

Aiken City Council Minutes

August 13, 2001

Present: Mayor Cavanaugh, Councilmembers Anaclerio, Clyburn, Cunning, Price, Radford and Sprawls.

Others Present: Roger LeDuc, Bill Huggins, Gary Smith, Larry Morris, Ed Evans, Richard Pearce, Terry Rhinehart, Sara Ridout, Adam Burton from the Aiken Standard, Josh Gelinas from the Augusta Chronicle and about 90 citizens.

Mayor Cavanaugh called the meeting to order at 7:45 P.M. Mayor Cavanaugh 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. He said Council needed to add under New Business the naming of the building on Newberry Street which will house the Washington Group and the Community Playhouse and delete the request under Petitions and Requests to speak regarding the flying of flags.

Councilman Anaclerio moved, seconded by Councilwoman Clyburn and unanimously approved, that the agenda be approved as changed.

MINUTES

The minutes of the regular meeting of July 9, 2001, were considered for approval. Councilman Sprawls moved that the minutes be approved as written. The motion was seconded by Councilman Radford and unanimously approved.

PRESENTATION

All-America City  
Painting  
Dedmon, Gail

Mayor Cavanaugh stated Ms. Gail Dedmon wanted to make a presentation to Council.

Mr. LeDuc stated that in 1997 Gail Dedmon created the original All-America City painting and she would like to donate this to the City to be displayed in an area for all citizens to enjoy. This painting is a collage of several scenes in Aiken and will be a wonderful addition, which can be placed in one of the hallways at City Hall.

Ms. Dedmon stated Aiken had always been her home and her family's home. She stated she had seen growth and changes in Aiken over the years. She said the day she put the last brush strokes on the painting she was presenting to the city was the same day it was announced that Aiken had won the All-America Award so the painting became the All-America painting. She said she was happy and honored to be able to present and donate the original painting to the city. She presented the painting to Mayor Cavanaugh. Mayor Cavanaugh thanked Ms. Dedmon for the donation.

PRESENTATION

National Championship Gymnasts  
Gymnasts  
Hass, Elaine  
Fox, Claire  
Taylor, Grace  
Aiken Gymnastics

Mayor Cavanaugh stated Council wanted to recognize three gymnasts who had won national awards.

Mr. LeDuc stated the City of Aiken has been known for many different sporting figures and events over the years. Recently, three members of Aiken Gymnastics made their mark in national competition winning several national awards. Elaine Hass, Claire Fox, and Grace Taylor have been invited to the meeting to be recognized for their accomplishments. Ms. Taylor, competing at level 10, won the national championship on the beam. Ms. Fox, a level 9 gymnast, also won her level on the beam, while Ms. Hass, a level 8, was the individual winner on the floor and silver medallist in the all around competition. The competition was held in Haines City, Florida, and represented 45 states and more than 1,000 gymnasts nationally. These gymnasts compete in the United States Association of Independent Gymnast Club and proudly carried the name of Aiken into their competition.

Mayor Cavanaugh congratulated the girls for their accomplishments and presented a plaque to Aiken Gymnastics honoring the accomplishments of the three Aiken winners.

MALLARD LAKE – ORDINANCE 08132001

Pine Log Road  
Robin Road  
DevCom, Inc.  
Detention Pond  
Dedication

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to accept Mallard Lake.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ACCEPTING THE DEDICATION OF REAL PROPERTY OWNED BY DEVCOM, INC.

Mr. LeDuc stated Mallard Lake is a subdivision developed off of Pine Log Road and Robin Road and east of South Aiken High School. The developers DevCom, Inc. expanded the former detention pond and made it into Mallard Lake, which receives water from a very large drainage basin. This area drains water from an area as far west as Whiskey Road and includes most of the training tracks and extends east to Powder House Road. A large drainage ditch runs alongside the city's treatment facility on Pine Log Road and enters into Mallard Lake.

Since the water that drains into this lake encompasses a large area of the city and the homes in Mallard Lake, the developer has asked us to take ownership of this facility. Public Works has inspected it and is recommending acceptance of Mallard Lake.

The public hearing was held and no one spoke.

Councilman Radford moved, seconded by Councilman Sprawls and unanimously approved, that Council pass on second and final reading an ordinance to accept the deed of dedication for Mallard Lake with the ordinance to become effective immediately.

BUDGET – ORDINANCE 08132001A

Amendment  
FY 2000-01

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the budget for Fiscal Year 2000-2001.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE BUDGET OF THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2000, AND ENDING JUNE 30, 2001.

Mr. LeDuc stated at the end of each fiscal year Council amends the budget to reflect any changes to the budget during the previous year.

A listing of all expenses within the General and Utility funds that need to be adjusted was presented to Council. This includes the purchase of the new fire truck and accessories associated with it, initial funding for the car take home program, unexpected repairs needed at the Municipal Center due to leakage in the roof, and the transfer of the air conditioning units, security and furniture additions for the new Public Works Building, funding for the Whiskey Road Study, and money to fund the Depreciation Account for Solid Waste. Some of the expenses for this budget adjustment comply with projects that have extended from one budget year to the next and are items that the staff discussed during the budget year with City Council.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Cuning and unanimously approved, that Council pass on second and final reading an ordinance amending the budget for fiscal year 2000-2001 with the ordinance to become effective immediately.

#### ALCOHOLIC BEVERAGES – ORDINANCE 08132001B

Hours  
Closing  
Wine  
Beer

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the ordinance regarding hours of operation for establishments serving alcohol.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 6-5, 2001 CITY OF AIKEN CODE [FORMERLY SECTION 4-5, 1980 CITY OF AIKEN CODE] TO SET THE HOURS OF OPERATION FOR ESTABLISHMENTS SERVING ALCOHOL AND TO PROVIDE THAT THESE ESTABLISHMENTS MAY STAY OPEN AFTER THESE HOURS ONLY TO SELL FOOD AND NON-ALCOHOLIC BEVERAGES.

Mr. LeDuc stated Pete Frommer, Aiken's Public Safety Director, has received some requests concerning staying open after 2:00 a.m. to sell non-alcoholic beverages and food at establishments that serve alcohol. In 1999, City Council passed an ordinance which established 2:00 a.m. as the time to close alcoholic establishments to improve conditions in several neighborhoods. This has worked well except that some establishments would now like to have the ability to serve food and non-alcoholic beverages after 2:00 a.m. to their customers. This would mean that Public Safety will have additional enforcement considerations when enforcing this ordinance to make certain that only non-alcoholic beverages are being served, but the Public Safety Director has indicated that Public Safety is ready to take on that task.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council pass on second and final reading an ordinance to amend Section 6-5 of the Code to allow an establishment to stay open after 2 a.m. and to serve food and non-alcoholic beverages only with the ordinance to become effective immediately. The motion was approved by a vote of 6 to 1 with Councilman Radford opposing the motion.

#### SUMMIT BUSINESS CENTER – ORDINANCE 08132001C

Option  
Aiken Corporation  
Rutland Drive  
By-Pass

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to option property at Summit Business Center.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO APPROVE AN OPTION TO SELL PROPERTY LOCATED IN SUMMIT BUSINESS CENTER.

Mr. LeDuc stated the speculative building at Summit Business Park, owned by Aiken Corporation, has a potential buyer. As a condition to the sale of this property, they would like to have the first right of refusal to purchase the property between the railroad track and the spec building. This would allow them to gain access to the railroad and to expand if necessary. The property would consist of 0.716 of an acre and would be subject to the stipulation that a drainage and utility easement be maintained adjacent to the railroad right of way.

The public hearing was held and no one spoke.

Councilman Sprawls moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on second and final reading an ordinance to give first right of refusal to the potential buyers of the speculative building in Summit Business Park, to purchase 0.716 of an acre of land adjacent to the railroad track with the ordinance to become effective immediately.

UTILITY REQUEST

City Services

Water

Sewer

Cushman Drive 711

Brown, Clarence Jr.

TPN 30-041.0-13-002

Mayor Cavanaugh stated a request had been received for city services at 711 Cushman Drive from Mr. Clarence Brown, Jr.

Mr. LeDuc stated Clarence Brown, Jr. has requested water and sewer service to a .79 acre parcel of property located on Cushman Drive. He has recently installed a doublewide manufactured home on this property near several other homes, which recently annexed into the city. The property on which this home is located is separated from the city limits by one lot, which is owned by Clarence Brown, Sr. The County tax records show that the average appraised value for single family dwellings on Cushman Drive is \$25,900 whereas the applicant states the value of this home at \$49,000. In this area there are several other manufactured units. A decision by Council will help to provide city staff with better guidance on providing city services to individual manufactured homes in unincorporated areas.

The Planning Commission had a special meeting on June 19, 2001, to consider this application and voted unanimously to approve this request with the following conditions:

1. The unit comply with 4.2.6 of the Zoning Ordinance regarding standards for manufactured homes in the RSM district.
2. Tax Parcel 30-041.0-13-003 be reconfigured to setback at least ten feet from the manufactured home. Proof of recording of a plat moving the property line between lots 02 and 03 so that the manufactured home is at least 10 feet from the new line.
3. Sign an agreement to annex to the City when requested by the City.
4. Remove old trailer in the back yard.

City Council considered this at the June 25 and July 9 meeting and tabled it on both occasions pending further information from Mr. Brown.

Mr. LeDuc stated Council had discussed the request in the work session and had asked that the Planning Commission look at this matter further to give recommendations on

how to handle requests in the future. It had been pointed out that as the city grows these manufactured homes will be annexed to the city. The question is does the city want zoning changes or a particular category for manufactured homes in certain areas of the city and how does the city want to deal with this in the future.

Councilwoman Price stated Council had discussed the matter with Mr. Brown in the work session, and Mr. Brown has stated that he is willing to comply with the conditions recommended by the Planning Commission. She also pointed out that a precedent had been set and the city had approved other requests in the past for water and sewer for manufactured homes and trailers.

Councilman Anaclerio stated he agreed that Mr. Brown should receive city water and sewer because the city had provided the services to other people with mobile homes. He said, however, Council needed to make a decision on how to incorporate the mobile homes because currently the Zoning Ordinance requires that mobile homes be in an area zoned for mobile homes. He said the city must decide if they want mobile homes intermixed with regularly constructed homes. He said he was concerned that a lot next to a regularly constructed home could have a mobile home placed on the lot.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the request for city water and sewer services to a manufactured home at 711 Cushman Drive.

#### ZONING – ORDINANCE

Stratford Hall

Woodside Plantation

Country Home Builders of Aiken, LLC

TPN 00-158.0-01-800

Mayor Cavanaugh stated an ordinance had been prepared to rezone .66 acres of land from PUD to RS-15 between Stratford Hall and Woodside Plantation.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY COUNTRY HOME BUILDERS OF AIKEN, LLC FROM PLANNED UNIT DEVELOPMENT (PUD) TO RESIDENTIAL SINGLE-FAMILY (RS-15).

Mr. LeDuc stated Country Home Builders of Aiken, LLC is requesting the rezoning of a .66 acre strip of land from PUD to RS-15. The land is located between two tracts recently annexed, both with RS-15 zoning. The applicant intends to develop all of the land as a subdivision of single-family detached homes, and a road would be built between the two parcels to connect the tracts zoned RS-15. This property is currently undeveloped and was annexed into the city in 1989.

The Planning Commission considered this at their July 10, 2001, meeting and unanimously approved it.

Councilman Anaclerio moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on first reading an ordinance to rezone a .66 acre strip of land from PUD to RS-15 located between Stratford Hall and Woodside Plantation and that second reading and public hearing be set for the next regularly scheduled meeting.

#### ZONING ORDINANCE – ORDINANCE

Emergency Vehicles

Residential Areas

Amendment

Parking

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Zoning Ordinance to allow emergency vehicles to park in residential areas.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 4.1.3 OF THE CITY OF AIKEN ZONING ORDINANCE REGARDING THE PARKING OF EMERGENCY VEHICLES IN RESIDENTIAL AREAS.

Mr. LeDuc stated City Council requested the Planning Commission to consider an amendment to the Zoning Ordinance to allow the parking of emergency vehicles such as tow trucks and ambulances in residential areas. This is a result of Wayne's Automotive's tow truck currently parked in Crosland Park which does not comply with the current zoning. The truck exceeds the restrictions stated in 4.1.3.2, which states that no commercial vehicle exceeding 10,000 pounds gross vehicular weight or 20 feet in length or having more than two axles can be parked in a residential district. The applicant states that they can park this truck behind the front of the house and should be allowed to park there in order for them to meet the 30 minute time limit imposed by Public Safety for towing companies.

In June City Council suggested that the applicant could temporarily park the vehicle at this location until the Planning Commission and City Council were able to further analyze this usage.

Mr. LeDuc stated if the Zoning Ordinance is not changed then an emergency vehicle could be allowed in a residential zone through the granting of a variance by the Board of Zoning Appeals.

The Planning Commission after discussing this voted 4 to 2 against recommending amending the Zoning Ordinance to allow emergency vehicles in a residential zone. If Council approves the proposed ordinance the emergency vehicle would comply with the standards that are now currently in effect for recreational vehicles stated in 3.4.6.a.1-3 of the Zoning Ordinance. The recreational vehicle standards are more complete and not only address corner lots, but interior lots as well.

Mayor Cavanaugh stated for clarification the amendment would allow two types of emergency vehicles, ambulances and tow trucks.

Councilman Cunning pointed out that the Crosland Park Association was working hard to make the park a very good place to live. He wondered how the Association felt about changing the ordinance to allow the emergency vehicles.

Councilman Sprawls stated he had met with the officers of the Crosland Park Association, and they had no objections to the parking of the tow truck presently parking in the Park.

Mayor Cavanaugh stated he understood the Planning Commission was concerned about changing the Zoning Ordinance for one request and how this might affect a residential community.

Councilman Anaclerio moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on first reading an ordinance to allow the parking of emergency vehicles such as tow trucks and ambulances in residential areas and that second reading and public hearing be scheduled for the next regular meeting of Council.

ANNEXATION – ORDINANCE

Aiken Church of Christ  
Church of Christ  
Hitchcock Parkway  
Bypass  
Foxchase Subdivision  
Rinehart Way  
TPN 00-106.0-02-236

Mayor Cavanaugh stated an ordinance had been prepared to annex 10 acres owned by the Aiken Church of Christ on Hitchcock Parkway.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 10 ACRES OF LAND, MORE OR LESS, OWNED BY THE AIKEN CHURCH OF CHRIST AND LOCATED ON THE SOUTH SIDE OF HITCHCOCK PARKWAY AND TO ZONE THE SAME OFFICE/INSTITUTIONAL (O/I).

Mr. LeDuc stated the Aiken Church of Christ currently located on Whiskey Road at Corporate Parkway intends to build on property they own at Rinehart Way and Hitchcock Parkway. The property is currently zoned in the County as Rural District (RUD) and the proposed zoning would be Office/Institutional which will allow a church to be built. The only major concern addressed by staff is that the property should revert to RS15 in two years unless an Institutional Zone is created and the property is rezoned to the proper category during that time.

The Planning Commission unanimously approved the annexation of this property at their July 10 meeting with the following conditions:

1. That the property would be rezoned as Office/Institutional with the zoning to revert to RS15 in two years if the property is not rezoned to the proposed Institutional zone.
2. That no additional curb cuts on Hitchcock Parkway are made and that the right of way of Rinehart Way is included in the annexation.

Mayor Cavanaugh stated he was concerned about traffic and stated he felt there needed to be a center lane or deceleration lane so cars can turn and not hold up traffic on Hitchcock Parkway. Mr. LeDuc stated he would check on this and give the information to Council at the next meeting.

Councilman Cunning moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on first reading an ordinance to annex 10 acres of property to be zoned Office/Institutional zoning at the corner of Rinehart Way and Hitchcock Parkway and that second reading and public hearing be set for the next regularly scheduled meeting of Council.

STREETS – ORDINANCE

Aiken County  
Ventures Business Park  
Forest Holley Drive  
A.B. Miles Way  
Roads  
Airport Industrial Park

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to convey roadways in Ventures Park to Aiken County.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO CONVEY THE ROADWAYS AND INFRASTRUCTURE OF VENTURES INDUSTRIAL PARK TO THE COUNTY OF AIKEN.

Mr. LeDuc stated the infrastructure and roadways in Ventures Business Park are now complete. The roadways, Forest Holley Drive and A.B. Miles Way currently serve Newman Technologies and a lot purchased by Piedmont Bottling (Coca-Cola). In order to convey the roadways and infrastructure serving these properties, the City must convey through an ordinance the road rights-of-way to the County of Aiken. At the end of one year, the County would then consider accepting these roads for maintenance purposes within the industrial park.

Councilwoman Price moved, seconded by Councilman Anaclerio and unanimously approved, that Council pass on first reading an ordinance to convey the roadways in Ventures Industrial Park to the County of Aiken and that second reading and public hearing be set for the next regularly scheduled meeting.

#### WASHINGTON GROUP/PLAYHOUSE BUILDING

Newberry Street SW 126

Westinghouse

Community Playhouse Building

Playhouse Building

Name

Mayor Cavanaugh stated Council needed to consider the naming of the building being construction in the 100 block of Newberry Street SW which will house the Washington Group (Westinghouse) and the Community Playhouse.

Mr. LeDuc stated the Washington Group will soon be moving into their new location on Newberry Street and the city needs to order the letters for the name of the building. The rendering for this building shows the name of the building as Westinghouse Center for the Performing Arts. City Council discussed the name about a year ago when the city signed agreements with the Aiken Corporation, Westinghouse Group and the Playhouse. The Westinghouse Group has now changed their name to Washington and are requesting the building be named accordingly. The large "W" in the center of the building would not be added but would be located on the left side of the building with the name Washington. Mr. LeDuc stated because of the large contribution of Westinghouse to the building and the fact that they will be occupying half of the building the city decided a year ago that it would be appropriate to name the building after the Westinghouse Corporation. He said they have now asked that the name of the building be changed to the Washington Center for the Performing Arts. He said this is proposed to be placed in the center of the building near the top. They also had at the time a large "W" in the center of the building. They feel that is no longer needed, but in the area on their side of the building they would have a "W" with Washington Group above it. On the side facing the parking lot of Regions Bank, there would be Washington Group with a "W". He said there would be an entrance on the front and on the side of the building for the Washington Group.

He said he would like for Council to consider approval of the naming of the building to be occupied by the Washington Group and the Aiken Community Performing Arts.

Councilman Anaclerio moved, seconded by Councilman Radford, and unanimously approved, that Council name the building on Newberry Street the Washington Center for the Performing Arts. Councilwoman Price did not participate in the discussion nor the voting on the name because of a possible conflict of interest.

#### UTILITY SERVICES

Patel, Bansi

Fleischer, Gene

Mark XX Investment

Hunters Glen Road

Whiskey Road

Conference Center

Water Service

Sewer Service

TPN 00-159.0-01-154

Mayor Cavanaugh stated the city had received a request for utility services on the southside of Hunters Glen on Whiskey Road.

Mr. LeDuc stated Bansi Patel desires water and sewer service for a 5.09 acre tract on the south side of Hunters Glen Road at Whiskey Road for a proposed hotel and conference center. The property is not contiguous to the City and is zoned as Urban Development in the County which has very few restrictions on the type of use. This property is a part of a

larger 22 acre tract with 1900 linear feet fronting on Whiskey Road which in 1990, City Council granted sewer as a condition for annexation.

The Council minutes from the 1990 meeting describe the request for sewer and a statement by Mr. Gene Fleischer, present owner of this property, who pointed out water for the development would be supplied by someone else and that the property would be used for commercial developments. In the signed developer's agreement Mr. Fleischer requested sewer service only and since that time has installed a sewer line which parallels Whiskey Road from Citadel Drive through his property to South Meadows. This sewer line is currently being used by the South Meadows project which was approved for water and sewer last year by City Council.

We did not find in any of the requests or documentation that Council stated they would supply water to this commercial property. There has been some questions concerning the length of time since the agreement was made and the type of commercial development originally intended for a portion of this property. Again, the agreement was for the full 22 acres of which the remaining 17 acres are currently for sale as commercial property.

Subsequent to the agreement made with Mr. Fleischer in 1990, the City now has water to the area along Whiskey Road which serves the South Meadows project. Despite 11 years in time, Council did make an agreement in 1990 for the entire 22 acre tract for sewer services.

Council can consider any of the recommendations made by Ed Evans concerning this property or granting both water and sewer or sewer only as per our original agreement, for this project.

On August 2, 2001, County Council reviewed this project and approved it for the use requested by the developer.

On July 31, 2001, the Planning Commission held a special meeting and on a 3-2 vote approved both water and sewer for this project. The following conditions were recommended by the Planning Commission for this property.

1. That they execute an agreement to annex to the City.
2. City Engineer approves the water and sewer service design.
3. They comply with the Landscape and Tree Provisions of the Zoning Ordinance including preparation of a tree survey for the entire site and that no trees be removed prior to approval of the site landscape plan by the City.
4. Compliance with the sign regulations in the City Zoning Ordinance.
5. That the curb cut on Whiskey Road be designed to allow only right turns in and out and that there be only one curb cut on Hunters Glen Road aligned with the existing cut-through in the median.
6. That there be a driveway stubbed out to the southern boundary to allow a future connection to adjacent property in a location mutually agreed upon by the developer and City staff.
7. That an untouched buffer 25 feet in depth be left along Whiskey Road frontage, and an untouched buffer 25 feet in depth be left along Hunters Glen Road.
8. That an untouched buffer 25 feet in depth be left along the rear portion of the southern boundary for a distance of 175 feet and an untouched buffer 25 feet in depth be left along the eastern boundary.
9. That the project comply with recommendations of the Whiskey Road corridor study prepared by LDR.
10. That the number of off street parking spaces be limited to the number required by City or County regulations, whichever is greater.
11. That a privacy fence, 8' high, be built along the eastern boundary on either side of the untouched buffer at a location mutually agreeable to the developer and adjacent property owners and along the southern property line about 275' but no farther than the subject property line boundary and allowing for the required driveway stub out.
12. That the developer maintain the entrance median to the Hunter's Glen subdivision through an agreement with the Hunter's Glen Property Owner's Association.

The only conflict between the county and city Planning Commission approvals is in item 5 where the city limited the curb cuts on Hunters Glen Road to one. The county would like to maintain two curb cuts to avoid internal stacking of cars in the complex and along Hunters Glen Road when large events conclude at the conference center.

Mr. LeDuc stated that condition number 9 recommends that this project comply with the Corridor Study prepared by LDR which talks about pathways, curb and gutter, trees, and screening. He said the main one is the pathway that the city wants to create along Whiskey Road. He said this would be a great start for the pathway along with sign considerations.

Mayor Cavanaugh asked that those speaking for the project speak first reviewing the plans so everyone would know what is planned for the property.

Mr. William Tucker, representing Mr. Banshi Patel the developer of the proposed project, appeared before Council. Copies of renderings of the 100 room hotel and conference center planned on the 5.09 acre parcel at the southeastern intersection of Whiskey Road and Hunters Glen Road were presented to Council for their information. As pointed out the developer is before Council seeking approval of a utilities request for water and sewer. They were asking that the city honor its agreement of 1990 recorded in the RMC Office. In reliance on the agreement in 1990 Mr. Fleischer installed at his expense a sewer line which is now serving the adjacent project of South Meadows to the south of the proposed project. The property is in the County and has been approved by the County Planning Commission. A public hearing was held at the County because there would be more than 100 parking spaces, and they were seeking a variance, which was granted, for the 300 foot separation of curb cuts on Whiskey Road because there is an adjacent residential property to the south occupied by the Trowell family with a curb cut. Mr. Mark Graham of Southern Partners is present to speak to some of the engineering issues if there are any questions. He asked that Council consider the fact that he feels the annexation agreement of 1990 is in full force and effect and that the circumstances in 1990 where the city did not have water available to the site has changed. They feel that water is essential to the project and they want a dependable water source. He pointed out water is available now and the city is serving adjacent sites not only to the south, but to the southwest on the west side of Whiskey Road in the Southwinds Development that has already been approved by Council. He said he endorsed the letter given to Council by Wes Smith, attorney representing Mr. Fleischer. He said Mr. Smith states Council is bound by the annexation agreement of 1990. Mr. Tucker stated he was concerned about the memo to Council from Ed Woltz, Acting Chairman of the Planning Commission. He said this was a reconstituted version of the memo developed by the Planning staff and presented to the Planning Commission for their hearing on July 31. He said there was considerable bias against the project in the memo. He felt the staff should be more objective about the project. He said the memo states that the proposed hotel and conference center is much too intense a use for the property. He said he does not feel that this is an intensive use of the property. He said the traffic study presented showed that there would actually be more vehicle per day traffic from a branch bank or from a convenience store than is anticipated from this project. He said there would be 41% green space and the city only requires 15% green space. He said he doesn't understand how that would be considered an intense use of the property. The developer, Mr. Patel, is asking Council to modify some of the conditions recommended by the Planning Commission. He said they would ask that Council allow the second curb cut on Hunters Glen Road. He said the Planning Commission had recommended only one curb cut to cut down on some of the traffic on Hunters Glen Road, but there would be Public Safety concerns if there was only one curb cut on Hunters Glen Road with the ability to get emergency vehicles to the rear of the hotel project. He asked that Council allow the second curb cut.

Mr. Tucker said they also object to the requirement to comply with the LDR study. He said the LDR study has not been finished or approved by City Council or by County Council. He said he had a problem telling a client that he had to comply with something that is not complete. He said, however, they had no problem with a required pedestrian pathway or walkway. He said, however, there are several other things which he felt they

could not agree to when they don't know what the final study says. He asked Council to reconsider that condition.

The recommendation for untouched buffers on the outside perimeters of the property were a concern. He pointed out that if the buffers are left untouched they would not satisfy the requirement of screening. He said the vegetation on the property is not particularly great. He said it would not fulfill the screening or softening condition. He felt it would be a detriment to the property and to the city. He said it would be far better to have a landscaped buffer to provide attractive boundaries for the project.

Another concern is the requirement to stub out to the southside of the property to provide for a future interconnection. This would satisfy the Planning Department's concern that this project could interconnect with an adjacent commercial use and keep traffic off Whiskey Road. He said presently there is a private residence on the front part of the south border of the property and, depending on what the Trowells do with their property, this might be appropriate in the future. He asked if there could be an arrangement made where there could be an easement reserved or an agreement that in the future it would be preserved, but he would ask that the parking spaces be retained and the curb cut not be created there from the standpoint that it would not go anywhere. To place a curb cut on the property behind the Trowells lot would put the stub out into the residential area of South Meadows. He asked that Council modify that condition.

He said Mr. Patel had agreed to limit the seating capacity of this project in the Conference Center to 250 seats. He said this will limit the number of required parking spaces.

Mr. Tucker stated a statement had been made that the Conference Center would not be subject to the city Accommodations Tax. He said for the time being the Center would be in the County, but the annexation agreement would require that the property be annexed when the property is contiguous to the city and then the Center would be subject to the city Accommodations Tax.

Mr. Tucker pointed out that under the County zoning there are a variety of uses for which the property could be used. He said he felt the hotel and conference center is a much more desirable project than many others that could be built on the property without city approval. He asked that the city support the project and grant utility services to the project.

Councilman Cuning stated he was concerned that the hotel would not be paying Accommodations Tax while the other hotels and motels in the city would pay the tax. He asked how many properties would have to be annexed between the city and the proposed project. It was stated there were about three to five properties that would have to be annexed for the property to be contiguous to the city.

Mr. Wes Smith, attorney representing Mr. Gene Fleischer, stated he felt there was no question regarding the annexation agreement. He said a letter had been given to Council outlining the position on the agreement. He said the agreement entered into with Mr. Fleischer in 1990 was a valid binding contract which covered the subject of water and sewer services in exchange for an agreement for annexation. He said the city has argued that they did not include water, that the minutes of the meeting did not include water. He said he felt the reason water was not included was because at that point in time the city could not provide water service to the area as there were no water lines in the area. Presently the city has water lines in the area. He said the same argument could be applied to annexation and there would be no need for an agreement for annexation as the city could not annex the property at that time until the property becomes contiguous. Mr. Smith pointed out that the sewer line which was built and installed by Mr. Fleischer is now city property. He said Mr. Fleischer gave the line to the city, and he had to guarantee it for a year. He pointed out that the city, without consulting Mr. Fleischer, allowed South Meadows to tie onto the city sewer line. He said the wording in the agreement makes it binding on all parties, present and future, and runs with the land. He said also there are some issues with administrative law which need to be addressed and recognized. He said his position is that there is already an agreement and all that is

needed for Mr. Patel is a supplemental agreement which imposes the conditions which the city feels are necessary until such time as the city limits become contiguous and the petition for annexation is presented. He said the city had the authority under the agreement to impose the conditions. He said the city does not need a new utility services and annexation agreement as the city already has one and it is binding on Mr. Patel as it is on Mr. Fleischer. He said he felt the city should honor that agreement.

Mr. Smith said looking at the administrative question, he said the law provides standards, ordinances and regulations that are on the book that act not only for the protection of applicants so they have a clear understanding of what they have to do in order to use their land for the best and highest use. He said it also protects the government in saying to people that these are the conditions which have to be met. This protects the public and by looking at the regulations one knows what the developers are going to have to do in order to get a project approved. He said property rights are some of the oldest rights citizens have. He said anytime there is an encroachment on those, they are looked at very carefully.

Mr. Smith stated ordinances and requirements of property owners are in place and remain in effect until they are changed by an ordinance of equal or greater statute. Mr. Smith said there was a new law which states that a city can not change or declare a moratorium by a mere motion before Council, in order to change an ordinance another ordinance must be passed of equal or greater dignity. He reviewed several cases which he felt were similar to the questions on this project. He also mentioned the memo from the Planning Department which he also felt was biased. He also mentioned the statement that Council could impose any conditions on approval for utility services. He said he felt this was unconstitutional and broad. He said Council did not have the authority under the constitution and the laws to grant anything they wished. He said it has to be in accordance with the ordinances and regulations that the city has on the books.

Mr. Smith stated that Council could not just on an ad hoc case-by-case basis by motion delay a project from going through because something may happen in the future. He said if Council wants to declare a moratorium he felt Council needed to do that by suspending or changing the ordinances on the books which allow developers to bring projects before Council for approval. He said to delay the project could be said to be a temporary taking. He said a temporary taking is compensable. He said if Council denies a property owner the right to use his land in any economical fashion, which Council is trying to do in this case by saying there is no agreement and it increases the traffic on Whiskey Road, this is a moratorium which is improper.

Mr. Smith stated decisions on matters are difficult, but Councilmembers took an oath that they would uphold the laws and not interpret the laws according to personal opinions or public pressure. He said this causes a lot of public pressure, but it takes character to uphold the law and to make the decisions.

Mayor Cavanaugh pointed out that the minutes of 1990 clearly state that approval which Council made at that time was for sewer only. He stated at that time the city did not have water to this area. He said he also thought the minutes stated that Carolina Water would be asked to supply water for the project at that time. He said he felt the minutes were clear on the intent of Council in 1990.

Mayor Cavanaugh stated Mr. Smith had stated Council might be making decisions based on subjective information. He said what bothers him the most is the fact of safety. He said he did not feel that safety is subjective. He said in looking at the ARCADIS report according to the data from 1997 to 1999 there were 430 accidents on Whiskey Road from Pine Log intersection to Chukker Creek which is higher than the state average for this type road. He pointed out this was in 1999, and he felt it might be higher now since there is more traffic on the road. He said Mr. Smith had stated Council was elected to carry out the laws. Mayor Cavanaugh stated Council is also elected to take care of the welfare and safety of the community. He said his problem with approving water for the development was his concern for the overall effect and safety of not only this development but the rest of the 22 acres and the other acreage along Whiskey Road. Mayor Cavanaugh stated a traffic scenario was made by a Planning Commissioner using the ARCADIS study and

based on an hourly capacity on Whiskey Road there were 4850 vehicle trips. The current volume measured by the consultant was 3725 which leaves 1125 unused capacity. He took the approved projects and those pending including the hotel and conference center. He had a column of what the peak traffic would be if all the developments had single family homes. He said the count would be 5900. Capacity of the road is 4800. The other column consists of commercial shops, restaurants and apartments. That figure is 8700 trips as opposed to 4850 capacity. He said this was his concern. He said to look at each individual project as an individual project would not show the picture as one needs to see the whole picture. Mayor Cavanaugh stated Council had been talking for several months about reviewing the Comprehensive Plan and how Whiskey Road should be developed. He pointed out a citizens committee had been appointed for review of the Comprehensive Plan and he felt Council would be doing a disservice to them and to our citizens if Council did not carry through with the Comprehensive Plan review. He said his concerns were safety along Whiskey Road and the fact that Council had asked for review of the Comprehensive Plan to help guide development on Whiskey Road. He said he was trying to look at the total vision and look to the future for development on Whiskey Road.

Mr. Smith stated he would not want anything said to indicate a lack of concern for consideration for the safety of residents of Aiken and the people that travel Whiskey Road every day. He said, however, there is a procedure for doing that. He pointed out projects come one at a time as this is the way growth occurs. He said there shouldn't be someone in control of the whole Whiskey Road corridor. He said it is unfair to withhold services for property when there is a demand for development of property which owners have been waiting to use for several years. He felt this was a unconstitutional moratorium.

Councilman Radford stated he felt it was important to clarify that there are two documents. The original approval for sewer service to the property was September 24, 1990. An annexation agreement was filed in November, 1990.

Mr. Gary Smith stated Mr. Wes Smith had stated Council had to pass a moratorium by ordinance. He said he disagrees that this constitutes a moratorium. He said when the city provides water or sewer services outside the city limits they put conditions on the service. He said he disagreed that the city cannot put any conditions on the provision of services. He said the city has no legal obligation to provide any services outside the city limits and may provide the services with conditions. He said he agreed that the city is obligated to provide sewer service to the property by a previous agreement. He said, however, the request had been changed and the developer is now asking for water service in addition to sewer service. He said he felt Council had the ability to reevaluate whether or not they want to provide water service.

Mr. Smith asked if the project gets water service elsewhere would the developer still be bound by the agreement to annex the property to the City of Aiken when the property becomes contiguous to the city. Gary Smith stated he felt they would because the city would have provided the sewer service that he requested in 1990.

Mr. Larry White, 2528 Golden Bridge Court in Hunters Glen, stated he had recently been on jury duty. He pointed out the judge had emphasized that the jurors had to determine the verdict on justice weighing the evidence on both sides, not only by the written evidence but also intent. He pointed out the agreement signed in 1990 only mentions sewer and he felt Council should not provide water service to the property. He said he did not feel City Council could strike items which have been approved by the County Planning Commission for the project since the area is outside the city.

Mr. Rick Cook, 2511 Golden Bridge Court Hunters Glenn, stated a concern was total occupancy of the Conference Center. He stated he seeks areas for meetings in his job at the Savannah River Site. He stated the hotel would have 100 rooms and 200 parking spaces for the hotel and conference center. Mr. Cook stated the total conference center is 12,280 square feet. Of that they only will develop 8,000 square feet as a conference center so one-third of the area is unaccounted for. He said Mr. Patel has said he would have 250 seating capacity for the conference center. He said the seating is not fixed,

however. He said with an 8,000 square foot center 533 people could be seated using 15 square feet per person according to the county code. If using the center for a party or conference, using 7 square feet per person, 1,143 people could be allowed at the conference center. He said the developer had not addressed these matters. He said this kind of usage concerns safety and he was concerned about traffic and safety. He pointed out if an event has this many people there would not be enough parking spaces as there are only 200 parking spaces planned for the center. He was concerned about parking, emergency vehicles getting in and out of the center, and the impact of traffic on Whiskey Road from the conference center, and the impact of parking and traffic on the neighborhood. He said the residents of the area were urging Council to deny the request or at least table it until the studies of the area are made to determine the impact of the project on the neighborhood.

Mr. Jim Bunch, 18 Brandywine Way in Hunters Glen, asked if the property containing 25 acres between Elmwood Park and Powderhouse Road was denied water and sewer service. Mr. LeDuc stated the request for service was removed from the agenda by the developer. It was scheduled to come to Council, but the developer asked that the matter be removed from the agenda before it got to Council. The request did go to the Planning Commission. Mr. Bunch stated he felt it was only a matter of time before Council would be faced with requests for services for any of the big parcels of property on Whiskey Road and Council will have to determine whether the city will serve them. He pointed out the parcel currently being considered is really a small parcel of the whole picture and these matters will be coming to Council again.

Councilman Cunning asked if the city had different building codes from the county and if the information which Mr. Cook had shared had been considered by the County. Mr. Cook stated he had given the information to the County, but nothing was mentioned except that the developer said they would reduce the seating capacity from 300 to 250. Mr. Cook stated, however, his point was that a 250 seating capacity in an 8,000 square foot building was not realistic compared to the 1,143 people the building could hold for events.

Mr. Martin Buckley, Two Notch Road, stated the city and county use the same Standard Building Codes. He also stated the occupancy loads which Mr. Cook referred to come from the building codes. He said he felt Council should repeal the 1990 agreement to provide sewer for the area.

Mr. Jim Wetzel, 320 Huntington Court, stated he agreed with Gary Smith in his interpretation of the 1990 agreement. He said the agreement was an annexation agreement and the owner agreed to annex when the property is contiguous to the city. He said the agreement is a unilateral agreement signed by one party. He said there is nothing in the agreement which commits the city to giving them sewer. He said the commitment to the sewer is in the Council minutes. He said a concern for this development is traffic, and he felt the city should consider safety in the community and how the development will affect the arterial traffic ways. He felt it was in the powers of the community to be concerned about the traffic and how traffic problems will be mitigated.

Mr. Andy Dyer, 44 Longwood Drive, stated as a member of the Planning Commission's task force, he would like to ask Council to give the committee a chance to do the work that they have been asked to do. He said the Comprehensive Plan is very high on the priority list for the Planning Commission. He said there are a lot of properties between the property under consideration and the city limits. He said these properties are zoned commercial, and they will be coming to Council in the future requesting services. He said the task force has a lot to consider in studying the Comprehensive Plan as he understands that there is a question regarding who supplies services to properties in this area. He said this is something that will take some time, but it needs to be cleared from a planning and decision making perspective. He said Carolina Water was designated the water source for Mr. Fleischer's property, but it is not known whether or not Carolina Water has the capacity to supply this particular development. He also pointed out that in 1990 the proposed development was much smaller than the proposed development now. He pointed out New Ellenton had some claim for water service in this area also and the area is in the New Ellenton fire district. He said it is possible there will be some conflict

as to who is responsible for servicing this property. He said there are a number of unknowns. He said he understands development will happen and it will be commercial development, but the city needs to have a clear understanding of who is responsible for what along that corridor so there is no misunderstanding at the time services are given and when annexation occurs. He asked that the matter be tabled until some more information is obtained.

There was discussion on the study of the Comprehensive Plan and how long it might take to complete the study. It was pointed out that questions keep coming up regarding the Comprehensive Plan, and it was important that the study be completed so the city will have some answers for proposed developments.

Mr. Mark Graham, of Southern Partners, stated the city Planning Commission was the one that wanted the untouched buffer not the County as the County wanted a landscaped buffer. Mr. Graham pointed out the city had already granted water and sewer services to South Meadows and Southwinds and any proposed development would need staff approval. He pointed out there is a lot of difference in the building code and the required parking in the Zoning Ordinance. He said if the square footage was used to figure parking for WalMart there would have to be about 7,000 parking spaces. He said the layout distributed for the Conference Center had a kitchen, storage, some pre-meeting rooms and a large porch and screened in area. He said they were willing to limit the capacity and have it posted. The traffic generation report was done as a requirement of the County. It had very specific things addressed. He said it did not address other things that may or may not happen in the future. He said he was not sure the Task Force for the Comprehensive Plan knew what they would have to do. He said he felt the city needs to look at traffic but not control it with moratorium or limitations on use of property, but should be looking at additional infrastructure and other ways to move traffic. He said he had been told that New Ellenton wanted to serve this area with water. Mr. Graham pointed out that in the traffic information reported by the Mayor it was assumed that all the traffic would be going to Pine Log Road and he did not feel that would be the case. Mr. Graham stated to provide drinking water for the project would not be a problem, but water to fight a fire would be a problem. He said he assumed that if the city did not provide water it would not provide fire protection as well.

Mr. Richard Posey, 2531 Old Dominion Road in Hunters Glen, stated his main concern was safety. He said according to their traffic report there would be 1357 trips. He felt a lot of the traffic would go through the Hunters Glen neighborhood to detour around Whiskey Road. He felt it would be unsafe for children in the neighborhood and for people walking. He felt the project would create a safety risk and would lower property values. He said he was not against growth, but for responsible growth.

Councilwoman Price stated Council had heard a lot of comments on both sides and because a citizens group had been appointed to review the Comprehensive Plan she felt Council should give them time to make their report and encourage them to make their report as expeditiously as possible because of Mr. Patel's project. Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council provide sewer service to the project per the 1990 agreement but deny the request for water service.

Councilwoman Clyburn stated she did not feel the only question was whether the city would provide water service, but whether this project is in the best interest of an established neighborhood. She stated she was concerned about how people take short cuts in order to avoid traffic lights and that the project might cause extra traffic in the residential area. She stated she felt Council should look at the project further.

Councilman Radford stated he felt the City should stand behind its legal document which was signed in 1990 to provide sewer service to the property. He said water was not a part of the 1990 agreement. He said he did not feel good about the development.

Councilman Sprawls stated he agreed with the safety issues, and he would not want a hotel in his backyard. He said, however, the city has a legal agreement which was signed in 1990 to provide water and/or sewer service for this property. He said this was an

agreement voted on by Council in 1990, and he felt the city should honor the original agreement.

Councilman Cuning asked if there could be some kind of time limit set for study of the Comprehensive Plan. He said he felt the developer could wait for a while, but would want to know some kind of time frame when he might expect an answer. He said he felt the city should give the Planning Commission whatever resources needed to proceed with the Comprehensive Plan study. He said he was beginning to believe the city was going to have to hire its own traffic person. He said the city can't ask the developer to make a traffic study for his development and then include all the surrounding area. He said the city may have to land plan the area. He said the problems are going to continue every time there is a proposed project. He said he would prefer to wait until the Comprehensive Plan study is completed. He said he does not blame the homeowners, he would not want the project either. He said, however, he has a problem with the agreement that the city already has for sewer service. He said if they are able to get another water source some of the city's requirements would not apply to the project and there is a question whether the city could annex the property in the future. He said he would like not to approve the project, but the city has the 1990 agreement. He said he felt if the matter was taken to court, the city would lose.

Mayor Cavanaugh stated he would like for this development and other developers to partner with the city and try to look at the vision the city is trying to look at and work with the city. He said if the developers would do this everyone would win. He said everyone knows the property is going to develop, but it could be planned and developed in a better way. He said he was for growth in the proper way.

Councilwoman Price stated she realized that Council was not going to make everyone happy. She said she was convinced that the city could grow the community in a healthy way. She felt that some of the rich characteristics could be preserved and in the meanwhile see development occur and progress come to the community as well. She said, however, the city and developers would have to work together.

Councilman Sprawls stated his question is that if water had been available in 1990 when the agreement for sewer was signed water probably would have been included also.

Mr. LeDuc asked that the motion be clarified. He said his understanding of the motion is that sewer service will be provided but water service is denied. He also asked if Council's intention was to include any of the conditions recommended by the Planning Commission or change any of the conditions as requested by Mr. Tucker.

Council discussed the requirements of the 1990 agreement and the conditions recommended by the Planning Commission.

Mr. Smith stated his recommendation would be to reaffirm approval of sewer per the 1990 agreement and the conditions required in that agreement and denial of water service. He said a concern of his is that Council would be changing the original agreement in 1990 if they impose the conditions recommended by the Planning Commission. Mr. Smith stated he did not feel Council could impose conditions if they are going to deny the request for water. He said if Council was going to provide the water service it would be fine to impose the additional conditions. He said if Council is going to provide sewer per the 1990 agreement, he did not feel they could impose additional conditions at this point.

Mayor Cavanaugh called for the vote on the motion to provide sewer service per the 1990 agreement to property containing 5.09 acres on Whiskey Road at Hunters Glen Road and deny water service. The motion was 5 in favor and 2 opposed. Those opposing the motion were Councilmembers Cuning and Sprawls. The motion was approved by a majority vote.

PARK

Crosland Park  
Recreation Park  
Playground  
US 1 North

Mayor Cavanaugh stated Council needed to consider the naming of the recreation park at Crosland Park.

Mr. LeDuc stated City Council asked the Crosland Park Association to canvas the neighborhood to determine an appropriate name for the park just recently completed in their neighborhood. Five different names were voted on with over twice as many votes received for the name of Crosland Park. Based on their vote, we are recommending that City Council name the new park at Crosland Park as the "Crosland Park." Once City Council has selected a name for this park, the City will then order the appropriate signage for the park.

Councilman Anaclerio moved, seconded by Councilman Sprawls and unanimously approved, that Council identify the recreation park at Crosland Park as the "Crosland Recreational Park."

MEETING SCHEDULE

September  
Council Meeting

Mayor Cavanaugh stated Council needed to consider their meeting schedule for September, 2001.

Mr. LeDuc stated this year's International City Managers' Association meeting (IMCA) will be held during the fourth Monday of September. He said both he and Bill Huggins, Assistant City Manager, will be attending this meeting and he would recommend canceling the second meeting during the month of September since both of them would be out of town.

However, there are several issues concerning Whiskey Road that we would like to discuss at a special work session in early September. These include a review by LDR of a pilot project for Whiskey Road from Wendy's south to Ryans, roadway improvements on Dougherty Road, the connector roadway between Silver Bluff and Whiskey Road, and a direct connection from Dougherty to the mall and WalMart. One possible date for the work session is Tuesday, September 4.

Mr. LeDuc stated if Council likes the LDR plan, there would be meetings the next day with businesses along Whiskey Road to talk on a one on one basis regarding improvements to be made along Whiskey Road. He pointed out that a memo had been sent to Council regarding setting aside money to do work on Whiskey Road, traffic studies and planning. We said money is being set aside to do work on Dougherty Road. He said it is important to try to move forward on the project, and he would like to schedule as an alternative to the regular second meeting in September a work session on September 4 at 6 PM.

Councilman Anaclerio moved, seconded by Councilwoman Clyburn and unanimously approved, that Council not hold a Council meeting on the second Monday in September, 2001.

AIKEN STANDARD

Burton, Adam

Mayor Cavanaugh stated that Adam Burton, reporter from the Aiken Standard, had resigned and this would be his last night to cover the Council meetings.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:10 P.M.



Sara B. Ridout  
City Clerk