are clear as to what we are talking about. The Council meetings are formal meetings. It is official business, and we ask that everyone please be respectful of others, treating them as you would like to be treated. Personal attacks and derogatory comments directed to individuals are not allowed. He said this applies to Council, staff, and citizens who are present and choose to participate and speak at a Council meeting. Generally, City Council meetings follow certain guidelines developed over the years to assist with both the flow of the agenda and to ensure citizen participation and comment. We welcome involvement in the City Council meetings and request consideration of the following. Public comment is allowed during the first reading of an ordinance as City Council discusses in open session whether or not the issue should receive consideration by the City. Public comment is also allowed at second readings. All other items on the agenda are also open to public comment. If you would like to be recognized to speak on an agenda item, please raise your hand and be recognized by the Mayor when the Mayor asks for public comment. On issues that may generate a great deal of controversy, the city provides signup sheets for anyone wishing to participate. We encourage you to sign up in advance if you wish to speak. One does not have to, but we encourage that because it gives us information and names that we might have a problem understanding when the

speaker gets to the microphone. After recognition by the Mayor, speakers should approach the microphone at the podium before speaking. Speakers should state their name and proceed with a brief statement. Comments should be limited to five minutes. If there are larger groups, Council can extend that time. We are not trying to cut people off, but are trying to have an orderly meeting with people stating what they plan to say. If there are questions by Council, the person can come back to speak if they are recognized again. In order to allow an opportunity for everyone who wishes to address Council, speakers should limit their comments to the subject being discussed. There are occasions where people tend to drift off, so we need to stay with the issues. Also, the Mayor may limit discussion on any particular issue, particularly if many residents have signed up to speak. Comments should be limited to no more than five minutes.

Mayor Cavanaugh stated he wanted to repeat the first comment and the one he feels is most important. Please be respectful of others, treating them as you would like to be treated. Personal attacks and derogatory comments directed to individuals are not allowed.

He said please understand that it is not just the Mayor, but City Council who establishes the guidelines, whether they be what he just read or something else. He said it is up to Council to determine what the guidelines will be. Of course, they can be modified and changed so Council can have a most productive discussion and exchange of information and the best use of time.

Mayor Cavanaugh said for informational purposes he had checked with three other public organizations within thirteen miles and two allow five minutes per speaker. One allows three minutes for a speaker or 15 minutes per group. One also allows a longer time for a group. One allots just 30 to 40 minutes total for public comment, no matter how many people are present to comment. One group requires a signup prior to speaking. All groups are somewhat flexible with the time to speak depending on the issues. He said he personally felt that following the guidelines will allow everyone to know what to expect and what is required of them to participate in City Council meetings and the result will be a more productive meeting and outcome.

Mayor Cavanaugh asked if any Councilmembers had any comments and how they would like to handle the issue of participating in City Council meetings.

Councilman Homoki asked who would enforce the time limit when a meeting gets out of control.

It was stated the Mayor or Chairman would call the time and determine when a person gets out order. He pointed out some of the organizations use a clock to time the speakers. He said we don't really want to time the speakers, but over the past year we have had situations where we need to move on to have a productive meeting. We don't need people pointing at other people and criticizing other people. If someone wants to do that, it needs to be done outside the Council Chambers. He pointed out the Council Chambers is a place to conduct official business. He said Council always wants to listen to the citizens, and in his 25 years on Council no one has ever been turned away who wanted to speak. Council has listened to people for a long time over and over again. He said it is up to City Council collectively to make a decision on following the guidelines.

Mr. Gary Smith, City Attorney, stated during the discussions if any Councilmember feels that someone is being out of line or having an inappropriate discussion during the meeting, any Councilmember can bring that point to the attention of the Mayor.

Councilman Dewar stated he supports what the Mayor has discussed regarding guidelines. He said he felt Council needed to recognize that citizens have the right to complain about departments, about functions, about processes in the city. He said they have probably been distracted by those complaints being personal, which has frustrated many. He said he hoped we are not trying to tell our citizens that they don't have the right to tell us when they think we are doing something wrong. He said he had been frustrated, as many have, when we have the dialog between the audience and Council. He said he would like to see us get to the point on an agenda item where the public

hearing is closed after the public has had the opportunity to say what they want to say. Then Council has their discussion and Council takes action. He said he did not like people standing up in the audience and getting into a dialog. He felt that was disruptive. He felt Council does need more structure at the Council meetings, and he supports the Mayor. He said he felt Council does need to give the citizens the right to tell us when they think we are doing something wrong. However, it should not be personalized.

Mayor Cavanaugh stated he did not mean to indicate that Council is not going to listen to the public. He again read his comment. Please be respectful of others treating them as you would like to be treated. Personal attacks and derogatory comments directed to individuals are not allowed. He said he was not telling people they could not comment, but they need to be respectful.

Councilman Homoki stated he felt Councilmembers are thick skinned, but they need to be careful when citizens start jumping on city employees as has happened in the past. He felt it was not fair to someone to criticize some city employee who may not be present or can't defend themselves. He felt there should be some flexibility on the time limit.

When people start repeating themselves the time should be limited.

Councilman Ebner stated he would suggest that Council accept the suggestions made by the Mayor. He pointed out the guidelines are already in written form. He said he had spoken before Council in the past, and he felt that five minutes is more than ample time for a person to get their comments before Council.

Councilman Wells stated he would like for Council to go forward with the five minute limit for speaking. He felt that does give people ample time to get their information to Council if they plan what they want to say. He pointed out Council did not want to say people cannot share their complaints with Council. He felt what we are dealing with is the manner in which they share those complaints with Council. He felt comments could be shared in a very respectful way and a nice way and still get their point across. He pointed out the personal attacks we have had at the last two meetings have really surprised him. He said for many years the meetings of City Council have been very orderly and smoothly run, and he felt that is the way they should be in the future.

Councilwoman Clyburn stated that anyone who has a problem with any city department could speak with the City Manager, and the City Manager could probably handle the issue. That way it would not ever have to be that public. She said for any citizen who has a problem with a department or department head, they need to talk to the City Manager, who can probably handle the problem for them.

Councilwoman Price stated she felt Council has been more than generous with the time allocated to the citizens to share their concerns with Council. She felt that even if we have guidelines for a time limit of five minutes, that will be flexible in order to hear the citizens input. She pointed out that in Aiken people are no longer intimidated about coming before City Council to speak. She stated if they come to the Council meetings where there is hostility and name calling, they will be reluctant about sharing their comments. She said she was happy to hear the words being respectful of each other as part of the guidelines.

Mayor Cavanaugh stated the comment of Councilman Wells regarding the manner in which people communicate or speak is so important. He said many times if people will talk to you in a nice respectful manner, they get more done. Sometimes a person is more inclined to do something when a person asks in a nice manner. He pointed out that most of our citizens speak before Council properly, make their comments and sit down. He said Council will certainly be flexible in enforcing the guidelines. He said if Council wants a person to speak again, that will be permissible. He said they are not trying to stop people from speaking, but want to limit the time and manner of speaking so the meeting will run smoother.

Mayor Cavanaugh stated from the comments he feels it is the general consensus of Council to continue with the present guidelines that have already been published and in effect for some time.

BUSINESS LICENSE - ORDINANCE

Revised Renewal Form
Income Tax Return
Verification
Due Date
Weekends
Holidays

Mayor Cavanaugh stated an ordinance had been prepared to amend the Business License Ordinance regarding verification of gross receipts.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 12-35 OF THE AIKEN CITY CODE.

Mr. Pearce stated after our meetings regarding our Aiken Business License Ordinance and payment receipt practices, City Council voted to end the practice of requiring business license holders to provide verification of gross receipts as part of filing their annual business license renewal. He read the sentence to be removed and the sentence to be added in the Code.

Council expressed interest in adopting an ordinance to codify this policy change to no longer require gross receipts verification at the time of the renewal form filing.

For Council consideration is approval on first reading of an ordinance to amend Section 12-35(b) of the Aiken City Code to eliminate the requirement of providing gross receipts verification at the time of applying for, or renewing, an annual City of Aiken business license.

Councilman Dewar questioned the wording of “applicants may not be required.” He said he thought the wording should be “applicants shall not be required.” He also asked if the city needed the Social Security number.

Mr. Pearce responded that “may” was the wording to be used. He also stated the City needed a person’s Social Security number or Federal Employment Identification number in order to identify the business. This information is strictly confidential.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council approve on first reading an ordinance to amend the City Code to eliminate the requirement of providing gross receipts verification at the time of renewing a city business license, and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

PAYMENT DUE DATES – ORDINANCE

Payments
Holidays
Weekends

Mayor Cavanaugh stated an ordinance had been prepared for Council’s consideration regarding payment due dates for payments to the city that fall on weekends or city holidays.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 2 OF THE AIKEN CITY CODE.

Mr. Pearce stated City Attorney Gary Smith has prepared an ordinance in support of the policy revision voted on by City Council at the March 28, 2011 meeting, regarding payment due dates.

As Council will recall, on occasion, payment deadline dates have fallen on a Saturday, Sunday, or an official City holiday when our offices are closed and payments cannot be taken.

The proposed ordinance codifies that when these calendar conflicts occur, any payment due date deadline that falls on a Saturday, Sunday, or official City holiday will be accepted until 5:00 P.M. on the next City business day after a Saturday, Sunday, or an official City holiday, and without penalty.

For Council consideration, on first reading, is an ordinance approving the addition of Section 2-312 of the Aiken City Code to set forth that any City payment due date falling on a Saturday, Sunday, or official City holiday can be paid by 5:00 P.M. the next City business day, and without penalty.

Councilman Dewar pointed out that City holidays do not match the Federal holidays, so he would suggest to eliminate confusion that the ordinance apply to Federal holidays as well.

Mr. Pearce pointed out the City will be open on some Federal holidays and would be able to accept payments. He said he understood the City holidays when the offices are closed was the problem. He stated the City holidays are published in the newspaper and the web site.

Mr. Gary Smith, City Attorney, stated the purpose of the ordinance was that if a customer comes to pay their City of Aiken bill whether it is a Saturday, Sunday, or a holiday and the City is closed, the customers have until the next business day to make their payment.

Councilwoman Clyburn moved, seconded by Councilman Wells, that Council approve on first reading an ordinance adding a section to the City Code to set forth that any City payment due date falling on a Saturday, Sunday, or official City holiday can be paid by 5:00 P.M. the next City business day without penalty, and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

MUNICIPAL ELECTIONS – ORDINANCE

Partial Transfer

Aiken County Registration and Elections Commission

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to provide for partial transfer of conducting Municipal Elections to the Aiken County Registration and Elections Commission.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE PROVIDING FOR THE PARTIAL TRANSFER OF AUTHORITY FOR CONDUCTING THE MUNICIPAL ELECTIONS TO THE AIKEN COUNTY REGISTRATION AND ELECTIONS COMMISSION.

Mr. Pearce stated that for many years, the Aiken County Registration and Elections Commission has been helping our Aiken Municipal Election Commission conduct City of Aiken elections in order to contain the costs. We have done so through an agreement between these two election commissions outlining the duties each of us must do.

Recently, we were advised that State Law Section 5-15-145 provides for the transfer of powers, duties, and responsibilities for conducting municipal elections to county election commissions upon the adoption of an ordinance by the Aiken City Council, Aiken County Council, and approval by the U.S. Justice Department. The appropriate ordinances for Aiken County and the City of Aiken have been prepared for the partial transfer of duties for conducting our next elections.

A copy of the ordinance and the related agreement between the City of Aiken and the Aiken County Elections Commission, listing the duties of each, was provided for Council's review. The agreement sets forth the same duties that have been in our

agreement with the County Elections Commission for several past elections. The proposed ordinance will transfer these duties to the County Elections Commission after July 1, 2011. The agreement for election assistance will be in effect for future elections, but can be terminated by either party who gives 120 days advanced, written notice to the other party.

For City Council consideration is first reading of an ordinance for the partial transfer of duties for conducting municipal elections to the Aiken County Registration and Elections Commission upon Department of Justice approval. Upon City Council consideration a second reading and public hearing will be held at the next regular meeting.

Councilman Dewar pointed out the proposed ordinance only applies to the General Elections in November because the parties run the primary elections.

Councilwoman Clyburn moved, seconded by Councilman Wells, that Council approve on first reading an ordinance for the partial transfer of duties for conducting municipal elections to the Aiken County Registration and Elections Commission, and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

ELECTION SCHEDULE

City Council
2011

Mayor Cavanaugh stated the election schedule for the City Council election has been prepared for Council's information.

Mr. Pearce stated Sara Ridout, City Clerk, has reviewed the ordinance for the election schedule and has provided the schedule for conducting our upcoming elections as follows:

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| 1. Opening of filing for nomination petitions and entry of candidates for primaries | August 1, 2011 |
| 2. Closing of entry of candidates for primaries | August 8, 2011 |
| 3. Municipal Party Primaries or Conventions | September 13, 2011 |
| 4. Closing of entries for nomination by petition | September 23, 2011 |
| 5. Municipal Party Primary Run Offs, if necessary | September 27, 2011 |
| 6. Last day for certifying candidates to Election Commission | October 7, 2011 |
| 7. Election Day | November 8, 2011 |

This schedule is presented to Council to give Council notice of our next election. This year the District 1 and District 3 seats for Councilmembers Clyburn and Dewar will be up for reelection, as well as the seat currently held by Mayor Cavanaugh.

As for past elections held after the completion of our U.S. Census, we will need to determine if any of our Districts will need to be redrawn, and we will also need to obtain preclearance from the U.S. Department of Justice prior to holding the election.

Mr. Richard Johnson, Chair of Municipal Election Commission, stated the schedule presented is the regular schedule for an election.

Councilman Dewar moved, seconded by Councilwoman Price, that Council accept the election schedule as presented. The motion was unanimously approved.

BIDS

Jeweler’s Loupe
Storm Drainage
Richland Avenue W.
Hitchcock Woods
Sanitary Sewer Line

Mayor Cavanaugh stated Council needs to consider approval of the bids for the Jeweler’s Loupe storm drainage improvements and the Hitchcock Woods sanitary sewer line improvements.

Mr. Pearce stated from time to time, repair projects or other unbudgeted expenses arise for items that have not been budgeted in a particular fiscal year. These projects are ones that cannot wait until the next budget year to be completed.

We have had two of these projects arise. We have received formal bids for them. In order to proceed with this necessary work, we need Council's approval of them.

The first project involves sanitary sewer improvements in Hitchcock Woods. Last fall, a storm washed out the gabions protecting the sanitary sewer crossing Sand River at its intersection with Calico Creek. The gabions were repaired by city personnel, but another storm washed them out a second time. A more permanent solution was needed. This situation required moving the sewer line. The new location for it has been coordinated with the Hitchcock Woods Foundation. The bids received were as follows:

Construction Perfected, Inc.	\$225,516.37
C R. Jackson, Inc.	\$272,468.00
Gene Ray Fulmer Construction, Inc.	\$160,434.00
L-J, Inc.	\$193,802.00
Sitec, LLC	\$196,865.99

Staff is recommending acceptance of the lowest responsible bidder, Gene Ray Fulmer, Inc. in the amount of \$160,434.00.

The second project involves holes that developed along the storm sewer behind the Jeweler’s Loupe on Richland Avenue W. That storm drain pipe has failed and is in danger of causing damage to the Jeweler's Loupe building. Bids were initially received to rehabilitate the pipe and repair these holes, but those bids were rejected due to irregularities in them. Bids were requested again and the lowest and best bid was received from Southeast Pipe Survey in the amount of \$215,800. The bids received were as follows:

Insituform Technologies, Inc.	\$295,646.00
Southeast Pipe Survey	\$215,800.00
Improved Technologies Group, LLC	\$236,301.00

Staff is recommending acceptance of the lowest and best bid of Southeast Pipe Survey in the amount of \$215,800.

For City Council consideration is approval of the bid of Gene Ray Fulmer, Inc. in the amount of \$160,434 for the Hitchcock Woods Sanitary Sewer improvement project and the bid of Southeast Pipe Survey in the amount of \$215,800 for the Jeweler's Loupe Drainage Improvements Project. Funds for these projects will be drawn from our City reserve accounts, and recouped via our annual depreciation payments that are budgeted.

Councilman Wells moved, seconded by Councilman Ebner, that Council approve the bid of Gene Ray Fulmer, Inc. in the amount of \$160,434 for the Hitchcock Woods sanitary sewer line improvements and the bid of Southeast Pipe Survey in the amount of \$215,800 for the Jeweler’s Loupe storm drainage improvements. The motion was unanimously approved.

EMPLOYEE BENEFITS

Pension Plan

Mayor Cavanaugh stated the next item was a review of City employee benefits.

Mr. Pearce stated City Council, as part of the Horizons goal setting session, discussed a desire to receive a report from staff regarding our City employee benefits package as compared to other cities throughout our state. This goal was adopted by Council at the February 14, 2011, meeting.

Since Horizons, staff has conducted a review of our benefits package.

We have canvassed several cities across the state, and received responses from several. We have compiled their information and included it in the report given to Council.

Mr. Warner Anthony, who appeared before Council in January to discuss changes to our City pension plan, is available to answer any questions Council may have about the pension policy.

The information presented shows how Aiken compares with other South Carolina cities regarding a Wellness Program, the health insurance benefits, the pension and retirement plan, the vacation and sick leave, life insurance, short term disability, continuing education program, employee assistance program, and uniforms provided for employees.

Over the years, City Council has recognized the beneficial results achieved from recruiting, and retaining, dedicated City employees who will work loyally for us for many years. In addition to encouraging a positive work environment, we have consistently stressed the importance of assisting our citizens in the most helpful ways possible. We are fortunate today to have staff members with many years of experience that prove very valuable for our city operations, particularly in emergency response situations where time is of the essence.

Our employee benefits package has proven to be a valuable recruitment tool in locating these valuable employees. The benefits package has been in effect for a number of years. It is funded through the budget process. It was reviewed as part of the zero based budgeting process last year.

Councilman Dewar stated his focus is twofold: One issue is to make sure, given all we are reading these days about unfunded pension liability, that we are able to deliver what we promised our employees. That is, a well funded retirement plan that will be there for them to collect. He said we are reading around the country of municipalities and states that have failed to make the right payments and find themselves in a bind. The pension plan is an obligation that the city has to the trust. If it is not funded properly, taxes will have to be raised or bonds issued. He said he appreciated the opportunity to be able to discuss the pension plan. The other issue is to make sure that whatever we provide to our employees is fair in comparison with other municipalities and also fair to the taxpayers. He said he was pleased to have the opportunity to ask more questions, as it is a very complicated area. He said he has several questions.

Mr. Pearce said to help Council, since the focus is on the pension plan, the city has had a pension plan since about 1961. That has gone through several versions. In 1995 the current pension plan was adopted. He said that plan was reviewed in January, 2011. He said the plan is under several restrictions, including the Government Accounting Standards as far as how we handle the plan, how the plan is funded, and how we report the plan. He said the current pension plan for city employees is audited every year. It is part of the audit. It is also in the Comprehensive Annual Financial Report, which is on the website. There are additional safeguards involved in the pension plan. Mr. Pearce stated he is the chair of the Retirement Committee under the plan document. The other members include Kim Abney, Finance Director, and Al Cothran, Revenue Administrator. The appointments to the Committee are approved by City Council. Any changes to the plan always come to City Council for consideration. We are required by state law to have an annual audit, in which the pension plan is described in the audit document to

make sure it is meeting the requirements of state law as well. He said Mr. Warner Anthony, Pension Attorney, is present to answer questions.

Mr. Pearce stated the city contributes approximately \$1 million a year to the pension plan. He said he wanted to clear up some misconceptions, based on some comments he had heard. It is true that the taxpayers pay taxes and a portion of the taxes are used to make our contribution to the pension plan. We contribute about 12% a year of salaries to the pension plan for the retirement benefit. He said the thought about the pension plan, in talking to members of Council who served on Council years ago, was part of what we heard as a classic three legged stool, where someone's Social Security payment, someone's personal savings, and someone's pension payment would put them roughly in the position they had when they were working and had a salary. With the pension plan that the city has, depending on when someone retires, their pension would be somewhere from 50% to 55% of their pay when they were working. He pointed out that Mr. Anthony works with the actuaries with the pension plan. He reviews the investments that are being made and makes sure we are complying with the plan requirements. We had an opportunity in the 1990's to join the State Retirement Plan. After discussing the matter with the State, they gave the city an amount for the city to join the State plan. The City discussed the proposal and decided to join the plan, but the State changed their contribution amount. The change in the contribution amount was too high for the city to join the State Plan, so the city decided to go with a City plan. He pointed out there was an article in the paper last week regarding the State Pension Plan and the amount owed to the plan. He said those in the State plan have a reason to be concerned. He said Aiken has not participated in the State plan, so Aiken has a pension plan that has a value, cash on hand, and money to pay benefits. Mr. Anthony will explain that by working with the actuaries and the contributions made each year, we are making sure that will continue to be the case. It is a funded plan. We have never said we will pay the pension plan later. He said we have always had a very conservative approach to make sure it is properly funded. In addition to the tax money for the pension plan, all city employees do contribute to the plan. They do not have a deduction on their pay check for the plan, but our Human Resources Department conducts salary surveys every year. As part of the survey a salary is determined as appropriate for the particular position, and we always lower the salary by 6.5%. That is because of the money that goes into the pension plan for city employees. While the city contributes 12% of salaries each year to the pension plan, the employees are actually already contributing 6.5% to the plan, and in effect the additional money is 5.5% from the city. The plan has been successful since its inception. He said we had talked about the actuarial target of 8% return on the money. He said in looking at the inception of the pension plan through today, the plan has earned 7.6%. There have been ups and downs during 911 and 2008 which show up in the plan. He said in looking at the plan over the long haul, the plan has earned the money that it needs to earn in order to meet its obligations. We have an investment firm that makes the recommendations for the investment of the money in the pension plan. We also have a custodian that actually makes the investments. There are several safeguards in the pension plan. It is a trust fund. When the money goes into the pension plan, it stays in the pension plan, and we can't borrow it for some project. We have the safeguards of City Council through the audit, making sure the plan has stayed reasonably liquid, and we also have the checks and balances of not only the Retirement Committee, but the investment advisor and the custodian of the money, followed up by Mr. Anthony who is the legal advisor for the plan and has been since it was started in 1995. He said he wanted to give the background information to clear up any misunderstandings.

Councilman Dewar stated he wanted to assure there were no negative misunderstandings. He questioned the makeup of the Retirement Committee and when the members were appointed by Council.

Mr. Pearce responded that under the Pension plan approved by Council the City Manager is the Chair of the Retirement Plan.

Councilman Dewar pointed out Council had been through zero based budgeting, and until recently he had never heard that the salary surveys were discounted by 6.5%. He said this was not mentioned in the zero based budgeting. He said this was a concern because

without that statement it seems like an overly difficult plan for the taxpayers. He asked what kind of reports the employees and Council receive on the benefit plan.

Mr. Pearce stated the employees receive a statement every year giving a calculated Social Security benefit and, based on their current salary level, a calculated pension plan benefit. He said the Social Security benefit is calculated so the employee will know what they can expect the Social Security payment to be along with their retirement benefit.

Mr. Anthony stated the employees receive an annual benefits statement which shows what each person's retirement benefit would be based on a projected retirement date based on their current salary and their service to date. He said the actuary prepares the statement for the employees. They look at the average annual salary and do a projected Social Security benefit.

In response to a question from Councilman Dewar regarding the Social Security benefit, Mr. Anthony explained the plan benefit is completely separate from the Social Security benefit. He said the city's obligation under the plan is just the plan formula, which has nothing to do with Social Security. The Social Security is a benefit paid by the Federal Government no earlier than 62.

Councilman Dewar stated if an employee retires with 30 years of service at age 55, the employee has the option of receiving what they would receive in Social Security at 62 for 10 years from the city.

Mr. Anthony stated that was not true and there has been a tremendous misunderstanding of the Social Security optional form of payment. He said the Social Security is not an additional benefit. It is the same economic benefit as the accrued benefit for each person. Under the plan, you start with the formula which is the final average pay, times the years of service. He gave an example of 30 years of service, which is 55% of pay, as it is 1.82%. He assumed an employee is making \$30,000 at the time they retire. He assumed that the retirement benefit under the plan formula is \$15,500 a year for life. That is what the plan promises to pay them. That person has an option of how they want to take that money. He assumed three people are retiring all of whom have the exact same compensation and the exact service. They each have a benefit of \$15,500 a year for life. He assumed that one of the individuals is not married, has no children, and has no relatives he wants to leave money to. That person may choose to have a payment of \$15,500 a year for life. When he dies no one gets any more. The second person is married and wants to provide a retirement benefit for him and his spouse for the life of both parties. The actuary looks at the life expectancy of each party and says for this person that \$15,500 a year calculates into maybe a \$12,000 per year benefit for him and his wife. That person retires with \$12,000 a year, which will be paid for the life of that person and that person's spouse. The third person is younger and says he wants to have equal retirement now and even after he gets his Social Security. So what he does is get more money per month at the beginning and less money per month after age 62. Assuming the person is 57 years old, the actuary looks at the \$15,500 per year economic benefit. If that is accelerated so that person is paid a larger benefit for the first 5 years and a smaller benefit after 5 years, that person might get a \$20,000 a year benefit for 5 years and then the benefit may drop from the plan to \$10,000 a year. The plan is not giving the employee a higher benefit. It is just the time value of money, and how it is paid. Each of the three people in the example get the exact same economic benefit, but they each get to elect the form in which that benefit is paid.

Mr. Anthony further explained other options at the request of Councilman Dewar. He said there is an option of Life Only with 10 years guaranteed or a Life Only annuity with 20 years guaranteed. Because the life expectancy at the retirement age is still past 20 years, there is a small reduction in your value. A person may say if I die within the first 10 years I want payments to continue for a total of 10 years. So the actuary may say the present economic value of that benefit instead of \$15,500 may be \$14,900 and the value for 20 years may be \$13,200. He said this is the economic value looking at life expectancy and the likelihood that you might die within the first 10 years or first 20 years. When the person dies in these cases, the person would have named a beneficiary and if the beneficiary dies the payments would be paid to the estate.

Councilman Homoki asked if there was a cost of living allowance for retirees. Mr. Anthony responded there is no automatic cost of living in the plan. The City determines year to year whether to grant a cost of living and how to grant a cost of living. That is a separate determination that is made on a year by year basis. It was pointed out a cost of living increase is determined in approval of the budget by City Council.

Councilman Dewar stated with regard to replacement rate, it seems that the replacement rate for lower wages is higher than it is for the higher wage earners.

Mr. Anthony stated that is because of the nature of Social Security. Some plans are written with what is called integrated with Social Security where you set a benefit and reduce it by a portion of the Social Security benefit. The city's plan is written without regard to Social Security. The formula is very similar to the South Carolina State formula, written without regard to Social Security. The plan pays a benefit, and then the person will also receive their Social Security. Of course, Social Security benefits as a percentage of replacement income are substantially higher for lower wage earners than they are for higher wage earners. In fact, the Social Security replacement ratio for a lower wage earner could be 50%, while for someone who is making over \$100,000 the Social Security replacement ratio may be 20%. The nature of Social Security is that higher wage earners are not going to get as high of a replacement ratio as lower wage earners. We have tried to work it out so that the studies for replacement ratio say that lower wage earners need a higher replacement ratio. Someone making \$25,000 a year almost needs 100% replacement ratio, while someone making \$100,000 may not need quite as high of a replacement ratio to maintain their standard of living.

Councilman Dewar asked if everyone in the plan had the Social Security option to age 62. He said he sort of sensed that the higher wage earners can go to 65.

Mr. Anthony stated there is a separate benefit formula for higher wage earners. About 7 or 8 years ago because of the issue that the higher wage earners have a lower replacement ratio than the lower and middle wage earners, Council approved an additional formula to the plan for the higher wage earners to get them to the same replacement ratio. It basically uses a Social Security offset approach. It gets them to the same replacement ratio. It actually reduces their benefit by the full Social Security benefit when they become eligible for their normal Social Security benefit.

Councilman Dewar asked if Mr. Anthony had seen any projected studies in the industry of how we are going to deal with future changes in Social Security.

Mr. Anthony stated no one in the pension industry has been willing to make any projections that if there are major changes in Social Security there will be major changes in plan designs. He said based on the economic factors of the country he expects to see some changes in Social Security. He said people 55 and older would probably be grandfathered. If they do that, many people in the pension industry say they have 5 or 6 years to figure out what to do. It will require some major reviews of the whole design of retirement plans.

Councilman Dewar asked if there was an assumed inflation rate for the pension plan. He pointed out many people are worried about inflation.

Mr. Anthony stated if inflation takes off, unless City Council approves cost of living increases there is no built in inflation protection.

Councilman Dewar had a question on page 56 and 58 of the Consolidated Financial Report regarding the UAAL as a percentage of the covered payroll. He said his report for 2008 shows 26%, and he wondered if that was a good number.

Mr. Anthony stated he does not focus on that as a percentage of covered payroll. He stated the purpose of that is to say if it is very high, then you are in trouble with your obligations to put in as a percent of payroll, and lower is better. He said he focuses on the assets and liabilities in the plan. He pointed out that a comment earlier about plans in

trouble, arose because people failed to make the contributions each year to the plan, or they substantially increased the benefits, or thirdly big drops in assets. He said if one is looking at the totality of assets and liabilities the rule of thumb by the Boston Research Council think tank, that does a lot of work on government plans, says that government plans funding somewhere between 80% and 90% is very good. If a plan is horribly underfunded, then you want to look at how badly your funding is as a percent of payroll. That gives you some idea of your ability to make up the difference. The City of Aiken's plan has always been well funded, so he was not worried about the percent of payroll. With the market collapse in 2008 the plan's funding went down a good bit, but it has pretty much come back to where it was at that time. So, from the assets and liabilities, the plan is in very good shape. The actuarial report will not show that for a couple of years, because the actuarial report does an averaging of several years of assets. The city is contributing at a higher rate and in three years you will probably be close to 100% funded, assuming we don't have some other drop in assets.

Councilman Dewar pointed out on the same page regarding the percent contributed should we want to see at least 100% funding.

Mr. Warner stated the City had contributed every year to the plan. He said the City has fully funded the annual contributions every year. Right now part of the annual contributions are amortizing the big investment loss in 2008, of which some has already been made up.

Councilman Dewar asked about the Other Post Employment Benefits plan.

Mr. Anthony stated this is a different issue. That is the Post Retirement Medical plan where the city is providing medical benefits to retirees. He said in the past that has always been on a pay as you go basis. It has never been funded, and only three years ago the city started to fund that. It will take a while to build that fund up.

In response to a question by Councilman Dewar regarding increases in benefits being approved by City Council, Mr. Pearce stated any increase in benefits would be a modification to the pension plan and would need Council's approval. Mr. Anthony stated he had argued that we don't need to bring every minor amendment to Council, but the City Manager has always said every amendment is brought to City Council. In response to a question by Councilman Dewar he stated the trust is about \$20 million at the present time.

Councilman Dewar wondered if there was a document that shows the employees and taxpayers where the funds for the plan are invested. Mr. Pearce responded this information is in the audit.

Councilman Dewar asked in terms of risk of bonds, etc. if there was a guideline for the level of risk that pension money should be invested. Mr. Anthony stated the Retirement Committee had given the investment manager guidelines to percent of stocks and bonds. The investment manager moves the money around in accordance with his views of market conditions. The ratio is somewhere between 40%-60% and 60%-40% range.

Councilman Dewar asked about the average last three years of earnings. He said in talking about law enforcement he gets the impression that overtime is counted in their earnings. However, in looking at the information for the pension plan, he said he gets the impression that for non-law enforcement people overtime is not included. Mr. Anthony stated that is correct. The earnings are straight pay assigned, using the set salary. In response to Councilman Dewar's question, Mr. Anthony responded that the actuary gets the payroll records. The actuary is given the payroll records every year for purposes of doing the valuation. Then when someone retires they are given the specific information for that person to calculate the benefits.

Councilman Dewar stated he had read that the city provides lifetime medical benefits for retirees at age 55 with 10 years of service. He wondered if that was reasonable, and Mr. Anthony responded it seems reasonable. Councilman Dewar asked if there was a conflict

with the Retirement Committee overseeing the investments. Mr. Anthony stated there was no conflict.

Councilman Dewar asked about reports made to the Secretary of Labor and Secretary/Treasurer. Mr. Anthony responded that the City's plan does not make any reports to the state or federal government. Mr. Pearce responded to Councilman Dewar's question pointing out the plan lists the City Manager as the Chair of the Retirement Committee, and the other appointments on the committee are brought to Council for approval. The Pension Committee is the same as the Retirement Committee.

Councilman Dewar asked if there was anticipation for any significant effects to our medical plan based on the Federal Medical Plan, called Obama Care. He wondered if that would affect the city's plan in any way. Mr. Anthony responded probably not, as the medical plan pays for medical benefits for early retirement, and then when the retiree reaches Social Security eligibility you have to go on Medicare. If Medicare is significantly changed it would require us to figure out what to do. When they go on Medicare the city's plan becomes secondary.

Councilman Homoki stated in listening to the examples cited earlier, it seemed that it would not pay to try to work until 67. It almost pays to try to get out the first time you are eligible for retirement. Mr. Anthony stated not necessarily. Because there is no cap on service, an employee would get additional credit for every year they continue to work. The rate is 1.8% for the first 30 years and then 2% for all years after 30. If a person is continuing to work and their salary is going up, the employee will get additional benefits due to higher compensation and additional service credits. If the plan capped service at 30 years, he would agree that it would pay to get out when first eligible. He said it is up to each person. If they want to continue to work and get a salary, they will get a larger benefit.

Councilman Homoki stated if a person retires at 67, would they still have the option of the survivor's benefit. Mr. Anthony stated the Social Security advance form of payment whereby the payment is accelerated at the beginning and then reduce at a later time is only for people who take early retirement. Anyone who retires at the normal retirement date would have all the options—life annuity, life annuity with 10 years certain, 20 years certain, joint survivor 50%, joint survivor 100%. The actual money that someone receives is an investment choice by them of how they want to take their form of payment.

Councilman Dewar asked a question regarding the law enforcement retirement. He stated they contribute 6.5% of their earnings. He wondered if the city contributes to their plan. Mr. Anthony stated the Public Safety employees are in the State Retirement Plan and his understanding is that the Public Safety officers contribute to the plan. Councilman Dewar stated the officers contribute 6.5% and the city contributes 11.33%.

Councilman Dewar stated in reading the information regarding retirement plans for other cities in South Carolina, the City of Aiken's plan is above the rest. He said in terms of city contribution, Aiken clearly contributes far more than the four municipalities surveyed.

Mr. Anthony stated one cannot look at just the pure cost because that is reflecting the makeup of the investment. He said the City of Aiken had been very aggressive in funding. The real way to see head and shoulders is to look at the benefits provided in terms of the cost.

Mr. Pearce pointed out the city contributes 5.5% and the employees through the reduced salary are contributing 6.5% to the program.

Councilman Dewar asked historically why did the city discount the 6.5% of city employees' salaries.

Mr. Anthony responded that when the State raised the ante to join the State system it was decided to keep a city plan. The decision was we want to have a city plan benefit formula the same as the State benefit formula, because employees thought we were going

into the State system. They wanted to keep the benefit formula. The City looked at the cost. The actuaries looked at it and said this is going to be somewhere between 9% and 11% of pay. The city said we can charge the employees 6.5% just like the State. He said his comment was that if you do that, the only person who will benefit from that is the Federal Government, because while the 6.5% is reduced from taxable income it is still subject to FICA and FUTA taxes. The 6.5% would be subject to something like 15% tax. By reducing the pay at the front end by the 6.5% you have hidden the employee contribution. A citizen looking at your budget does not see an employee contribution. We could increase wages by 6.5% and make contributions of 6.5% and send the Federal Government an extra \$50,000 in taxes. That is why it was done that way, because it would allow the city and the employees to benefit. Under this way a city employee has higher net take home pay than the comparable State employee because of the FICA and FUTA taxes plus the City has saved money too.

Mr. Pearce pointed out that the State employee is showing a deduction from the pay check. Again, the philosophy then was kind of a forced savings for retirement and was an encouragement for longevity, service and loyalty to the city.

Councilman Dewar thanked Mr. Anthony for the information. He said he wanted to make sure in his own mind that the city has a good plan that will be able to do for the employees what we tell them it will do. Not being a financial expert, it is difficult to vote and say it is fine without knowing more. He said he now knows a lot more about the pension plan than he did two years ago. He said he learns more every year. He said it is a credit to people like Mr. Anthony who structured it years ago and have done a good job in contributing to it. He said he was very satisfied at this point that what we are doing is right.

Mr. Anthony said if Council has further questions, they could email him, and he would be happy to respond.

Councilman Ebner stated in comparing the city plan with the state plan, regarding the 1.82% per year or the average of the last three years and then to 2% after 30 years, he wondered if that was in the State plan also. He assumed that is a reward for working for 30 years. He wondered the logic behind that. He said he comes from the corporate world and they are capped at 75% with Social Security at 62. He asked Mr. Anthony to restate his comments about the Social Security form of payment.

Mr. Anthony stated most corporate plans are integrated with Social Security with the employer taking credit for the Social Security benefit that the employee is getting. Many government plans are not integrated with Social Security and the net result is the lower wage earners do get a substantial higher replacement ratio. He said he did not know the basis for how the state devised its formula. He said he assumed that it was an effort to keep longer service people there and give them a little extra incentive to stay.

Mr. Anthony stated the Social Security form of payment is a mathematical calculation whereby we accelerate the payment for a fixed number of years and then pay a lower payment for the years thereafter, so it is an economic equivalent of the accrued benefit. People who are taking early retirement who want to receive their money are likely to take their Social Security benefit at age 62. The fact that we have done that does not mean they have to take it at 62. They can take it whenever they want. That is their economic choice. In addition to that benefit, there is a different benefit for people who make more than 60% of the Social Security wage base. Those are the people who were having a substantially lower replacement ratio because their Social Security benefit as a percent of pay was lower. In order to get them to the same replacement ratio as the great majority of the Aiken employees, there is a formula like the traditional corporate formula that is a Social Security offset, so if they take early retirement they get paid until they reach their actual Social Security age. At that point their benefit is reduced by the full Social Security benefit. This part is not part of the state plan, and it was adopted six or eight years ago.

Councilman Ebner asked how the public has input into changes of the plan, and if changes are done annually. He said if benefits are to be increased would that be brought to Council.

Mr. Pearce stated if there is a change to the plan document, it would be brought to Council and discussed in a public session.

Mr. Anthony pointed out there have been no changes to the plan document since the one 7 or 8 years ago. The changes made recently were IRS changes that required a restatement of the plan. There were no changes in the plan. He stated the plan is not changed very often. If there was an interest in changing the plan, it would be brought to City Council.

Mr. Pearce pointed out that any changes of the plan would be brought to Council for action. He pointed out the plan is before Council in the budget process for the annual contribution to the plan, which is a public meeting. The pension plan is also a part of the annual audit.

Councilman Ebner asked what other areas of the city plan are different from the State plan. Mr. Anthony responded the city plan does not have an automatic cost of living increase. The State has an automatic cost of living increase. The State has a slightly better early retirement provision, as far as years of service. The State has done some things to increase some retention or early retirement that the City will not do, such as the incentive for early retirement for teachers.

Councilman Ebner pointed out in interpreting what Mr. Anthony said, the city not only did well to stay out of the State plan, but we also are a little more economical minded than the State. He asked if the State could require the city to help pay for other cities' retirement plans.

Mr. Anthony stated the state legislature could pass most any law they wanted to, but as the State Retirement System is set up now the answer is no. It would require the State Legislature to basically impose a tax on municipalities. He pointed out the Public Safety Officers are in the State plan, and any shortfall there could be spread among the cities. However, in terms of the general State Retirement System Plan as it is now, there is no mechanism for the city to be included. The only ones who make contributions are those who participate in the State plan.

Councilman Dewar asked if the annual contributions made by the city are intended to cover the City Council retirement plan. Mr. Anthony responded that the actuary has not been factoring that in the past, because it such a small number. He is starting to include it now.

Mayor Cavanaugh thanked Mr. Anthony for his information and for answering Council's questions.

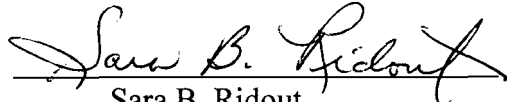
Ms. Debbie Nix stated she had a list of questions that she would like to have answered. She said she would email the list to Richard Pearce so he could answer the questions. She said she had hired someone to audit the pension plan. She stated the following was some facts that he gave to her. "On Note 10 in the city's June 2010 financial statement the net plan assets lost \$29,212. Yet, by design, the plan assumes these assets will earn an 8% return for city workers when they retire and even after they retire. With the recent loss and with the 8% projected yield being challenged, if not ridiculed across the nation, when do you think the city pension commission will adjust this unwise assumption? For the \$12 million that is invested in corporate stocks and bonds, I was told this was not illegal but highly unadvisable. The annual plan cost to the taxpayers has nearly doubled in nine years from \$570,000 for 2001 to \$2.138 million last year. Over nine years, this annual cost has grown by 7.4% annually. If our plan is supposed to be yielding an 8% growth, why is this cost to the taxpayers increasing by nearly the same amount each year. The pension fund is only 85% funded, \$3.5 million short as of fiscal year 2010 according to Note 10 in the financial statement. With this alarming growth in our cost just noted, and with last year's loss and return on assets, have you done any projections out into the

future as to what the growth and taxpayers' cost may amount to. According to the South Carolina Retirement System figures, as of fiscal year 2009 government employees contributed nearly 41% of their contributions that year. The members of the South Carolina Police Retirement System contributed an average of 38.3%. The financial statements say that you own special retirement benefits for City Council which is called "de minimis," which is of "no significance." I think it would be a great idea for the auditor to type in the amount of funded or unfunded actuarial accrued liability amount assigned to Council as opposed to assuring us that it is inconsequential. I know that you strive for transparency. I think this would be a great thing to consider. The biggest red flag was the Other Post Employment Benefits Health Care Program. It appears that next to the pension plan it looks kind of like a Sunday School picnic. Note 12 of the financial statement indicates we are already contributing \$2,240,000 in fiscal year 2009 and \$2,362,000 in fiscal year 2010 into that plan. It appears that we are off to the races. We found that the city's plan forecasts, that health care costs will be decreasing for fiscal year 2010 through fiscal year 2013, and we wonder if that is realistic. We noted that the city contributed anywhere from 20% to 80% of the employees' premiums, depending upon how they have worked for the city. But worst of all, we see this plan's underfunded liability as six times as large as the pension plan, standing at \$20,800,000 unfunded at the end of fiscal year 2010. What are your plans to make this up and how much do you plan on assessing us for this?"

Mr. Pearce stated if Ms. Nix would email the questions to him, we will get the responses to you and share the information with Council as well.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:17 P.M.


Sara B. Ridout
City Clerk