

Aiken City Council MinutesREGULAR MEETINGApril 28, 2003

Present: Mayor Cavanaugh, Councilmembers Clyburn, Cunning, Price, Smith, Sprawls and Vaughters.

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Ed Evans, Glenn Parker, Larry Morris, Anita Lilly, Richard Pearce, Pete Frommer, Sara Ridout, Philip Lord of the Aiken Standard, and about 24 citizens.

Mayor Cavanaugh called the meeting to order at 7:35 P.M. Councilwoman Price led in prayer, which was followed by the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that the agenda be approved as presented.

MINUTES

The minutes of the work sessions of March 25 and March 31, 2003 and the work session and regular meeting of April 14, 2003, were considered for approval. Councilman Cunning moved that the minutes of the meetings be approved as written. The motion was seconded by Councilwoman Price and unanimously approved.

PRESENTATION

Award
Citizen of Character
Pattison, Bonnie
Character Award

Mayor Cavanaugh stated last month City Council recognized two individuals as Citizens of Character. This was one of the goals that Council selected at Horizons for our city. We would like to recognize Bonnie Pattison, who is a community leader for character. She started the Character Education Initiative at East Aiken Elementary School in the fall of 1998, which coincides with the same year that the City instituted the Aiken Community of Character. In Mary Robinson's nomination she states while Bonnie exhibits all good character traits for students at East Aiken Elementary School, she believes that her diligence stands out beyond all others.

Mayor Cavanaugh read a plaque which had been prepared recognizing Ms. Pattison as a Citizen of Character.

South Carolina Housing Achievement Award
CDIC
Community Development Improvement Corporation
Aiken Housing Authority
South Carolina State Housing Finance and Development Authority

Mr. LeDuc stated earlier this year the City of Aiken and the Community Development Improvement Corporation (CDIC) of the Aiken Housing Authority were recognized for their Creative Partnership by the South Carolina State Housing Finance and Development Authority. The write-up for the state's highest award recognizes the City and CDIC in forming a formidable partnership to conquer the lack of affordable homeownership opportunities for low wealth families in targeted northside sections of the city.

An example of this partnership is the development known as Chesterfield North. CDIC purchased the land using the State Housing Trust Fund Land Acquisition Program. The

City in turn provided the infrastructure for the subdivision. The development is in a new cul-de-sac known as Jamestown Court. The City and CDIC then partnered to obtain a home grant to assist with the construction of the houses. When construction was completed, CDIC provided a housing counseling program to potential home buyers. To make the purchase possible for families of this income level, CDIC partnered with State Housing for a CHOP award, which allowed the mortgage to have a below market interest rate. The partnership has resulted in a fine new neighborhood for Aiken providing this area of the city with responsible, empowered homeowners who will serve as role models for others to follow.

We would like to present this award to City Council and the community as an example of one of the things that we have been able to accomplish to date on the northside. Mr. Reginald Barner, of the Housing Authority, is present to present the award to the City of Aiken.

Mayor Cavanaugh recognized Mr. Barner who thanked the City for partnering with the Housing Authority to make affordable housing available for its citizens.

BUILDING CODE – ORDINANCE 04282003

International Building Code

National Electrical Code

Electrical Code

Residential Code for One and Two Family Buildings

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Building Code.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 10-2, AIKEN CITY CODE TO ALSO ADOPT THE 2000 EDITION OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE- AND TWO-FAMILY DWELLINGS AND THE 2002 NATIONAL ELECTRIC CODE.

Mr. LeDuc stated in January, 2001, City Council approved the new International Building Code, along with other codes which apply to the construction of new residential, commercial and industrial buildings. This same code was also approved by Aiken County and the City of North Augusta. The National Electrical Code was recently amended, and the International Residential Code for One and Two Family Buildings was approved by the South Carolina Building Codes Council. Both of these codes need to be adopted by all local governments.

Our Building Official and City Staff Attorney have reviewed these new codes and find them to be reasonable and necessary to comply with the state law. We are therefore asking City Council to approve the amendment of Section 10-2 of the Aiken City Code and the adoption of the new Residential and Electrical Code.

The public hearing was held and no one spoke.

Councilman Cunning moved, seconded by Councilman Smith and unanimously approved, that Council pass on second and final reading an ordinance to amend Section 10-2 of the Aiken City Code and adopt the new Residential and Electrical Codes as published by the International Code Council, Inc. and that the ordinance become effective immediately.

Because publication requirements in the City Code were not complied with this ordinance will be receiving another second reading at the May 12, 2003, City Council meeting.

ELECTION – ORDINANCE 04282003A

4-2-1 Plan
City Council
Redistricting
Districts

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve a revised 4-2-1 Plan.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 14-1 OF THE AIKEN CITY CODE FOR THE PURPOSE OF ADJUSTING THE BOUNDARIES OF THE FOUR SINGLE MEMBER CITY COUNCIL ELECTION DISTRICTS TO THE 2000 CENSUS.

Mr. LeDuc stated every ten years, after the Census, typically the boundary of the city changes and the population changes. He said based on the 2000 Census the city needs to make a change in the current voting districts.

Mr. LeDuc stated that at the April 1, 2003, referendum election the City of Aiken voters failed to approve a 5-1-1 Redistricting Plan. Thus, a new plan needs to be approved by City Council, at which time it would then be sent to the U.S. Department of Justice (USDOJ) for their review and pre-clearance under the Voting Rights Act. Should Council adopt the redistricted 4-2-1 Plan, the plan would be sent to the U.S. Department of Justice in early May. The USDOJ would have 60 days to review this plan and to either pre-clear it, let the time expire, or request additional information. If they pre-clear it or let the time expire City Council elections can take place under its normal schedule for an election on November 4, 2003. If the USDOJ requests additional information and/or rejects the redistricted 4-2-1 Plan, it may be necessary to ask the Court to delay the November 4, 2003, election until the matter is resolved. Or, Council could consider holding the November 4, 2003, election under the existing 4-2-1 Plan and implementing any new plan at a special election after the new plan is adopted by Council and pre-cleared by the USDOJ.

Each of those options would need to be thoroughly reviewed and discussed, taking into account all circumstances and complications with this matter. However, the next step is to submit the redistricted 4-2-1 Plan Ordinance to the U.S. Department of Justice for their review under the Voting Rights Act.

Mayor Cavanaugh asked Jim Holly if anything had changed as far as numbers or percentages since the last time the 4-2-1 Revised Plan was discussed several months ago. He also asked, if the approval was not cleared by election time, could the City go ahead with its election in November.

Mr. Holly stated the proposed map and statistics were the same as when the ordinance previously received first reading in November, 2002. He said there were some changes made at the request of individuals before Council had first reading last time, but no changes since then. Mr. Holly said if the plan is not pre-cleared in time for the 2003 election, it is possible after discussions that Council could hold the election under the existing plan, or Council could go before the Circuit Court and ask for a delay in the election for several months. Mr. Holly pointed out he would be writing a letter and compiling information to submit to the Justice Department if the proposed ordinance is passed by Council.

Councilmembers stated they would like to see a copy of the letter being submitted to the Justice Department.

The public hearing was held.

Mr. David Walker, President of the NAACP, who lives at 978 Old Jordan Road located in Aiken County, spoke. He said he did own property in the city and pays city taxes. Mr. Walker stated he was disappointed regarding the outcome of the April 1, 2003, election

results. He said on behalf of the Aiken Branch of NAACP, the Ministerial Alliance, the concerned ministers and the 450 people who voted in favor of the 5-1-1 Plan, he wanted to thank those on Council for standing for justice, fairness and diversity. He said they presented their case based on fairness and diversity, for diversity is the color of America and ought to be the social goal of the most assorted society on earth. No system be they political, educational or private industry, should be exempt from the diverse status. He said the strength of the city, as well as the County, lies in how well we can diversify. He said he did not believe that any reasonable people will see anything wrong with maintaining diversity on City Council. He said, however, that part of the process is over, but it is not too late for City Council to do the right thing. He said there is still time for Council to act and not allow the Department of Justice to dictate how districts will be drawn in Aiken. He said we have to ask how progressive is Aiken. He pointed out ten years ago the percentage for Districts 1 and 2 was between 56% and 58%. He said even though the majority won on the April 1, 2003, election, there are times when the majority can be wrong. He said this is not about protecting the seats held by Councilmembers Clyburn or Price, but about protecting the two minority seats that 30% of the population of Aiken holds on City Council. He said he was concerned that if his son moves into District 1 or 2 he may not have the opportunity to choose a representative of his choice regardless of party, gender or ethnic background. He said he was asking that City Council consider a plan that was considered ten years ago, a 6-1 Plan. He said however disappointed they are concerning the results of April 1, 2003, they remain firm in their resolve to maintain diversity on the Aiken City Council.

No one else spoke.

Councilman Cuning moved, seconded by Councilwoman Vaughters, that Council pass on second and final reading an ordinance to approve the revised 4-2-1 Plan for election of Councilmembers.

Councilwoman Clyburn stated she had always tried to do what she felt was the right thing for the citizens of the City of Aiken. She said there was an election on April 1, 2003. However, the vote was less than 10% of the population of the City of Aiken. She said she looked at the breakdown of the vote as reported by the Election Commission. She pointed out other Councilmembers have rallied behind their constituents on many issues even when it came to losing causes. They tend to support the people that support them and the people from their district. She said on occasion Council has gone with the will of the voters in a particular district as a district representative. She said she had looked at the votes and the people from District 1 were in support of the 5-1-1 Plan. She said for that reason she will not be voting for the 4-2-1 Plan. She said she hoped the Justice Department would look at the matter and do what they feel is in the best interest of the City of Aiken. She said she meant no harm in going against what the majority of the people voted for, but she felt it was a very small majority. She said she was going to vote with what she perceived to be the will of the people in her district.

Councilwoman Price stated she saved all the articles when this matter was discussed years ago to go from at-large elections to a district plan. She said it was almost the same debate years ago with those opposed to the district voting. She said we had learned that it was not that bad to go to a 4-2-1 system. She said the 5-1-1 Plan was not approved by the voters and Reverend Walker is now proposing a 6-1 Plan. She pointed out the previous percentages for Districts 1 and 2 with 56% and 58% with those percentages now being down to 51%. She said the city will continue to grow, especially on the south side. She said this will only dilute the voting strength even more, with the percentages being reduced in Districts 1 and 2. She said the impact of the growth puts maintaining diversity on Council in jeopardy. She said she could not support the continuation of a 4-2-1 Plan. She said she and Councilwoman Clyburn were elected at large and by district, but the issue is not how they were elected but for those who follow them. She said she wanted to make sure there was minority representation on Council. She said she would not support the 4-2-1 Plan.

Mayor Cavanaugh stated he supported the 5-1-1 Plan because he felt it was the best for the City of Aiken in the long term. He said the majority of Council voted to have a 5-1-1

referendum to see what the people wanted. He said the vote for the 5-1-1 failed so therefore he was going to support the will of the people and support the 4-2-1. He said he still felt the 5-1-1 Plan would be the best for the long term, but he would support the will of the people. He pointed out the percentage of people who voted was very low. He said evidently it was something that most of the people did not care about. He said he feels that the majority of the people want to see the city progressing and he feels they are pleased with the way the city is progressing. He said he felt the city was progressing because there is diversity on Council. He said he was going to support the will of the people. He said there was an election and there was a result.

Councilman Cunning stated he felt the issue was a Democrat-Republican issue not a race issue. He said the people in Aiken vote for the party, but they don't vote by race. He pointed out there was growth in Aiken and Districts 1 and 2 did decrease percentage wise, but the minorities had moved to other parts of the city. He said the overall minority percentage stayed the same for the city with more minorities in other parts of the city.

Councilman Smith stated the 51% for Districts 1 and 2 did not meet the Department of Justice guidelines. He said he supported the 5-1-1 Plan because he felt it was the right thing to do. He said, however, the small percentage that voted in the referendum was a very clear decision. He said he felt the only thing to do at this time was to send the 4-2-1 Plan to the Department of Justice.

Councilwoman Vaughters stated she felt all of Council believes in diversity. She said that was not the issue. She felt that redistricting does have to do with race. She said she felt the people in Aiken believe in diversity and the community is integrating. She felt that the city would continue to have trouble getting the high percentages in certain districts because people are continuing to move to other areas and integrate neighborhoods. She said if she felt there was not fairness in a 4-2-1 Plan she would not support it. She felt there was a chance of fairness in a 4-2-1 Plan. She felt that every citizen of every race in the city is better off by being able to vote for a majority of City Council. She was concerned about considering only the vote for a district guiding the decision of a Councilmember. She said that was what she was worried about with single member districts.

Councilwoman Clyburn pointed out that South Carolina was one of the states under the Department of Justice's jurisdiction for elections and voting districts because of past history in its voting patterns. She said it had nothing to do with the present, but addresses the issue of certain states and the way elections were in the past. She said she felt it did not matter the party, but the person and the character of the individuals seeking election. She said there were comments regarding the 5-1-1 Plan, and she felt that had a lot to do with the outcome of the election. She pointed out she did not feel she was the only one who rallies behind the constituents of a district. She pointed out those in a district feel that if a decision affects their district they want a positive vote for it. She said those in a district do look at their constituents and how they feel. She said, however, those in a district do not always think about their district at every vote. She said some of the problem is caused by annexations on the south side. She said some of the problem could have been stopped by opposing the annexations. She said, however, she did not see the annexations as an issue at the time.

Mayor Cavanaugh stated whatever the outcome City Council needed to continue to work together for the good of the community.

Mayor Cavanaugh called for a vote on the motion to approve the revised 4-2-1 Plan. The motion was approved by a vote of 5 in favor and 2 opposed. Mayor Cavanaugh and Councilmembers Cunning, Smith, Sprawls and Vaughters voted in favor of the motion with Councilmembers Clyburn and Price opposing the motion.

Because publication requirements in the City Code were not complied with this ordinance will be receiving another second reading at the May 12, 2003, City Council meeting.

UTILITY REQUEST

Water
Mobile Home Park
Whiskey Road 2252
Kue-I-Me I Liu
Beatty Lane
TPN 00-158.0-01-033

Mayor Cavanaugh stated a request had been received for water service for a mobile home park off of Whiskey Road.

Mr. LeDuc stated that Steve Dufour was present representing the owner of a 1.37 acre parcel off of Whiskey Road opposite the Publix Shopping Center requesting water for a mobile home park. The Planning Commission reviewed this request and voted 5-0 to recommend denial of water to this development. The Planning staff had stated that if the Commission were to recommend water service they should attach the following conditions to their approval.

1. The property owner signs an annexation agreement.
2. They comply with the City of Aiken's Tree Protection and Landscaping Ordinance.
3. The water service would be approved by the City Engineer.
4. The road design would be approved by the City Engineer.
5. The proposed expansion would comply with all City of Aiken regulations for residential manufactured home parks and that the existing park be brought into compliance with the regulations to the maximum feasibility possible as determined by the Planning Director.
6. Any signage would comply with the City's sign regulations for this type of zoning.
7. These conditions would be recorded with the RMC Office.

Mr. LeDuc said the owner has said they would agree to all the items except the one that states the existing park would be brought in compliance with the current regulations.

He said the minutes of the Planning Commission meeting had been provided for Council's review. Although the Planning Commission denied this request City Council needs to review this request to determine whether or not they would like to provide water service to this potential mobile home park.

Mr. Steve Dufour, 941 Aberdeen Drive, appeared before Council representing the property owner. He presented some pictures showing the improvements that had been made on the existing mobile home park property. He said the owner plans to improve the area and expand the mobile home park. Mr. Dufour pointed out on the existing park there are five land leases, and the property owner can't tell them to change their mobile homes at this time since they have the lease. He said they were willing to work with the city as far as future mobile homes. He said they would not plan to change the existing mobile homes unless someone moves out. As the tenants move out, the homes will be replaced with homes in compliance with city regulations. He stated the existing mobile homes presently have city water service. He said they did not want to dig a well to serve the proposed mobile home park, since the property is surrounded by city water service. He said if the water request is denied he will have to dig wells. He said the property owner could comply with the seven conditions, except number 5, which has to do with bringing the existing park in compliance with the city regulations.

Council discussed the request at length. It was pointed out the city does have regulations for manufactured home parks, and there was concern about the existing park and whether it could comply with city regulations.

Mr. Dufour stated the property owner might not be able to comply with all twenty of the regulations, but the park would be upgraded to the extent possible to meet city regulations.

After much discussion there was concern and feeling by Councilmembers that it was not clear as to what regulations could be met with the existing park. It was pointed out one of the major concerns of meeting regulations was the size of the park.

Mr. LeDuc suggested that if Council wanted to consider providing water service to the new park and the concern was the existing park and how that would fit in with the new park, the city could work with the property owner like they did with Camellia Trailer Park and set some limits working with the owner where the old park would come into compliance over a certain period of time. He said Mr. Dufour could work with the Engineering staff and Planning staff and determine which of the twenty items they could or could not agree to, and the time frame to comply.

Ms. d'Entremont, of the Planning Department, pointed out the twenty items not only apply to the existing park, but would apply to the proposed new park also. She pointed out some of the items could not be met in the new park either. She said the proposed new section is not wide enough for the required buffers, it is not wide enough to provide the sidewalks, the street is not wide enough to meet city standards, and the water lines are not to city specifications. She said it was not a matter of individual lots coming into compliance one at a time, but it is to be a mobile home park designed with certain requirements. She said the lot does not appear to be big enough for the new section to meet city requirements. She said the minimum for a mobile park is eight acres, so there is room for open space, community storage space, etc. She said the Planning Commission's concern was that the new section did not appear to be able to meet the standards regardless of whether the old section could be brought up to standard.

Councilman Cunning pointed out the city already provides water to the old section of the mobile park that does not comply with the regulations. He pointed out if Council denies water service and the property owner digs a well, then the park does not have to comply with anything. He was concerned that denying water service would not help the situation. His concern was that the park be brought as close to compliance as possible which would improve the area.

Mr. Wilkins Byrd, of the Planning Commission, stated the Commission members were unanimous in their recommendation. He pointed out they had many concerns, especially the concerns of the City Engineer, Larry Morris, that the water lines and the park's road are substandard. He said there was extensive discussion to see if the property owner could make improvements to the existing park so it could conform to what the city expects. He said gradual compliance may not be a solution to the problem. He said the core problems that the Commission understood the owner could not correct in the old park involve matters like the size of the park, the existing road, fire protection matters, and the open space requirement. He said the Commission was concerned that the owner was not willing because of economic situations to bring the matters up to standard.

Mr. Morris, Public Works Director, stated that the water system is substandard and a new system would require a 6 inch line and two new fire hydrants, which would be expensive. He also pointed out the property owner could not dig a single well and expect to serve the homes. The park would fall under the category of a small water provider and, with the small area, there would not be enough clear head well zones away from septic tanks without the possibility of contamination.

After discussion it was felt that there were many problems that exist with trying to bring the existing park and the proposed park in compliance with city standards.

Councilman Smith moved, seconded by Councilwoman Price, that Council deny the request for water service to a proposed mobile home park on 1.37 acres of land off of Whiskey Road opposite the Publix Shopping Center. The motion was approved by a vote of 6 in favor and 1 opposed. Councilman Cunning opposed the motion. Councilman Cunning was concerned about trying to upgrade the area rather than just denying water service.

PROCLAMATION

Volunteer Week

Mr. LeDuc stated a proclamation has been prepared for Council's consideration recognizing Volunteer Week. He stated the city expects about 136 people to attend a luncheon to recognize all boards, commissions and other volunteers who faithfully serve the City of Aiken. Nationally this is the thirtieth year that volunteers have been recognized. It is estimated nearly 84 million citizens volunteer an average of 3.6 hours a week in public and community service. These citizens have been invaluable to the City of Aiken as they recommend to City Council regulations and policies that help us better serve our citizens and been a tremendous support to the staff for a countless number of years. With this proclamation we recognize all of our volunteers in Aiken for the great job they do.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the Proclamation recognizing all volunteers in the City of Aiken.

Councilwoman Price suggested that the names of the volunteers for the City of Aiken be listed on the City Channel.

REZONING

Two Notch Road 807
Ryberg, Greg
Woodhead, Grace L.
Zoning
Rhododendron Place
TPN 30-054.0-06-038

At the Planning Commission's March 11, 2003, meeting a request was heard to rezone property at 807 Two Notch Road from RSS (Residential Single Family with Stables) to RS15 (Residential Single Family). The applicant, W. Greg Ryberg, wanted to subdivide the property into two or three parcels on Rhododendron Place and one on Two Notch Road. The Planning Commission after hearing the request voted unanimously to deny it.

Upon discussion with the Planning Commission and staff it was decided by Mr. Ryberg not to pursue the rezoning of this property at 807 Two Notch Road. Mr. Ryberg submitted a letter requesting the matter not be presented to Council for action. It was therefore removed from the April 14, 2003, City Council agenda and will not be brought before City Council for action.

ADJOURNMENT

There being no further business the meeting adjourned at 9:15 P.M.



Sara B. Ridout
City Clerk