

Aiken City Council Minutes

REGULAR MEETING

June 11, 2012

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Larry Morris, Alicia Davis, Glenn Parker, Charles Barranco, Tim Coakley, Ed Evans, Al Cothran, Sara Ridout, Ron Shelley, Amy Banton of the Aiken Standard, and about 20 citizens.

CALL TO ORDER

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

GUIDELINES

Mayor Cavanaugh reviewed the guidelines for speaking at the Council meeting. He asked that those who would like to speak raise their hand and be recognized and limit their comments to five minutes.

ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Mr. Pearce stated that Mr. Hobson was present representing the item regarding rezoning at 1103 Richland Avenue E. He is not feeling well and has asked if Council would move the item up on the agenda. Councilman Ebner stated he had two items, one being a procedure issue. The other is Judy Miller would like to speak regarding Chukker Creek Subdivision. Councilman Dewar moved, and Councilman Wells seconded the motion, to approve the agenda as amended. The motion was unanimously approved.

MINUTES

The minutes of the regular meeting of May 14, 2012, were considered for approval. Councilman Ebner stated Mr. Pearce is updating two charts which were discussed at the May 14, 2012, meeting. He asked that the charts be included with the next agenda. Councilwoman Diggs moved, seconded by Councilman Ebner, that the minutes of the May 14, 2012, meeting be approved as submitted. The motion was unanimously approved.

REZONING – ORDINANCE

1103 Richland Avenue E
Benjamin Timmerman
Real Estate Development Partners, LLC
TPN 121-11-01-001

Mayor Cavanaugh stated an ordinance had been prepared for Council’s consideration to rezone property at 1103 Richland Avenue E from Light Industrial (LI) to General Business (GB).

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY CONSISTING OF 1.24 ACRES OF LAND, OWNED BY BENJAMIN TIMMERMAN, III, ET AL FROM LIGHT INDUSTRIAL (LI) TO GENERAL BUSINESS (GB).

Mr. Pearce stated E. Judson McAdams, Manager, Real Estate Development Partners, LLC, the owner of real property, at 1103 Richland Avenue E, has petitioned to have the property rezoned from Light Industrial [LI] to General Business [GB]. The partners

include Steve DuFour and Benjamin Timmerman. They want to redevelop a vacant building on the east side of town that used to be a wholesale plumbing supply business.

The Planning Commission reviewed this request at their May 15, 2012, meeting. They unanimously approved this request with the following conditions:

1. That proof of recording of a restrictive covenant at the Aiken County RMC Office forever limiting the intensity of development of the entire 1.24 acres, so that the net new vehicle trips to be generated is fewer than 3,000 trips per day, be submitted.
2. That the applicant execute an agreement with the City listing all conditions and that the agreement be recorded at the RMC Office prior to the rezoning taking effect.
3. That all conditions be met within 180 days.

A copy of Planning Commission Chair Wilkins Byrd's memorandum regarding their review of the rezoning application was provided for Council's information.

Mr. Pearce stated in the past there had been some questions as to how conditions placed on property are monitored. He said since the conditions are a restrictive covenant and on record at the RMC Office, any subsequent purchasers of the property would be under record notice that there are conditions on the property. When ordinances are approved they are in our documental archives and are on line and available to all of our departments as well as the citizens. The Planning Department keeps a written log in their office of properties with conditions. Also, we have a HTE computer system that we use for permitting. Any time an application for a building permit is submitted the note would come up for the property.

For Council's consideration is first reading of an ordinance to rezone 1103 Richland Avenue E. from Light Industrial [LI] to General Business [GB] with the conditions as recommended. If Council approves this on first reading, we will schedule this ordinance to be considered for second reading and adoption on June 25, 2012.

Councilwoman Price asked what kind of business is being considered for the property on Richland Avenue E.

Mr. Pearce stated the property which currently has a vacant building is to be redeveloped. He said he did not know what business would locate there, but it has been stated that the business would not generate more than 3,000 trips per day.

Mr. Ross Hobson, representing the request, stated the business would be a Family Dollar. It will be an 8,000 square foot retail store with less than 3,000 trips per day.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to rezone 1103 Richland Avenue E from Light Industrial (LI) to General Business (GB) with the conditions recommended by the Planning Commission. The motion was unanimously approved.

PRESENTATION

Administration/Finance Building
135 Laurens Street SW

Mayor Cavanaugh stated staff would give Council an update on the repurposing of the old bank building which the City purchased at 135 Laurens Street SW.

Mr. Pearce stated that last fall Council approved the purchase of the former First Citizens Bank building at 135 Laurens Street SW. At that time the city worked with Joe Walker, principal of Joseph M. Walker Construction Managers, for repurposing the building. He has worked with the City in renovating houses in Crosland Park. The City has sold six of the homes so far, and a closing is set for the seventh home. Mr. Walker was available and reviewed the architect's estimates for repurposing the building on Laurens Street. We have entered into an agreement with Mr. Walker to repurpose the building. Mr.

Walker is a licensed contractor. Last year, after Council approved purchasing this building, we began the clean up, asbestos abatement, and roof repairs to this structure.

All of the sub-contractors at this site have commented on the quality of construction for the original building. It's "bones" date from 1968, and we have yet to find any serious moisture or mildew issues with it.

At this time, the elevator is being replaced and upgraded, the heating and air conditioning system is being installed, plumbing has been roughed in, electrical and computer lines are being done, the new drive-through window is being framed up, the back parking lot structure has been demolished, a green infrastructure feature is being built to handle storm water runoff, an interior decorating scheme has been identified, newer and more energy-efficient windows are being placed, new railings are being built, and other installations precedent to sheetrock work are being finished up. These installations include security cameras, a door locking system, and a fire alarm update.

Mr. Walker has been innovative through the process and has found ways to reuse items in the building. For example, rather than replace the partitions in the bathrooms, they are being repainted by an auto body shop. Staff was concerned about no restroom on the main floor of the building. Mr. Walker studied the matter and has provided bathrooms that will be accessible, not only for the public who visit the building, but also for staff. They will be available for special events in the downtown. The old separate drive thru building was removed, and the security glass from the drive thru was reused in the drive thru attached to the building. Brick from the drive thru was used in widening the steps to the building.

Mr. Walker will show Council our progress to date, as well as the interior color scheme for this facility.

Mr. Walker stated he would give Council a brief report on some of the major construction choices for the Laurens Street building. One choice was for safety. In working with Mike Jordan, several safety issues were identified. The deteriorating front steps were replaced, and the side steps were repaired. Rails have been added to the handicapped ramp, and there will be new rails for the front and side steps. Hand and security rails have been added to the interior stairs. A new rear basement stairwell will be constructed to allow for emergency egress. A new elevator is being installed. The old elevator did not meet South Carolina safety codes. The building will be equipped with a fire protection system.

Another consideration was health. Asbestos building material was identified and has been abated except for some sheetrock. The remaining sheetrock will be encapsulated with a new layer of non-asbestos containing sheetrock. The existence of lead in the painted surfaces was presumed. All work on these surfaces has been done according to the lead renovation safety regulations of EPA. A new building-wide fresh air system is being installed to bring adequate fresh air to each person in the building. All the plumbing fixtures are being secured from leaks and insured for proper ventilation.

The third consideration was a new floor plan. A new floor plan has been developed to meet the needs of the staff and the public. Two new handicapped bathrooms have been roughed in on the first floor. The plan allows for easy access to the Finance counter on the main floor and to the drive-thru at the rear of the building, which also has a night drop. The plan allows for adequate office and work space for the Administration and Finance staff.

The fourth consideration was energy savings. The existing cracked, discolored and single glazed windows are being replaced with double pane windows of high energy efficient glass. The old heating boiler and 25 ton air conditioning unit is being updated to Mitsubishi split zone AC heat pumps. The system allows each office and zone to be conditioned independently of the rest of the building.

The fifth consideration was communication. The building is being connected to the City's fiber optic system. This will interconnect the building with Public Safety and the

existing City Hall. CAT 5 data wiring is being installed throughout the building for the installation of computers and phones.

The sixth consideration was security. A new security system will be installed which will be monitored from Public Safety. The new drive thru window has bullet resistant glass. The inside teller will be protected by a complete glass enclosure.

The seventh consideration was the interior of the building. Many choices have been made concerning the interior of the building. The walls are to be smooth finished plaster and sheetrock, painted or covered with a wall covering. The ceiling will be 2 x 2 revealed sided acoustical tiles. The concrete floors will have suitable coverings that meet the demands of the area they serve. He asked that Catherine Hersacher of Nandina's Home and Design review the palette of interior decor.

Ms. Hersacher expressed appreciation from Nandina's for being able to work on the project. She pointed out the board being displayed shows the intended look for the building. The look is more hospitality driven instead of commercial driven. The hope is that the feeling of the building will be more like a hotel or residence rather than just a commercial office space. She pointed out the carpet will be carpet tiles and nylon that will be serviceable and easy to maintain. The wall covering simulates more of a residential look and looks more like plaster than wall paper, but with the durability of wall paper. She stated the palette does not change from room to room. She stated the colors should last a long time and not be specifically picked from 2012.

In response to a question Mr. Walker stated the schedule is that the building should be completed by the end of the year. He said it may be around Thanksgiving. He pointed out the figures show that the project is within budget at this time.

Mr. Pearce stated the budget is about \$750,000. So far \$226,000 has been spent and we are more than one-third through the project. In response to a question regarding furnishings, Mr. Pearce stated the furniture from the present offices will be moved to the renovated building. He pointed out the Finance Department had bought a few items from the State Surplus, but basically we would be moving what we have. There was a question as to Nandina's role. Mr. Pearce stated Nandina's charged \$1,500, and they provided a good palette for the interior of the building. There was a question as to the name of the building. Mr. Pearce stated we had planned to call the building the Administration and Finance Building. The present building would still be the Municipal Building and Conference Center.

Councilwoman Price asked Mr. Walker how much of the work he was doing and how much he was contracting with small businesses.

Mr. Walker responded that the major mechanicals have to have state mechanical licenses. The plumbing, heating and air conditioning and the electrical work are being done by subcontractors who are licensed to do that work. Other items are also being contracted out, such as the glass, which is being subcontracted to Maner Building Supply. The acoustical tile is being subcontracted to a local contractor, as well as the sheetrock work. He said the project is employing many local businesses, and items are being bought from local vendors.

Mr. Bill McGhee, of 217 Fairfield Street NE, stated he and Mr. Pearce had discussed the procurement process of this project and the Crosland Park project on which Mr. Walker had done a lot of work. He felt the procurement process had been unique from what the City had done before. He said the project seems to be a sole source. The only competitive request he had seen from this project was the HVAC work.

Mr. Pearce pointed out Mr. Walker is a licensed professional, and he was selected for the Crosland Park project as a licensed professional. That was also the selection process for the general contracting work for the Laurens Street building. Mr. Pearce stated formal bids were requested for the HVAC and electrical work. Other items have been specialty work, such as elevator replacement, which was also done by competitive bids. Mr. Pearce stated the award to Mr. Walker as general contractor was awarded as professional

services. He said the city does not have to get competitive bids for professional services under the procurement code.

Mr. Gary Smith, City Attorney, stated professional services includes services from architects, lawyers, general contractors, etc. and the city is allowed to be selective for professional services.

Councilman Dewar asked then if the general contractor has a role in picking the subcontractors. Mr. Pearce responded the city awarded the formal bids. We have been working with Larry Morris and George Grinton as far as some of the specialty work, such as the elevator. He pointed out the city had estimates for work on the building from Cameron Scott, architect. His estimate for refurbishing the elevator was about \$45,000. However, the quotes for the elevator ranged up to \$161,000. A contractor will be replacing the elevator as the low bidder for about \$70,000.

City Solicitor

City Court

Paige Tiffany

Mayor Cavanaugh stated the City Solicitor, Paige Tiffany, will make a report to Council on the activities of City Court.

Mr. Pearce stated City Solicitor Paige Tiffany is present to provide a presentation on her first weeks as City Solicitor. Ms. Tiffany began work on March 26, 2012. At that time there were 165 defendants seeking jury trials for a number of different kinds of charges. The monthly report for City Court shows that she has reduced this backlog to 140 defendants. In addition, she has been very helpful in our efforts to determine what city codes and enforcement ordinances may be in need of revision[s]. He said he continues to receive reports of the good rapport she is establishing with our public safety officers, staff, court officials, defense attorneys, crime victims, and the public. He pointed out in the Public Safety Department report there is a section that pertains to court cases. He said a year ago 463 jury cases were disposed, with 66 in the month of May. He pointed out Ms. Tiffany's figures show 538 jury cases disposed year to date, with 70 disposed in May. Ms. Tiffany has been very helpful, and she has done a great job.

Ms. Tiffany thanked Council for the opportunity to serve as City Solicitor. She said she had enjoyed the past few weeks and hoped that she can earn the opportunity to stay for many more weeks to come. She said she wanted to give an overview of the type of cases that she sees in Municipal Court. Over the past year on average the officers write around 395 citations that come to Municipal Court. This does not include the cases that go to General Sessions Court. Of the 395 citations around 370 are resolved with very little, or no, interaction with the Solicitor's Office. Those include citations where people pay the fine, plead guilty, or forfeit the amount. About 25 citations per month ask for a jury trial. On average about 10 are DUI's, 4 are property crimes which have to do with breach of trust, simple larceny, etc., about 3 are assault and battery or criminal domestic violence, about 3 are simple possession of marijuana, and about 5 are other, such as trespassing, etc.

Ms. Tiffany said over the past year there have been 160 jury trials on average pending per month. At the beginning of the year the number is a little higher. Just before the former Solicitor left, the number got a little lower, but generally for the past 12 months the number is about 160. Over the past year around 30 cases per month have been resolved. Over the past year an average of 25 cases per month have requested jury trials. She pointed out that most of the pending cases have some age. The average age of pending cases is over 180 days, which is about 6 months. This is not ideal. Judge Toal from the South Carolina Supreme Court has requested that all Magistrate and Municipal Courts keep cases under 120 days--90 days ideally, which is very aggressive. Ms. Tiffany stated she felt 120 days average would be a goal worth trying to achieve. She pointed out that when she came there were 167 pending jury trials. In April we resolved 19 cases, but we got 19 new cases. In May she resolved 47 cases in one month, and received 20 new cases. This brought the number of pending cases from 167 pending jury trials to 140. She stated as a goal for the end of the year she would like to have only 100 pending jury

trials and not have any jury trials more than 4 months old. The average age would be 120 days. She pointed out that this is about the middle of June, and she has already moved about 23 more cases. Presently there are 124 pending jury trials.

In response to a question from Councilman Dewar as to what moving cases means, Ms. Tiffany stated cases are moved in many ways. She pointed out one cannot try every case. A case would take about 2 to 3 days preparation and to try and if there are 25 cases per month you could see it would be impossible. She pointed out very few cases go to trial after getting the evidence and the pros and cons, as someone will feel it is not worth going to trial. She said many cases are resolved before they go to trial. There was a question as to whether a lot of cases are dropped. Ms. Tiffany stated it was not her goal to achieve a current docket by dumping cases. She said you have to be careful before you dismiss a case.

Councilwoman Diggs asked Ms. Tiffany when she came if she was focusing more on the pending cases that were over 120 days old.

Ms. Tiffany responded that Judge Pat Sullivan had advised her that people can fall into the trap of focusing on the old cases and in the meantime the new cases become old cases. His advice was to focus on the old and the new cases and attack from both ends until you get to the center. She pointed out that focusing on the old cases usually is not the best idea, as usually they are old for a reason. She stated the average time for her trials is a day and hopefully a morning.

Councilman Dewar asked if we had been in a situation or anticipate a situation where the backlog of cases would be impeding Public Safety from continuing to add to the backlog.

Ms. Tiffany stated that was what is important about looking at the docket and the age. She stated being new it was important for her to get into the cases and understand the cases before bringing someone in to help with the cases. She felt she needed to know what cases she has. She said as a Solicitor's Office of one she felt she could handle 100 cases, if that is all she does. She said, however, when she expands into other civil areas, such as the Board of Zoning Appeals and takes on other responsibilities, she would need assistance, and the City has already made assistance available when needed.

Mayor Cavanaugh asked how many people Ms. Tiffany sees come back through the system over and over. She stated people do get arrested for public intoxication over and over again. She said she had not seen people get a DUI more than once or twice. She said she does see simple possession of marijuana and drug paraphernalia come back often. She said those people are referred to agencies for help.

Mayor Cavanaugh stated he has heard people say what's the use, people are sentenced; they serve time and then they are out and they are back in court again. He said perhaps some laws need to be changed to higher sentences for those who keep coming back to court.

Councilman Wells thanked Ms. Tiffany for what she has done for the City thus far. He wondered if there was any additional support from Public Safety that would help or anything Council could do to help.

Ms. Tiffany stated everyone had been extremely gracious and supportive thus far. She said she could not say at this point there was anything she needed, but she felt if there was something she needed she felt comfortable enough to ask.

Councilman Homoki asked if someone has asked for a jury trial and the morning of the hearing they say they want to settle out of court, do they revert to the original fine. Ms. Tiffany stated that is part of what is important about being a strong prosecutor. The deal is not the morning of. The deal is prior to picking the jury. She said we don't want to bring six people in from the community to sit in a jury box and then the person take the deal that was offered some time ago. She said the deal is not the morning of. The deal is before.

Councilman Homoki stated people say the Police Department is on a fundraising venture when they start giving out tickets. He asked what happens to the money that the court collects.

Ms. Tiffany stated court fines are a complex process, with funds going to various things.

Mr. Pearce responded that court costs go to Court Administration, which is the bulk of the fine and many times is two-thirds of the fine. He said there are no ticket quotas.

Mayor Cavanaugh asked if there is any effect on the Public Safety Officers because of cases that are old and have not been settled yet.

Ms. Tiffany stated if there is a charge out there, and we have not communicated to the officers why the case has not been settled or come to court, then it may be discouraging to the officers. She felt it was important to communicate with the officers regarding the cases. She said she tries to keep the officers informed on all the cases she has.

Councilwoman Price pointed out it is easy to say that it is by choice that people get into trouble and for bad choices there are consequences. She said, however, it is not that easy. She said she hears almost daily from citizens and offenders that they have a record, and they can't find a job as no one will hire them as they have a record. She said some can't pay their fines and fees because they can't find a job. She said it becomes a vicious cycle for these people. She said we don't know about the families that some of these people come from and the poverty that exists. She said it is not so cut and dried that if they are breaking the law, let's lock them up. She said as a community and good stewards with good character there is more that we need to do in helping these families. The children can't be held totally responsible.

Ms. Tiffany stated she agrees. She said she is one that if they want to do some community service to work off the fine, she will let them do that. It is not all about money. She pointed out that Mr. Pearce had suggested that she try to start the Juvenile Court again, where juveniles have an alternative rather than going through Family Court and the judicial system. It is something that is a non-judicial process, but they still go through a quasi-judicial process and they don't end up with a criminal record.

Mr. Pearce stated, regarding Councilwoman Price's concerns, expungement is available to help clear the records. There are people who are willing to help with that process.

BOARDS AND COMMISSIONS

Appointments

Todd Lista

Accommodations Tax Committee

Hank Moormann

Building Code Board of Appeals

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

Mr. Pearce stated Council has 6 pending appointments for vacancies on our City boards, commissions, and committees. Two appointments are presented for Council's consideration.

Councilmember Diggs has recommended the reappointment of Todd Lista to the Accommodations Tax Committee. If reappointed his term would expire March 25, 2014.

Mayor Cavanaugh has recommended the reappointment of Hank Moormann to the Building Code Board of Appeals. If reappointed his term would expire May 12, 2014.

For City Council consideration is approval of two appointments to the board and committee as recommended.

Councilman Dewar moved, seconded by Councilman Wells, that Council approve the reappointment of Todd Lista to the Accommodations Tax Committee with the term to expire March 25, 2014, and the reappointment of Hank Moormann to the Building Code Board of Appeals with the term to expire May 12, 2014. The motion was unanimously approved.

Councilwoman Diggs stated she would like for Council to consider at the next meeting the appointment of Dr. Jack Benjamin from USC-Aiken a Professor of Visual and Performing Arts to the Arts Commission to replace Keisha Lloyd-Kennedy who has resigned.

Councilwoman Price stated she would like to recommend the reappointment of Andrew Bouknight to the Building Code Board of Appeals for consideration at the next meeting.

TAX MILLAGE RATE – ORDINANCE 06112012

Millage Rate
Budget 2012-13
62 Mills

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to set the millage rate for fiscal year 2012-13.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAXES FOR ORDINARY CITY PURPOSES AND FOR CAPITAL DEVELOPMENT PURPOSES IN THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, SET THE MILLAGE AT SIXTY-TWO (62) MILLS AND TO PROVIDE FOR THE EXPENDITURES THEREOF.

Mr. Pearce stated every year, Aiken City Council adopts a budget for the following fiscal year. By a separate ordinance, Council sets a millage rate to ensure proper revenue to meet anticipated budget expenditures.

With Aiken County's review of property reassessments, concluding their appeal hearings on reassessed real property valuation, and the completion of population growth estimates, we are prepared to proceed with setting our FY 2012-13 millage rate.

Based upon the information we have at this time, we are prepared to proceed with continuing our millage rate at 62 mills. Under state law, we could set this rate as high as 62.2 mills. However, it has been many years since City Council has set a fractional millage rate. With the value of a mill at \$154,629, the total difference to our revenues is only the slight decrease of \$30,925.00 by not levying the 0.2 additional mill.

Review of projected revenues and expenditures shows the proper millage rate to balance our FY 2012-13 budget to be 62 mills.

Adopting this rate means continued reduction in our millage rate for over 24 consecutive years. Council last reduced the millage rate as part of our budget process in 2008 (from 71 to 66 mills).

City Council unanimously approved this ordinance on first reading at the May 14, 2012 meeting. For Council consideration is second reading and public hearing of an ordinance to set the FY 2012-13 millage rate at 62 mills.

The public hearing was held.

Councilman Ebner stated he would like to again show the chart which he showed to Council at the May 14, 2012, meeting regarding revenues for the city. Councilman Ebner stated he and Mr. Pearce, as well as Mr. LeDuc, had had discussions for the last three years regarding revenues for the General Fund. He pointed out that Mr. Pearce had reviewed the chart and updated the figures to be sure the figures were actual versus estimated. He pointed out he had used inflation of 2% in preparing the chart. He said the

State Retirement Fund is using 2.3% for inflation. The Federal government uses a rolling average of 3.3% for inflation. He said his estimate was conservative at 2%. He said one line shows where we are in revenues. He pointed out the gap is a healthy gap. He said the City Manager had looked at the chart and convinced him that we are okay this year. He was concerned that we will have to have a trend up before long or we will run out of money to spend. He said things still have to be done to keep the city running. He said he was making a point to be sure we don't step off in the deep end and have a crises in a few years. He was concerned that if the trend for revenue continues downward, that in a couple of years we may have a problem.

Mayor Cavanaugh asked what we plan to do to correct the matter.

Mr. Pearce responded that we have contained our expenditures. We have also looked for grant money and other revenue sources. He pointed out some revenues are reduced in the proposed budget, such as the Local Government Fund from the State and the Dual Taxation money provided by Aiken County. He said we continue to monitor the revenues. He said we expect to have more Business License income and taxes from vehicles. He pointed out, however, we are not gaining ground in revenue, but just holding our own and containing expenses. Staff will continue to monitor the revenues.

Councilman Dewar pointed out sometimes it is difficult tracking revenue as some businesses don't pay the city until the last minute. This poses a challenge. He felt we would have a challenge to find the money to maintain the Senior/Youth Center to be constructed. He pointed out Councilman Ebner is saying that within a couple of years the City will lose purchase power of \$2.5 million.

Councilman Ebner stated he mentioned the trend for revenue and wanted to discuss the matter in setting the millage rate. He felt this would be a problem in a few years. Either there has to be more revenue or we have to start cutting somewhere.

Councilman Dewar asked how the millage rate could be increased. He pointed out no one wants to increase the millage rate, but at some point it might be necessary. He said Council is making a conscious decision not to raise property taxes.

Mr. Pearce stated the city's millage rate is capped based on the total reassessed value and the population growth. The highest millage rate the city could set would be 62.2 mills. He said the city had always used a whole number for the millage rate. He said in changing the millage rate there is a formula for an annual adjustment based on the population and CPI. If the millage rate is to be changed there is a process to be followed. In response to a question regarding reserve funds, Mr. Pearce stated the auditors stated we need to have between three and six months in reserve. He said the city has a little over five months in reserve with the proposed budget.

Councilman Ebner stated we don't want to have to do what some cities have done and get a Tax Anticipation Note (TAN) because they don't have enough reserve.

Mr. Pearce stated we could do more in the budget if we had more revenue. He pointed out departments want more money for projects and for salaries, but we don't have more revenue because of the commitments and the mandates mentioned in the budget. In response to a question as to whether Public Safety Officers had not had a salary increase in five years, Mr. Pearce stated that was not true. Public Safety Officers, along with all city employees, have received a salary increase every year. The increase may not have kept up with inflation, but there has been a small increase each year. He pointed out many other cities had had reductions in employees, frozen positions and no new hires. He said the City of Aiken had kept staff, replaced staff and had frozen very few positions, but had been very conservative with how we spend our money.

Councilman Dewar stated it was correct to say employees have not had a cost of living increase, but had had an increase in salaries.

Councilwoman Price pointed out that in 2008 the millage rate was reduced from 71 to 66 mills. She said in looking back in addressing Councilman Ebner's concerns she wondered whether Council should have made that reduction in millage rate at that time.

Mayor Cavanaugh stated the matter is that Council has not wanted to raise taxes and has not raised taxes in 24 years. He said there may come a time in the future that taxes may have to be raised.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the ordinance setting the millage rate at 62 mills for FY 2012-13. The motion was unanimously approved.

BUDGET – ORDINANCE 06112012A

FY 2012-2013

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve a budget for fiscal year 2012-13.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE ADOPTING A BUDGET PROPOSED BY THE CITY MANAGER, CONTAINING ESTIMATES OF PROPOSED REVENUES AND EXPENDITURES BY THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2012, AND ENDING JUNE 30, 2013, AND DECLARING THAT IT SHALL CONSTITUTE THE BUDGET OF THE CITY OF AIKEN.

Mr. Pearce stated Council has received the proposed FY 2012-13 budget for consideration at second reading and public hearing. This latest version includes items of interest and input received at our April 30, 2012, work session and first reading on May 14, 2012.

Mr. Pearce stated Councilman Dewar had a number of questions regarding the budget, and he had provided responses to the questions and had also provided the responses to all of Council.

Mr. Pearce stated City Council approved this ordinance on first reading at the May 14, 2012, meeting. For Council consideration is second reading and public hearing of an ordinance to adopt the FY 2012-13 budget.

Councilman Dewar asked a question regarding Section 4 of the proposed ordinance regarding transfer of funds and other authority of the City Manager in managing the budget. He pointed out that Council needs to approve a change in the budget of \$25,000 or more. He asked for clarification of Section 4 of the ordinance.

Mr. Pearce stated Council has to approve expenditure of funds for unbudgeted items. He said if money is allocated in the budget for a project or maintenance, etc. the City Manager has authority to spend it. Any expenditure that is not budgeted that is over \$25,000 requires the City Manager to ask for Council approval to expend the funds.

Councilman Dewar stated he had asked to be able to look at the budgets by department from year to year. Mr. Pearce responded the best source for that information would be the Comprehensive Annual Financial Report. Councilman Dewar stated he was looking for the budget for a department for the last three to four years. He pointed out that in the budget expenditures are spread out. He said he was looking for a total for expenditures spent for Public Safety or other departments. Mr. Pearce pointed out the budget is broken out by Departments and Divisions and there is a summary total by departments in the front of the budget.

Councilman Dewar stated a lot of money had been spent on the Woodward House. He asked if that was really needed. Mr. Pearce pointed out no money was being spent in this budget on the Woodward House for capital improvements. He said there was a request for paving the parking lot at the Woodward House, but that was not approved.

Councilman Dewar pointed out \$50,000 was spend in 2009 and \$120,000 in 2010. Mr. Pearce stated there was an exterior/interior upfit and renovation of the garage at the Woodward house property.

Councilman Dewar asked about the increase in overtime in the Utilities Division. He said he had expected once the new teams were hired to fix the water leaks that the overtime would come down. Mr. Pearce responded that was the mission given to Mr. Morris. Councilman Dewar asked when we might expect the new workers to physically be fixing leaks. Mr. Pearce stated there is a process of advertising, hiring and field training on the job. Also, the equipment needs to be purchased. He said at this time we have advertised the positions. Money for the positions is not in the current budget, but is in the budget for 2012-13, as well as purchase of the equipment. He said we wanted to be sure the budget was approved before hiring employees and ordering the equipment.

Councilman Dewar stated he has noticed that the city is underwriting the Aiken Theater from Accommodations Tax and Sunday Alcohol Sales. He said he understands the City gets \$1 per ticket sold by the Theater. He wondered how long the amount had been \$1 and whether it is appropriate to ask for \$2 per ticket sold. Mr. Pearce stated this matter had been discussed with the Theater, but they are not very receptive, and discussions are continuing on the matter. He said the law allows the use of Accommodations Tax and Sunday Alcohol Sales monies to be used for the Theater.

Councilman Dewar stated he had asked about the rent for the units in Crosland Park, and the amount was \$10,000. He stated he started with a simplistic view of what we were going to try to do in Crosland Park. He had understood we were going to buy a couple of houses, fix them up and sell them. He said we are now at the point where the Aiken Corporation is involved in Crosland Park. He also sees that CDIC is involved because we are waiting for money from them. Mr. Pearce stated CDIC is collecting rent for the City. He said for Crosland Park there is a Memorandum of Understanding, and we are working with non-profits, faith community members, and volunteer groups to work on Crosland Park. Councilman Dewar stated he had originally thought it was a simple project where the City identified the number of homes we wanted to purchase, get options on them, fix them and sell them. He said now churches and other organizations are involved, as well as attorneys and sales people. He said he was not sure how many homes the City has in Crosland Park. Mr. Pearce responded that the City had purchased 35 homes in Crosland Park and has sold 6 homes with a seventh to close on June 25. Councilman Dewar stated he would like to get a summary of what is happening in Crosland Park. He reviewed the budgeted expenditures for Crosland Park. He stated this was more than he realized the City was getting into, and he did not understand where we are on the Crosland Park project.

Councilwoman Price stated this is not much different than when we started in terms of having a holistic approach in terms of solving the problems of people living in substandard housing. We have always had the faith based institutions involved, such as Habitat for Humanity, Aiken Housing Authority, and state assistance.

Councilman Dewar stated when we started this project he thought it was a particular project that the City was doing. He said he had questions regarding the Housing Authority because it seemed to him that the City was doing some of their job. He said we got to the point of trying to help people with bad credit and work with them to get them so they could buy a house. He said the project has been more than he ever expected it would be.

Mayor Cavanaugh stated when the project was started it was a partnership between fifteen individual groups, which was some time ago, not something that has just happened. He said groups had dropped out and others had joined, but he did not feel that was bad. He felt the more we have involved in helping is great. He pointed out that the down turn in the economy had slowed things down, and we had stopped until things pick up. He stated the project has been ongoing, and we all would like to see more houses sold.

Councilman Dewar stated his understanding is that there is a waiting list of about 800 to get into Housing Authority houses. He said one of their goals is to decrease dependence upon the provision of housing assistance. He said with the bad economy he could not imagine that they could do anything towards decreasing dependence at this time. He wished they could build more houses.

Councilman Ebner moved, seconded by Councilman Homoki, that Council approve on second and final reading the ordinance adopting a budget for Fiscal Year 2012-13. The motion was unanimously approved.

ANNEXATION – ORDINANCE

2805 Catawba Street
Timothy Boyce
TPN 104-19-33-011

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex property at 2805 Catawba Street and zone it Single Family Residential RS-15.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY OWNED BY TIMOTHY BOYCE AND LOCATED AT 2805 CATAWBA STREET AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-15).

Mr. Pearce stated Timothy Boyce, the owner of property, at 2805 Catawba Street, has applied to annex his property into the City Limits. It is contiguous to properties already within our city boundaries on its East and South property lines.

The Planning Commission has reviewed this voluntary annexation petition and voted unanimously to recommend that this address become part of the City of Aiken limits, and zoned [RS-15]. Planning Commission Chair Wilkins Byrd has prepared a memorandum about their review of this annexation request.

For Council consideration is first reading of an ordinance to annex 2805 Catawba into the Aiken City limits and zone it Residential Single-Family, [RS-15].

Councilwoman Price moved, seconded by Councilman Wells, that Council approve the ordinance on first reading to annex property at 2805 Catawba Street and zone it Residential Single-Family RS-15. The motion was unanimously approved.

AGENDA

Councilman Ebner asked for clarification on how to get items on the agenda. He wondered what a Councilmember or a citizen has to do to get an item on the agenda. He asked if it could be requested through the City Manager or if a certain number of Councilmembers have to request an item to be on the agenda.

Mr. Gary Smith, City Attorney, stated one way is to bring the matter up at the beginning of the meeting. The concern with that is there is no public notice of what is to be talked about on the agenda. Secondly, the person can contact the City Manager to let him know that you want to place something on the agenda. State law allows any Councilmember to propose any ordinance that any City Councilmember wishes to propose at any time. The Councilmember could direct the City Attorney to prepare an ordinance or ask the City Manager to ask the City Attorney to prepare an ordinance.

Mayor Cavanaugh stated he would suggest that a person go through the City Manager to get an item on the agenda and do it early enough so that information can be provided in the agenda packet.

Councilman Dewar stated then if a Councilmember asks for an item to be on the agenda, it will be on the agenda, assuming reasonable time is given.

Mayor Cavanaugh stated he knew of no reason the item would not be placed on the agenda. However, it would be nice to have information about the item beforehand so there is time to review the item.

Councilwoman Price pointed out there had been times when she had mentioned an item to Mr. Pearce to go on the agenda, and Mr. Pearce had suggested waiting a few weeks and she would have the answer. She said she had done that. She said it was not a rejection, but he was saying that information would be available in a few weeks.

THE RIDGE AT CHUKKER CREEK

Judy Miller

Buffer

East Pleasant Colony Drive

Woodside Plantation

Councilman Ebner stated that Judy Miller was present and wanted to make some comments and get an update on The Ridge at Chukker Creek buffer zone. He said Ms. Miller has represented the neighborhood of about 20 houses since 2005.

Ms. Judy Miller, of 103 East Pleasant Colony Drive in Woodside Plantation, said she had appeared before Council in September, 2011. At that time the developer of the Ridge at Chukker Creek, Ron Monahan was present, as well as a number of residents of East Pleasant Drive. She said she had appeared before Council when the concept plan was presented for acceptance as well as when the plan was before the Planning Commission. She said her question at this time revolves around the item that happened last September when Mr. Monahan said he would rectify everything and assured City Council and the people in attendance he would put things the way they should be under the concept plan. She said somehow the concept plan was changed. She pointed out that in September she stated they have been monitoring what has been going on at the Ridge at Chukker Creek, and a lot of things were not done per the concept plan. She said she understands that Mr. Monahan was required to put up a bond to deal with rectification of issues that he did not take care of. She said she understands he was given a two year extension for the bond. Her concern is the delay of something that should have been taken care of in 2006. She said they are looking for at least the 25 foot undisturbed buffer that was in the concept plan. Initially, there was a 25 foot equestrian trail which she understands has gone by the way. She said nothing has been planted and nothing has been done. The residents on the street wonder about the status of the project with all the construction that has been going on, the clear cutting that has been done, and the tree removal. They wonder about the status of the 25 foot undisturbed vegetative buffer and whether the developer be required to rectify the situation. She said the residents of East Pleasant Colony Drive would appreciate any information on the project.

Mr. Pearce stated we appreciate the concern of the residents and are continuing to monitor the situation. He said, however, he would have to take exception to the statement that nothing has been done. He said a great deal had been done. The builder planted extensive grass and plant material and did so under the watchful eye of the Planning Department and City Horticulturist. They did some measures to rectify a situation with the detention pond. Regarding the situation we had last September, we understood that the developer did want to modify the concept plan. However, at the meeting the developer said he did not want to modify the concept plan, but wanted to follow the concept plan. He said the developer is continuing to develop the subdivision. Our Zoning Official, our City Horticulturist, City Engineer, and Planning Director have been on site. We also had a meeting with Councilman Ebner and the developer on site. The developer continues to pledge to follow the concept plan. He said the City Attorney would have to address that intent. He said staff had noticed significant improvements in the project. They may not be to the liking of the residents, but they are according to the Planning Director's determination within the requirements of the concept plan. He said Ms. Miller is correct there is no equestrian trail because of the drainage area on the back side of the properties. He said our understanding from the developer is that he is going to install the equestrian trail over that, once the houses are sold. When we were there three

lots remained to be sold. The City is on notice from the developer that the intent is to follow the concept plan. He said the City Attorney had been involved in this matter.

Ms. Miller asked if there was a list of the things that the developer has done since last September. She said she would like to give that information to the residents of East Pleasant Colony Drive. Mr. Pearce responded that staff would be happy to send the information to Ms. Miller regarding the confirmation of the measures that the developer has taken.

Mr. Gary Smith stated, as part of the consideration for being able to develop a subdivision in the City of Aiken, any developer has to execute a performance bond in favor of the City so the city has some assurance that what he says will be done will actually be done. He said during the 16 years that he has been attorney for the City of Aiken we have only had to call a performance bond one time which was for the Summit Business Park. In that case the developer was not able to complete the project as designed. The City was able to call the Letter of Credit and the City was able to do the work. The City prefers not to be in the development business. He pointed out Ms. Miller had said the City gave the developer of The Ridge at Chukker Creek an extension to comply with the concept plan. He said the way he looks at it is that the developer agreed to renew the performance bond for an additional two year period to give him time to complete the concept plan, which was approved by City Council. If the extension had not been given, the City's alternative would have been to call the bond and then get into the business of completing the development of the subdivision. The City did not want to do that at that time. He said he looks at it as the developer agreeing to provide the City with an additional two years of financial assurance that what he agreed to do when Council approved the concept plan would actually occur. He said that was the two year extension for the performance bond.

Councilman Dewar asked Mr. Smith to explain the specifics of the performance bond. He wondered if the City called the performance bond if the money would be sufficient to complete the buffer and other items required in the concept plan.

Mr. Smith stated the performance bond requires that when the subdivision is complete that it look like the concept plan that Council approved. He said Mr. Morris had done an analysis of the numbers and that they were sufficient to make the property look like the concept plan. He felt there should be enough money to complete the plan.

Ms. Miller pointed out there is no 25 foot buffer there now. The buffer has been disturbed. Nothing has been planted. She stated in 2006 and again in September, 2011, Mr. Monahan was assuring them that the plantings would be done as should have been. She said, however, they have not seen any evidence of that. She said they are able to see through to the subdivision and lot of equipment is kept in the yards of the homes. There are no plantings in the buffer in her area.

Mr. Pearce stated since the September meeting the developer has planted some plant material. He said the Horticulturist and Planning Director looked at the plantings and approved them.

Councilman Ebner stated there are two issues, and they were discussed at length in September. One issue is the 25 foot undisturbed buffer. He said he had reread the minutes from that meeting several times. He said the issue for one set of neighbors is the 25 foot undisturbed buffer. He pointed out Mr. Monahan had said at the meeting in September the neighbors on the Chukker Creek side are not unhappy with not having an equestrian trail. They are not unhappy with the ditch, and he has promised to do something for them to fix that. Councilman Ebner stated he felt the matter that is disturbing to all is that the undisturbed buffer could be fixed at any time with any of our local landscape businesses. He felt the issue on which we need to concentrate is the 25 foot undisturbed natural buffer. The rest of the issues he can fix in due time, which is what he has agreed to do with the bond. He said that is what was discussed in September. He felt we need to push the issue to get the 25 foot buffer done which does not impede his progress for development of the project. He pointed out the sewer lines and water

lines are all tied in across the road. He felt Council should look at requiring the 25 foot buffer to be completed.

Mr. Pearce stated our understanding is that they did do the planting in the buffer. He said staff will look at the buffer again. He pointed out that the developer stated at the meeting in September that he did not want to change the concept plan. He stated also that the developer had done additional work since the September meeting so there is progress toward meeting the goals of the concept plan.

Mayor Cavanaugh asked if there was a timetable when the project would be completed.

Mr. Smith stated the developer has to have the concept plan completed by the expiration of the performance bond.

Councilman Ebner stated there is nothing to keep the 25 foot natural buffer from being restored at this time. He said the developer is a couple of years away from finishing the houses and the horse trail, but the natural area could be completed now.

Mr. Pearce stated Mr. Monahan was at the meeting last September. Staff has met with him at the Ridge at Chukker Creek. He said staff and Councilmembers could take another look at the matter. He said Mr. Monahan has stated he wants to comply with the concept plan, and he has taken actions that look like he is making efforts to comply with the plan.

Mayor Cavanaugh asked that staff try to find out when Mr. Monahan plans to get the buffer area near Ms. Miller's residence completed and emphasize that Council would like for him to complete the buffer area as soon as possible. Mr. Pearce stated staff will follow up to see when he plans to do the work.

Ms. Miller stated residents on East Pleasant Colony Drive started monitoring the project in 2004. She said it had been ongoing when there was no fence and it was all acres of trees. She said he was putting up a sign that said no trespassing. She said she starting talking to Mr. Monahan in 2004. She said he commented to her at that time that the only thing he could not put on the property was a brothel and a Wal-Mart. She said they had been on this since 2004 because of their opinion of the negative effect it would have on their property values. She said she had been monitoring that because she lives there. She pointed out the wrong size pipes were put in. The concept plan called for 36" pipe but the pipe installed was 18". The detention pond was installed. The residents feel that all these things negatively impact the property values on their side of the street. She said this started in 2004, and it is now 2012. She said she appreciates the city wanting to encourage development, but pointed out there are residents who have already put money into the city and they wanted to protect their investment. She felt they have been let down. She said they would appreciate staff going out again and looking at what has been done.

Councilman Homoki pointed out there is a deadline which is two years from last fall when the performance bond was renewed. He wondered if it was possible to incorporate some kind of timeline into the concept plans. He felt the contractor should be able to say when certain items can be completed and set a timeline for completion of various items so we don't have this problem in the future for other developments.

Councilman Dewar stated he gets the sense that although the concept plan requires equestrian trails that everyone is happy with no equestrian trails. If that is the case, he wondered why Council could not approve a change to the concept plan to match what everyone agrees to be done.

Mr. Pearce stated that is what he thought last September, but the developer said he was going to put the equestrian trail in. He did not want the change.

Councilman Dewar asked if the amount of the performance bond in this case is enough to build the equestrian trail and to ensure that we have a 25 foot buffer that the adjoining

residents want and have been asking about for eight years. He said he would like to know the amount of the performance bond.

Mr. Pearce stated staff will check on the amount of the performance bond.

Mayor Cavanaugh stated he felt the discussions were good, but if Council had been made aware of the concerns earlier, possibly staff would have been able to provide some information.

Ms. Miller stated she had spoken before Council and the Planning Commission in the past, so Council has had prior information. She said they would appreciate anything that can be done to help in the situation.

EXECUTIVE SESSION

Contractual Matter

Mayor Cavanaugh stated Council needed to go into executive session to discuss a potential contractual matter.

Councilman Ebner moved, seconded by Councilman Homoki, that Council go into executive session to discuss a contractual matter. The motion was unanimously approved. Council went into executive session at 8:48 p.m.

After discussion Councilman Dewar moved, seconded by Councilwoman Diggs, that Council come out of executive session. The motion was unanimously approved. Council came out of executive session at 9:38 p.m.

Mayor Cavanaugh stated Council had discussed a contractual matter and no action was taken.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:38 p.m.


Sara B. Ridout
City Clerk