

Aiken City Council Minutes

October 9, 1995

Present: Mayor Cavanaugh, Councilmembers Anaclerio, Clyburn, Papouchado, Perry, Price, and Radford.

Others Present: Steve Thompson, Frances Thomas, Gary Smith, Roger LeDuc, Ed Evans, Carrol Busbee, Glenn Parker, Stanley Quarles, Sara Ridout, Andy Anderson, Chastity Kirkland of the Aiken Standard, Chandra McLean of the Augusta Chronicle and 11 citizens.

Mayor Cavanaugh called the meeting to order at 7:40 P.M. Councilwoman Price led in prayer which was followed by the pledge of allegiance to the flag.

The minutes of the regular meeting of September 25, 1995, were considered for approval. Councilwoman Clyburn moved that the minutes be approved as written. The motion was seconded by Councilwoman Papouchado and unanimously approved.

SIGN ORDINANCE - ORDINANCE 100995

Central Business District
Moratorium

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing of an ordinance to establish a moratorium on enforcement of the sign ordinance in the Central Business District.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE ESTABLISHING A MORATORIUM ON THE ENFORCEMENT OF THE SIGN
ORDINANCE IN THE CENTRAL BUSINESS DISTRICT OF THE CITY OF AIKEN UNTIL DECEMBER
24, 1995.

Mr. Thompson stated that Councilman Perry had suggested that City Council consider an ordinance establishing a moratorium on the enforcement of the sign ordinance in the Central Business District until December 24, 1995. He stated Council had discussed establishing a moratorium on the enforcement of the section of the sign ordinance which deals specifically with free standing signs in the Central Business District. He said City Council had talked about establishing a moratorium and establishing guidelines for Public Safety as they enforce the sign ordinance. He said proposed guidelines had been presented for Council's consideration. He said the guidelines include allowances that free standing signs within the CBD will be restricted to a maximum size of 32 square feet and a pedestal height of 1 foot from the ground for monument style signs. Pole signs or mounted signs would be able to have a maximum of 12 square feet and a maximum height of up to 7 feet from the ground. These sizes are based on other examples in the downtown. Under the guidelines Council had suggested that the businesses would be able to construct and develop signs under the interim regulations with the understanding that the business would be responsible for alterations to the sign if the final ordinance differs from the present guidelines under discussion by City Council. He said the matter had been referred to the Planning Commission and the Sign Ordinance Study Committee for review. He stated this would be similar to the ordinance Council adopted previously adopting a moratorium for 90 days on the enforcement of the sign ordinance.

Mr. Thompson stated based on the comments of Council, Mr. Smith, City Attorney, had made some modifications to the previous ordinance. If Council approves of the changes then a motion should be made to adopt the changes and then a motion should be made to adopt the amended ordinance establishing a moratorium on the enforcement of the sign ordinance in the CBD including the interim sign guidelines as suggested by the staff.

Mr. Smith stated the change in the ordinance included the guidelines that the staff had suggested for the size of signs to be allowed and the process someone would follow if a sign were requested to be larger than those allowed by the guidelines. The request would be taken to the Planning Commission. If the request is denied by the Planning Commission the person can appeal to City Council during the moratorium.

Councilman Anaclerio moved, seconded by Councilman Radford and unanimously approved, that the changes as recommended by the City Attorney be adopted.

The public hearing was held and no one spoke.

Councilman Perry called attention to the proposed guidelines and was concerned about the statement that "no plastic or other artificial materials" would be allowed for signs. He pointed out many of the present signs had plastic faces. He stated he did not see anything wrong with the material of the signs but was concerned about dimensions of proposed signs. Council discussed the proposed guidelines and the particular guideline regarding the type of materials for signs. It was felt that many signs are made of plastic and internally lit. They were concerned about limiting the material of the signs.

Councilman Anaclerio moved, seconded by Councilwoman Papouchado and unanimously approved, that Council adopt the ordinance on second and final reading establishing a moratorium on the enforcement of the sign ordinance in the CBD as amended including the guidelines suggested by the staff with the exception that "made of wood, brick, metal or other natural material (no plastic or other artificial materials)" be deleted from the guidelines and that the ordinance become effective immediately.

ZONING ORDINANCE - ORDINANCE 100995A

Rezoning

S.C. 118

Wire Road

By-Pass

Sibley, William

Rutland Drive

Tax Parcel No. 00-154.0-01-056

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing of an ordinance to rezone property at the intersection of S.C. 118 and Wire Road to Neighborhood Business.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE LOCATED AT THE INTERSECTION OF RUTLAND DRIVE (S.C. 118) AND WIRE ROAD, A PORTION OF TAX MAP PARCEL NUMBER 00-154.0-01-056, FROM PLANNED SHOPPING CENTER TO NEIGHBORHOOD BUSINESS.

Mr. Thompson stated Council has received a request from the owners of the property at the intersection of S.C. 118 and Wire Road asking that the property be rezoned from Planned Shopping Center to Neighborhood Business. The Planning Commission has reviewed the request and has recommended approval with conditions.

Mr. Thompson pointed out the owners have asked that an 11.1 acre tract be rezoned from Planned Shopping Center to Neighborhood Business to allow the development of a small strip shopping center anchored by a grocery store. Although this is a shopping center within a planned shopping center zone, the project is designed to be smaller than a typical shopping center and would not meet the PSC requirements. The owners have requested that the property be rezoned to Neighborhood Business to allow the project to move forward.

The property ties in with the development plans of the city including the discussions of the Strategic Plan and the need for additional shopping opportunities on the north side of town. The developers have proposed rezoning of a smaller portion of the full 28 acre tract, and the Planning Commission has recommended that the rezoning be approved on the condition that the property is successfully subdivided along the proposed zoning boundary and that the owner/developer enter into an agreement that the property be used only as a shopping center to keep other types of use from going into the area next to a residential neighborhood.

Mr. Thompson stated Mr. Smith, City Attorney, had included some changes in the ordinance to clarify the ordinance and adoption of the changes to the ordinance should be considered first by Council.

Councilwoman Price moved, seconded by Councilwoman Papouchado and unanimously approved, that the changes to the ordinance as recommended by the City Attorney be approved.

The public hearing was held.

Mr. Mike Farmer, attorney, stated he was present on behalf of the land owner Florence Sibley who was not present, but Mr. Sibley was present at this meeting along with Mr. Warren Irvin, the prospective agent for the purchasers. He said he had only received favorable responses for the development.

Council asked if the developers were aware of the location of the proposed by-pass in relation to the property, and Mr. Farmer responded they were aware of the new by-pass.

Councilman Anaclerio moved, seconded by Councilwoman Price and unanimously approved, that the ordinance, as amended, to rezone 11.1 acres at the intersection of S.C. 118 and Wire Road to Neighborhood Business including the conditions recommended by the Planning Commission be passed on second and final reading to become effective immediately.

KMC SOUTHEAST CORP. - ORDINANCE 100995B

Permit
Fiber Optic Network

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing on an ordinance to allow a permit to KMC Southeast Corp. to provide a fiber optic network in Aiken.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE GRANTING KMC SOUTHEAST CORP. THE CONSENT OF COUNCIL AND A NONEXCLUSIVE PERMIT FOR IT TO PROVIDE A FIBER OPTIC NETWORK TO CITY OF AIKEN CONSUMERS AND TO PROVIDE FOR CONDITIONS GOVERNING THE CONSTRUCTION, EXPANSION, USE, EXCAVATION, MAINTENANCE, AND OPERATION OF A FIBER OPTIC NETWORK BELOW AND, WHERE NECESSARY, UPON CERTAIN PUBLIC STREETS, ALLEYS, WAYS, AND OTHER PUBLIC PLACES TO PROVIDE SUCH NETWORK AND ESTABLISHING THE OBLIGATIONS OF KMC SOUTHEAST CORPORATION WITH REGARD THERETO.

Mr. Thompson stated City Council had received a request from the KMC Southeast Corporation, asking for city permission to rent the city right-of-way space for installation of a fiber optic network system and to conduct a telecommunications business through these lines. Mr. Thompson stated the city has received information from the company and will be returning to City Council with a recommendation for a franchise agreement. As the city continues with the franchise negotiations, the staff is recommending that Council consider adoption of a permit to allow the company to move forward with installation and development of the system.

The company would provide and rent space on fiber optic lines to other telecommunications companies, and is also interested in serving as a telecommunications supplier in this area. The permit requirement includes a stipulation that the company comply with the city's present Business License Ordinance, include a 5% franchise fee, and start business initially with underground facilities. Mr. Thompson stated the company has asked for a franchise, however, a franchise will take some time to prepare so the staff is recommending that Council consider a permit similar to the permit that governs the operation of the Aiken Electric Cooperative in the City of Aiken. He said there are some issues pending and the staff is working with the company to resolve them. He said the permit is a temporary step pending the final franchise negotiations and recommendations to City Council.

Mr. Thompson stated some changes had been made in the proposed ordinance. He stated a requirement had been included in the permit that the utility lines should not be placed in the parkways, but City Council may wish to consider allowing utility lines within parkways if the utility lines are placed underground. Also the wording has been changed under Section 11 that utility lines shall be placed underground, at the direction of City Council. The city will also emphasize with the company that undergrounding of the lines should be coordinated with the city to possibly allow undergrounding of other utility lines. The appeal process is through the City Engineer's Office. All lines are to be placed underground, but where not feasible financially, the appeal would need to be presented to the City Engineer. The term of the permit is for five years, but the intent is to negotiate a franchise agreement that would supersede the permit. The city has five years to develop the franchise agreement, but it will probably be done sooner.

Mr. Thompson stated Staff Attorney Andy Anderson had prepared the ordinance and will be working with KMC to develop the franchise agreement for Council's consideration.

Mr. Thompson pointed out some changes for clarification had been made to the ordinance so Council should consider adoption of the changes to the ordinance first.

Council discussed the proposed permit ordinance and the company proposing to operate the fiber optic system.

Councilman Anaclerio pointed out if other companies propose to come into the area in the future he did not want to see the city's parkways continually dug up for laying lines. He stated he would like to see a common trench for lines.

Mr. Thompson stated if Council would like the staff would bring some recommendations to City Council for a common trench ordinance. He also pointed out one way to handle taking care of several companies without digging up the areas continually for each company is to put conduit in place sized to handle expansions and additional lines and then lease space in the conduit. He pointed out this may be expensive but the staff could look at this option.

Mr. Thompson pointed out the proposed ordinance does not allow the company to underground lines in the parkways and if Council would like to allow the lines through the parkways then the ordinance would have to be amended by deleting a portion of Section 2.

Council discussed the proposal that lines be allowed underground in the parkways. Council was concerned about the trees in the parkways if lines are allowed underground in the parkways. Mr. LeDuc pointed out presently there are some lines underground in the parkways. He stated if the lines have to go down the street there will be problems because the streets will have to be repaired. He stated, however, it will be difficult to go down some parkways because of the trees. Mr. Thompson pointed out the city will ask for specific plans if approved by Council so the Public Works Department can comment on the layout of the lines. Councilman Anaclerio suggested that Council leave the decision to the Public Works/Engineering staff as to whether the lines should go through the streets or in the parkways.

Councilman Anaclerio moved, seconded by Councilwoman Papouchado and unanimously approved, that the changes to the ordinance recommended by the Staff Attorney be adopted and that in Section 2 the reference to exclude parkways be deleted from the ordinance and that the Engineering Division be given the authority to decide whether the lines should go through the street or parkway in any particular area depending on the situation in light of protection of trees and city amenities.

The public hearing was held and no one spoke.

Councilman Anaclerio moved, seconded by Councilwoman Papouchado and unanimously approved, that the ordinance, as amended, to extend a permit to the KMC Southeast Corporation to operate a fiber optic network in Aiken be approved on second and final reading to become effective immediately.

INDUSTRIAL PARK - ORDINANCE 100995C

Verenes Industrial Park
Carlisle Tire & Rubber Co.
U. S. 1 North
Airport

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing on an ordinance to sell property in the Verenes Industrial Park to Carlisle Tire & Rubber Co.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE ALLOWING THE SALE OF TRACT 6 OF VERENES INDUSTRIAL PARK TO CARLISLE TIRE AND RUBBER COMPANY.

Mr. Thompson stated Council has received a proposal from Carlisle Tire and Rubber Company to buy additional property in the Verenes Industrial Park. The company is planning on further expansions within their existing site and may

need additional acreage for the expansion and the retention of water on the site. The proposed ordinance approves the purchase of a 10.52 acre tract at a purchase price of \$7,000 per acre.

Carlisle Tire and Rubber is planning on future improvements at the site in the Verenes Industrial Park and does have some stormwater requirements that they must meet with this expansion. They will need to expand into the new tract. In keeping with other sales of property in the Industrial Park the ordinance includes several conditions as well as the contract of sale. The present asking price is \$7,000 per acre and the contract includes a stipulation that the facility must be constructed within two years of the sale or the contract will be void and the city will repurchase the property. The property must also include annexation agreements on the property for annexation after the property becomes contiguous to the city.

Mr. Thompson pointed out the stormwater issue is an issue that is facing several of the industries in the Verenes Industrial Park. He stated the staff is working with the plant managers to possibly develop a regional stormwater pond. There is an excellent site available for the stormwater pond, and the stormwater pond could be an amenity and an attraction at the park.

Mr. Thompson stated the proposed ordinance would authorize the sale of Tract 6 of Verenes Industrial Park to Carlisle Tire and Rubber Company. He pointed out the ordinance had been amended to allow the City Attorney to develop the contract of sale for the actual development specifics with the company. He said this was similar to the ordinance adopted for the sale of property to Smith-Kline Beecham a few months ago. He stated there are some issues involved in the sale of the property such as an environmental inspection, closing date, etc. which have to be worked out.

Mr. Smith stated the proposed ordinance had been changed to allow the City Attorney to work with Carlisle Tire & Rubber Company on the outstanding issues for the Contract of Sale with the signature of the Mayor.

Councilman Radford moved, seconded by Councilwoman Price and unanimously approved that the changes to the proposed ordinance as recommended by the City Attorney be approved.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Anaclerio and unanimously approved, that the ordinance, as amended, authorizing the sale of Tract 6 of Verenes Industrial Park to Carlisle Tire and Rubber Company be passed on second and final reading to become effective immediately.

ZONING ORDINANCE - ORDINANCE 100995D

Ambulance Services
Amendment
Permitted Use

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing on an ordinance to allow ambulance services in Neighborhood Business, Light Industrial and Suburban Industrial zones.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE AMENDING SECTION VII.B OF THE ZONING ORDINANCE TO ADD "AMBULANCE SERVICE" AS A PERMITTED USE IN AREAS ZONED NEIGHBORHOOD BUSINESS (NB), LIGHT INDUSTRIAL (LI), AND SUBURBAN INDUSTRIAL (SI).

Mr. Thompson stated that recently there were discussions over the location of an ambulance service within the Neighborhood Business and Central Business District zones, and the actual definition of ambulance services is not clearly allowed within the different zones of the city. In the past the Zoning Ordinance has addressed health care facilities, but did not specifically allow or deny ambulance services. The Planning Commission has reviewed this issue, at the request of Public Safety, and is recommending that the Zoning Ordinance be amended to allow ambulance services as a permitted use in Neighborhood Business, Light Industrial, and Suburban Industrial zones. The Planning Commission felt that ambulance services are reasonable within these zones.

The public hearing was held and no one spoke.

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Councilwoman Clyburn pointed out that at the last meeting it was pointed out an ambulance by law has to turn its siren on as soon as it leaves the station. She pointed out that the property just previously zoned Neighborhood Business at the by-pass and Wire Road would be an example of where an ambulance service could be located. Mr. Thompson pointed out, however, that the property at Wire Road and the by-pass had a condition that specifically restricted the area to a shopping center so an ambulance service would not be allowed in that specific case.

Councilman Anaclerio moved, seconded by Councilwoman Papouchado, that the ordinance amending the Zoning Ordinance to allow ambulance services in Neighborhood Business, Light Industrial, and Suburban Industrial zones be passed on second and final reading to become effective immediately. The motion was approved by a vote of 6 in favor and 1 opposed. Councilwoman Price opposed the motion.

HIGHLAND PARK GOLF COURSE - ORDINANCE

Deed

Golf Course

McNair, James

Highland Park

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the deed for the Highland Park Golf Course.

Mr. Thompson read the title of the ordinance.

AN ORDINANCE AMENDING THE DEED TO HIGHLAND PARK COUNTRY CLUB TO CONFORM TO SOUTH CAROLINA DEED REQUIREMENTS.

Mr. Thompson stated that Mr. James McNair, the purchaser of the Highland Park Golf Course in 1959, had asked about possible amendments to the deed of sale for the Highland Park Golf Course property. Mr. McNair had wanted to make some changes at the Golf Course including selling some lots off the golf course property. Gary Smith, City Attorney, and Jim Holly, previous City Attorney, have discussed this at length with the attorneys for the McNairs, and they are recommending that City Council consider an amendment to the deed executed in 1959.

Mr. Thompson stated two stipulations included in the original deed were of concern to the McNairs. One was a requirement that the city would have the ability to purchase the property back from the McNairs for a purchase price of \$40,000, the original purchase price for the golf course property. According to Mr. Holly the stipulation cannot run forever, and must have a termination period in order to meet the State deed requirements. Under the changes proposed in the ordinance, the city would have the ability to equal the price offered by an interested purchaser, and the city would have the ability to exercise the option within sixty (60) days and would have to close on the deal within ninety (90) days.

The proposed ordinance would also amend the deed to limit the length of the repurchase ability to a maximum of twenty (20) years from the date of the death of James M. McNair. The proposed ordinance would not change the requirement in the original deed that the property be operated as a golf course.

Mr. Thompson stated the proposed ordinance would amend the deed restrictions for the Highland Park Golf Course property and is presented to Council for first reading.

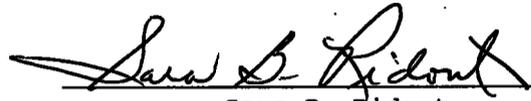
Mr. Smith stated the state law governing the deed restrictions is the rule against perpetuities which deals with continuous burdening of land for an indefinite period of time. He stated the original deed essentially gave the city the option to purchase the Highland Park Golf Course back at \$40,000 which is much lower than the property's fair market value. This kind of restriction cannot be done for an extended period of time. The purpose of the ordinance is to get the deed to conform to South Carolina law and to prevent the whole deed from being overturned.

Council discussed the proposed ordinance and was concerned about the property being continued as a golf course in the future.

Councilman Anaclerio moved, seconded by Councilwoman Papouchado and unanimously approved, that the ordinance to amend the original deed executed in 1959 for the sale of the Highland Park Golf Course property to Mr. James McNair be passed on first reading and the second reading and public hearing be set for the next regular meeting of Council.

ADJOURNMENT

There being no further business, Council adjourned at 8:35 P.M.



Sara B. Ridout
City Clerk