

Aiken City Council MinutesREGULAR MEETINGOctober 25, 2004

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

Others Present: Roger LeDuc, Gary Smith, Larry Morris, Ed Evans, Pete Frommer, Glenn Parker, Richard Pearce, Anita Lilly, Sara Ridout, Philip Lord of the Aiken Standard, Josh Gelinis, of the Augusta Chronicle, and about 16 citizens.

Mayor Cavanaugh called the meeting to order at 7:43 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. Councilwoman Vaughters stated she would like to talk about purchase of the trolley and the gang groups on Colleton Avenue. It was also pointed out that Ms. Mable Dobson was present and wanted to talk about some property purchased at a tax sale. Councilwoman Clyburn moved, seconded by Councilman Smith and unanimously approved, that the agenda be approved with the additions suggested.

MINUTES

The minutes of the work session and regular meeting of October 11, 2004, and the work session of October 13, 2004, were considered for approval. Councilman Sprawls moved that the minutes be approved as written. The motion was seconded by Councilwoman Clyburn and unanimously approved.

PRESENTATIONTree City USA  
Award

Mayor Cavanaugh stated Ms. Liz Gilland, South Carolina Urban Forestry Coordinator, was present to present an award to the City.

Mr. LeDuc stated that for the past 19 years, the City of Aiken has received the Tree City USA Award. This recognizes the great job the City has done in preserving and re-nurturing our parkways and right-of-ways. It takes into account the funds that are spent and the personnel that are assigned to these duties. This year, we are also being awarded, for the first time, the Growth Award. Only one other city in the state of South Carolina, Columbia, has ever been given this award. It recognizes environmental improvements and encourages a higher level of tree care throughout the United States. It's the gold level award for all the cities that have been recognized as Tree Cities USA. Liz Gilland, South Carolina Urban Forestry Coordinator, will present these awards to City Council. Our Public Works Department and Tom Rapp, in particular, are to be highly commended for their steadfastness in working so hard to maintain our urban forest.

Mr. Tom Rapp, City Horticulturist, stated he appreciated the support of City Council and the Urban Forestry Commission for the city's program in preserving and improving the city's tree canopy. He praised Ms. Gilland for her help and support.

Ms. Gilland stated she was present to congratulate and recognize Aiken as a Tree City USA. She said this was the 19<sup>th</sup> consecutive year for Aiken receiving the award. She said Aiken was 1 out of 37 incorporated municipalities across the state that have demonstrated their commitment to conserving the community forest. She said Tree City USA is a community improvement program sponsored by the National Arbor Day Foundation along with several other organizations, as well as the Forestry Commission.

She reviewed the qualifications for the award. She reviewed the importance of trees to the community. She commended Tom Rapp for his hard work in the city and for his work on the Urban Community Forestry Council. She said Tom was very well respected by his peers in the tree community. She pointed out that in addition to the Tree City USA Award, Aiken had received the Growth Award, which is given for establishing new programs or implementing extra projects during the year. She said the points were given for the new wood waste program where wood chips are collected from public and private tree pruning and removals to use as mulch in the parkways. Also, points were given for the public tree care workshop held in partnership with the Aiken Downtown Development Association, where Mr. Rapp made presentations on the proper pruning of crepe myrtles, etc. She pointed out that Aiken will also be recognized at the State Urban Forestry Conference on November 11, 2004 in Hilton Head. She presented the awards to Mayor Cavanaugh.

#### BOARDS AND COMMISSIONS

##### Appointments

##### Community Development Committee

Dewar, Dick

Lyles, Thomas H.

Mayor Cavanaugh stated Council needed to make one appointment to the boards and commissions of the city.

Mr. LeDuc stated Council has 3 pending appointments to boards and committees of the city and 1 appointment is presented for Council's consideration.

Councilman Smith has recommended appointment of Dick Dewar to the Community Development Committee to replace Thomas H. Lyles. If appointed his term would expire September 2, 2006.

Councilman Smith moved, seconded by Councilman Cunning and unanimously approved, that Council appoint Dick Dewar to the Community Development Committee to replace Thomas H. Lyles, with the term to expire September 2, 2006.

Councilwoman Price stated that she would like to recommend that Ronny Bolton be appointed to the General Aviation Commission to replace Mark Gibbons/Bill Elkins.

Councilman Smith stated he would like to recommend appointment of Don Broderick to replace Jack Wetzel on the Historic Preservation Commission at the end of December, 2004.

Councilwoman Vaughters stated she would like to reappoint Wilkins Byrd to the Planning Commission.

#### DEVELOPMENT AGREEMENT – ORDINANCE 10252004

Hitchcock Plaza

Silver Bluff Road

Pine Log Road

Acadia Hendon

Hendon Properties

Fabian Drive

Pawnee Drive

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to approve a Development Agreement for Hitchcock Plaza.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ENTER INTO A DEVELOPMENT AGREEMENT WITH ACADIA HENDON HITCHCOCK PLAZA, LLC.

Mr. LeDuc stated that at the last meeting Council reviewed a proposed developer's agreement with Hitchcock Plaza. Over the last several months staff has met with the developer, knowing that Kroger will be moving their operation sometime during the spring of 2005. The new owners of Hitchcock Plaza would like to make several changes to the center as they anticipate this future move. The developer's agreement represents the changes they feel are necessary for the redevelopment of the center.

One of the major highlights of this agreement includes developing Fabian Drive as a boulevard street from Silver Bluff Road through Walmart to Ola Hitt Drive. They are willing to give the City the right of way to construct the roadway and plant the trees within the right of way. In turn, the City would prepare the engineering drawings for the roadway and purchase the trees that would be planted along its right of way. In addition, the developer wants to utilize some of the existing detention pond behind the former K-Mart Building and is willing to extend the pond to meet the stormwater detention requirements.

The City has asked the developer to work with us concerning a proposed north-south roadway from Pine Log Road behind the center to Hamilton Drive. Through this development we are hopeful that the Hitchcock Plaza will continue to be a major shopping area for our community. We are currently looking at the necessary signal warrants for a possible traffic light to be added at the intersection of Silver Bluff Road and Fabian Drive. Further details on this will be provided as we get into the actual engineering of this roadway.

Council approved this ordinance on first reading at the October 11, 2004, meeting. For second reading and public hearing consideration, this is an ordinance to approve a developer's agreement with Hitchcock Plaza.

The public hearing was held and no one spoke.

Councilman Cunning moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to approve a developer's agreement with Hitchcock Plaza and that the ordinance become effective immediately.

#### TRAFFIC MANAGEMENT ORDINANCE 10252004A

##### Traffic

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to approve a Traffic Management Ordinance.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE CODE OF THE CITY OF AIKEN TO ADOPT A TRAFFIC MANAGEMENT ORDINANCE.

Mr. LeDuc stated that in the summer of 2001 City Council asked staff to develop a Traffic Management Ordinance. The goal was to develop criteria that would help determine how new developments would affect current and future traffic patterns. A Traffic Ordinance was developed, and Council asked staff to evaluate how traffic impact fees could pay for anticipated transportation improvements.

This was presented to Council in the spring of 2003. At that meeting, traffic impact fees were put on hold. Instead Council hoped to use the future one cent sales tax to pay for these roadway improvements. The ordinance was sent back to the Planning Commission for further review and at the May, 2004, Planning Commission meeting they approved a traffic ordinance.

On June 29, 2004, City Council held a public hearing which was attended by several hundred interested citizens and businesses. There was a lot of discussion at that meeting, and several major concerns were expressed, including: (a) At what traffic threshold should a traffic study be considered. (b) Should a traffic study consider the time period

for the project upon completion or 5 to 10 years beyond build-out. (c) Should the traffic ordinance review other intersections or limit the review to the development only and (d) Should funding for needed improvements be set aside for a limited number of years from the time of the improvements.

Based on these comments and concerns, each Councilmember appointed a citizen to work jointly with them to develop the ordinance. Two meetings were held in August and September with the joint committee, and the proposed ordinance and Traffic Management Plan were developed.

After the last meeting in September, we asked for any final comments by the members concerning the Traffic Management Ordinance. Two letters were received, one from Tad Barber concerning two items and another by Dick Dewar, who felt strongly about several items concerning the traffic ordinance in general. Tad's first comment concerned the difference between paragraphs 3 and 4 in Section 11-5. Paragraph 3 concerns the funding of any project that involves the development, whereas Paragraph 4 concerns projects that Council may ask the developer to fund in lieu of improvements that may not be able to be completed at the project site. We feel that those two areas should not be changed. However, his second comment concerning rewording the last sentence has merit, and we have made that change.

Dick Dewar's comments were more general, and were discussed in great detail at the meeting, and several compromises were made to come up with our final ordinance.

Mr. LeDuc stated the ordinance does meet the majority of the concerns that Council has expressed, with the basic results of the ordinance being that whenever a development is created that would have 3,000 or more trips per day on a roadway that has a Level of Service of B a traffic study would be required. For a Level of Service C 2,000 trips would be required for a study and for a Level of Service D 1,000 trips or more would require a traffic study. The ordinance also goes into how improvements would be paid for. There are some limitations that if the City does not make the roadway or traffic improvements after five years the developer's money would be returned. There is also a limitation that if the improvement is away from the development the developer would be paying a prorated share of the traffic improvements. The other prorated share of the improvements will be looked at in the budget this year. There are some funds set aside for traffic improvements, but the City does not have a permanent source of revenue for improvements. Any improvements that need to be made in front of the development, right hand turn lanes or traffic signals would be 100% the responsibility of the developer, based on what the traffic study recommends to be done. Staff feels that both Council and the committee have done a great job in putting together this ordinance. There may need to be some changes in the future as we use this ordinance. If this is the case, we could certainly make other adjustments to it in the future. He said a lot of hard work had gone into the development of the traffic ordinance.

Council approved this ordinance on first reading at the October 11, 2004, meeting. For second reading and public hearing consideration, this is an ordinance to adopt a Traffic Management Ordinance.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Smith and unanimously approved, that Council pass on second and final reading an ordinance to approve the proposed Traffic Management Ordinance.

Councilwoman Price stated that the volunteers who served with Council on the committee gave a lot of good sound information to the study group.

Mayor Cavanaugh stated he would like to say thanks to everyone who has worked on the Traffic Ordinance over the last 2 ½ to 3 years. He said it is one of those things you toss around, add a few things, and take away a few things. He said this gives the City something to work from. Not every city in the state has such an ordinance. In fact there

are very few as a matter of fact. Again, we are fortunate to have this opportunity and challenges that we do to be able to need one. He said it is a good starting point.

Councilman Smith stated he agreed with the Mayor. He said, however, it had been 3 ½ years. He said we are there. He said he was very pleased and grateful to all of Council and to all the people that worked on the committee. It is a fair compromise. It is a compromise, no question, but it is fair.

Councilman Cuning stated he felt Councilwoman Vaughters' comments were important and needed to be addressed—where is the money coming from. He said this is the type of study we need to have when the recommendations are made to ARTS as far as priority of road improvements. He said if we have critical roadway that need to be fixed, this is the guideline that we need to use and go to ARTS. He said right now there are no guidelines. He said we think we know what it is, but this can be used to prioritize the funds to do the work. He said this is the first step.

#### AVIATION BUSINESS PARK - ORDINANCE

Sell Property

U. S. Highway 1 North

Airport

Security Federal

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to approve the sale of real estate in Aviation Business Park.

Councilwoman Clyburn left the Council room, as she may have a potential conflict of interest, since she is a shareholder of Security Federal Bank.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE APPROVING THE SALE OF REAL ESTATE IN AVIATION BUSINESS PARK.

Mr. LeDuc stated for the last several months staff has been negotiating with Security Federal concerning the purchase of property at Aviation Business Park which fronts on Highway 1. They would like to purchase approximately 6.5 acres from the City adjacent to the airport entrance drive, shown as Lots A and A1. Recent appraisals of the property in the I-20 and Highway 1 area show prices ranging from \$15,000 per acre to \$45,000 per acre. Mr. Weeks has offered us the price of \$36,000 per acre, which we feel represents a fair and equitable price for the property when we look at the averaging of the sales prices in this area.

As Council remembers, we recently borrowed money from the General Fund to help lengthen and strengthen the major runway, to overlay the secondary runway, and to repair a ditch along the new runway. The 6.5 acres, based on \$36,000 per acre, would yield \$234,000, which is approximately one-half of the cost of these three items.

In the proposal from Security Federal they are asking that the City dispose of all the stormwater off site in a regional pond and allow a one lane road to run across property to the airport entrance drive. This would avoid traffic leaving the Security Federal operation site having to travel on Highway 1 to get to the airport. Water and sewer are already available on site. With this sale, City Council could require any conditions they deem appropriate concerning the building or the development of this site. Since they are not anticipating any construction for approximately one or more years, they currently do not have any site plans or drawings concerning what the building would look like. All city landscaping and signage requirements would be followed at this site.

Mr. LeDuc stated one item he would like to see included in the contract is that if something happened and Security Federal did not build on the property, the City would like to have a buy back clause based on the price paid to the city and tied to the interest rate of T-bills or the current interest rate being offered. He said staff feels the operation

center would be a great addition to the airport area. The area is zoned General Business in the County.

There was some discussion on the proposed roadway to the airport entrance road. Councilman Cunning stated it might be better for the roadway to be two lanes, for traffic in both directions. He stated the roadway could be an easement, and the city would still own the property. The roadway could be used by air courier service, and the roadway would facilitate the travel back and forth from the airport without going out to US 1.

Councilman Cunning moved, seconded by Councilwoman Price and unanimously approved, that Council pass on first reading an ordinance to sell 6.5 acres at the Aviation Business Park to Security Federal for \$36,000 per acre, and that second reading and public hearing be set for the next regularly scheduled meeting.

#### REZONING - ORDINANCE

Spencer Drive

Aiken Exchange

ADIZ, LLC

TPN 00-158.0-01-009

TPN 123-05-02-001

Aiken Mall

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the zoning of real estate owned by ADIZ, LLC from General Business (GB) to Residential Multifamily High-Density (RMH).

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY ADIZ, LLC FROM GENERAL BUSINESS (GB) TO RESIDENTIAL MULTIFAMILY HIGH-DENSITY (RMH).

Mr. LeDuc stated ADIZ, LLC is requesting the rezoning of 5.7 acres of property from General Business to Residential Multi-Family High Density (RMH). This tract is approximately 170 feet in width and 1,050 feet in depth. The property is located off Spencer Drive behind Target.

The applicant is proposing to build attached single family dwelling units on the west side of the sewer easement, similar to what they have built to date on Spencer Drive. They also intend to build multi-family units east of the sewer easement. The new roadway has been completed as per their original agreement, along with the detention pond.

The Planning Commission at their October meeting discussed the project at length, especially the rezoning of the multi-family units versus attached single family units. At the meeting the developer agreed to modify his request to rezone the property to the west of the sewer line and to the east of Spencer Drive as LP. This would allow them to continue building single family attached dwelling units similar to what they have along Spencer Drive. For the section between Spencer Drive west to the sewer line, the Planning Commission unanimously recommended the property to be zoned RMH.

Mr. LeDuc stated the developer originally wanted the property to be Residential Multifamily High Density. After looking at this and reviewing this with the Planning Commission, the developer has modified their request to continue with the MultiFamily High Density for the middle portion between Spencer Drive and the sewer line and to have the rest of the property rezoned as LP Limited Professional. LP allows them to build attached housing as they have done in the other areas, but the developer will have to go before the Board of Zoning Appeals for a variance. They intend to continue building the same type structures on the LP property as they have in the rest of the development. The other area that would be MultiFamily High Density would be apartments. The small area behind Target would be MultiFamily High Density.

Mr. Woody Belangia, of ADIZ, LLC, stated there is a storm drain that cuts through the property. The property on the left has a detention pond and will be more single family. The property on the right, according to the PUD, can be single story multifamily. He said they propose to do the multifamily near the Target Store. The other area would be single family attached.

Mr. LeDuc stated the concept plan for the area zoned Planned Unit Development south and west of Spencer Drive would be modified to show the property that is currently designated for MultiFamily Residential between the sewer line and the power line would be changed to single family attached.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council pass on first reading an ordinance to rezone property between Spencer Drive and the sewer line from General Business to Residential Multi-Family High Density and for property west of the sewer line and east of Spencer Drive the property would be rezoned LP, and the concept plan for the area zoned PUD south and west of Spencer Drive would be modified to show the property that is currently zoned for High Density between the sewer line and the power line to be single family attached.

### ZONING ORDINANCE

#### Amendment Planned Unit Development PUD

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the City of Aiken Zoning Ordinance regarding Planned Unit Development regulations.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE REGARDING PLANNED UNIT DEVELOPMENT REGULATIONS.

Mr. LeDuc stated that this spring City Council approved the Action Agenda for Fiscal Year 2004-05, which included priority No. 4 to amend the PUD provision of the Zoning Ordinance. The PUD concept gives the developer greater flexibility than conventional zoning because there are no minimum lot sizes or widths and no required setbacks. A variety of housing types and mixtures of land use therefore become possible. In exchange for this greater flexibility, City Council must approve a plan for the PUD and can control the details, the design and layout of the project, including preservation of open space. Two major aspects of the proposed amendment are: 1) To allow land in the city to be rezoned PUD, and 2) To strengthen the PUD provisions.

Approval of this amendment would allow PUDs to be used inside the city limits, whereas currently only newly annexed property can be zoned PUD. The PUD would still allow, if approved by Council, up to 5% commercial. That would not be automatic, but if any part of the PUD is to be commercial it would have to be approved by Council. There are several other provisions that are also being amended in this ordinance. Some of these changes include allowing a PUD to be a minimum four acres instead of five acres. The density could be decreased from 12 to 8 units per acre, excluding any required open space. In existing PUDs there is a 25 foot buffer. The proposed ordinance would not require a buffer. Because the existing PUDs require a 25 foot buffer, there are no setbacks required in existing PUD zones. In the proposed ordinance Council can require a buffer whenever deemed necessary, and no building can be less than 10 feet from the property line of a planned residential area. With these changes, future PUDs would be called "Planned Residential." The amendments do strengthen the PUD provisions and do allow property inside the city to be zoned PUD.

The Planning Commission at their last meeting unanimously approved these changes.

Council discussed the amendment at length. It was pointed out that Council gets the opportunity to look at the plans for a PUD, and Council can decide what they want to

require. Council discussed at length the setback requirements from the perimeter of a PUD project and for accessory buildings. They also discussed whether a percentage of commercial would be allowed. It was pointed out that Council has the authority to allow up to 5% commercial in a PUD, but Council could also require the development to be only residential, with no commercial area. Discussion centered around why commercial should be allowed in a Planned Residential area. It was pointed out there are already zones for commercial use. Several Councilmembers felt the zoning for a PUD should just be for residential use. After much discussion, several Councilmembers felt that a small percentage of commercial could be allowed in PUDs of possibly 10 acres but not an area as small as 4 acres. Several Councilmembers felt that a PUD gives the developer flexibility and gives Council the ability to make requirements to get an area developed as they feel it should be. It was pointed out by Planning Commission member Wilkins Byrd, in answer to a question by Councilman Smith, that the area for a PUD was reduced from 5 acres to 4 acres because the approximate size of a typical city block in old Aiken is about 4 acres. A five acre minimum for a PUD would have made it impossible for any of the typical old Aiken blocks to ever be a PUD. Mr. Byrd also pointed out that the four acres had to be contiguous and could not be part of two blocks or an area across the street.

In accordance with the discussion regarding the size of PUDs and commercial areas, Mr. LeDuc clarified that under Section G.4.a., Design Standards, the sentence would read—“A maximum of five percent of an area of ten acres or larger of the proposed development is permitted to be devoted to uses other than residential and open space, but there is no entitlement to any commercial or institutional use.”

Mr. LeDuc then asked that Council clarify their feelings on the five foot requirement from any side or rear property line for an accessory building, or 10 feet for a structure. He pointed out that if a developer wants less than 5 feet they must apply to BZA for a variance. He pointed out the way the ordinance is written, Council could require more than 5 feet, but not less than 5 feet.

Council then discussed this matter at length and the agreement was that the minimum would be 3 feet. If a developer wanted less than 3 feet they would have to apply to BZA for a variance.

Councilman Cuning moved, seconded by Councilwoman Clyburn, that Council pass on first reading an ordinance to amend the Planned Unit Development zoning classification, with the ordinance amended to state that a PUD in excess of 10 acres could have 5% commercial, but PUDs below 10 acres would be totally residential, that any accessory building must be at least 3 feet from any side or rear property line, and that second reading and public hearing be set for the next regularly scheduled meeting. The motion was approved by a vote of 6 to 1 with Councilwoman Price opposing the motion.

#### ZONING ORDINANCE

Amendment

Posting

City Council

Meetings

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Zoning Ordinance regarding posting of City Council meetings.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING SECTION 6 OF THE ZONING ORDINANCE REGARDING NOTICE REQUIREMENTS FOR ANNEXATIONS, REZONINGS OR THE PROVISION OF CITY UTILITIES TO OUT OF CITY CUSTOMERS.

Mr. LeDuc stated that in June, 2003, City Council passed an ordinance asking staff to post signs notifying the public about City Council public hearings. These would involve requests for annexation, rezoning or city utilities. The amendment requires posting 20 days in advance of these hearings. However, it has become evident that the time period should be decreased for the following reasons:

1. There are usually 14 days between Council meetings, and therefore the 20 day posting must be done before the first reading. Many times there is a delay as to when the first reading would be held, and this has caused citizens to come to meetings even when the items were not even on the agenda.
2. Also, there have been several times when an application goes on the agenda for first reading, but due to delays or needing additional information, a second reading and public hearing is delayed after the signs have been installed for a number of days. Having these signs out this far ahead has caused confusion among interested citizens and complaints to our office.

Staff would like to propose that the time period for posting be reduced from 20 days to 7 days. The Planning Commission discussed this at their last meeting and unanimously approved this change in the ordinance.

Council discussed the matter. Councilwoman Vaughters stated she felt the items should be posted more than 7 days in advance. She did not feel that it was that big a problem. She stated the citizens can always call to be sure an item is on the agenda.

Councilman Sprawls moved, seconded by Mayor Cavanaugh, that Council pass on first reading an ordinance to amend the Zoning Ordinance regarding posting for City Council meetings, and that second reading and public hearing be set for the next regularly scheduled meeting. The motion was approved by a vote of 5 in favor and 2 opposed. Councilmembers Smith and Vaughters opposed the motion.

#### INSURANCE TAX COLLECTION - ORDINANCE

License

Amendment

Taxes

Business License

Insurance Companies

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Insurance Tax Collection Ordinance.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE BUSINESS LICENSE ORDINANCE PROVISIONS FOR INSURANCE COMPANIES AND FOR BROKERS FOR NON-ADMITTED FIRE AND CASUALTY INSURERS

Mr. LeDuc stated the Municipal Association of South Carolina currently collects all of the legislatively approved business licensing for the insurance companies. This includes life, health, accident, fire and casualty, and title insurance. Each, according to the state legislation, is billed at 2% of the gross premium.

City Council recently amended their business license collection for telecommunications, due to some changes and clarification needed in the current ordinance. Similar changes are needed with our licensing concerning insurance companies.

The Municipal Association has asked all municipalities to adopt the standard code, which would revise the ordinance adding the NAICS Code, and to use the proper language to describe "agents" and "gross premiums." These changes will allow the Municipal Association to continue working with the municipalities throughout the state in the collection of these premiums.

Councilwoman Price moved, seconded by Councilman Smith, that Council pass on first reading an ordinance to amend the Business License Ordinance and the city's insurance tax collection program with the Municipal Association and that second reading and public hearing be set for the next regularly scheduled meeting. The motion was approved by a vote of 6 in favor and 1 opposed. Councilwoman Vaughters opposed the motion.

SIGN

Bank of America  
Laurens Street  
Aiken Downtown Development Association  
ADDA

Mayor Cavanaugh stated Council needed to consider a request from the Aiken Downtown Development Association and Bank of America to re-erect the time and temperature sign on city property and to ask permission of the sign company to erect a "walk"/"don't walk" sign on this post for the City of Aiken.

Mr. LeDuc stated that for the last several years the Aiken Downtown Development Association has been working with the Bank of America concerning the replacement of their time and temperature sign at the corner of Laurens and Park. At the March 11, 1968, meeting City Council gave approval to the then Farmers and Merchants Bank to allow them to erect a time and temperature sign at that location. He pointed out that Wade Brodie was the person that came before Council in 1968 requesting the time/temperature sign at Laurens and Park. He stated Mr. Brodie is back at this meeting representing Aiken Downtown Development Corporation asking for permission to change the design of the sign and to re-erect the sign.

The bank would like to install a new sign as shown in the drawing provided to Council. This would need approval by City Council and BZA to erect a sign on city property. In turn, we would be asking the sign company for an agreement to attach a "walk"/"don't walk" sign on this pole to avoid duplication of posts in this area. He stated if Council gives approval for the sign to be erected on the sidewalk, which is city property, the request would still need to go before BZA for approval, because the design of the sign is being changed.

The Planning staff has reviewed the proposed sign and recommends not approving it for several reasons. Mr. Ed Evans, Planning Director, gave his reasons for not recommending approval of the sign. He stated if this were a new sign to be located in any other location in the city it would not be allowed for the following reasons: 1) the sign would be advertising a private business on street right of way; 2) that signs in the street right of way should not display electronic information; 3) the sign is not in keeping with the sign regulations; and 4) the sign would detract from the appearance of downtown Aiken. Mr. Evans stated he felt the proposed sign in the street right of way would detract from the appearance of the intersection at Laurens and Park. The sign height would be taller than the street lights on the street. The sign would be topped by a street light fixture which would be taller than all the other street light fixtures in the area. He said the sign would be an electronic display, which he feels does not fit the intersection. He said he did not feel the city should authorize a sign in the street right of way that advertises a private business. He also pointed out that if the sign is approved, others may ask for a similar sign in the downtown area. He pointed out that the sign regulations in the downtown business area have a maximum area of 24 square feet whereas the proposed sign would have 36 square feet. The maximum height for a sign in the downtown is 7 feet and the proposed sign would be 16 feet. Additionally, he was concerned that Council would be making a recommendation prior to the Board of Zoning Appeals hearing this variance request.

Mr. LeDuc stated if this were a brand new sign Council might consider it differently. He stated, however, the other issue is the fact that the current sign was approved in 1968 by City Council and one should consider the grandfathering of this sign. He said the sign had been in this location for 36 years. The request before BZA is currently scheduled for the November 23, 2004, meeting.

Mr. LeDuc pointed out that in a few months there will be a request for a pilot program to advertise the location of shops in the downtown in public right of way. He said this will come before Council for approval. It was pointed out the proposed sign is before Council because it will be located on street right of way. The request will be before BZA because the face of the sign is proposed to be changed.

Mr. Wade Brodie, of the Aiken Corporation, stated Phil Wall, Senior Vice President of Bank of America, was present also to request the re-erection of the sign. Mr. Brodie stated the ADDA had been working on the sign for several years. He pointed out it was a complex situation, because the issue includes the bank, the owner of the property, and the sign company, as well as the placement of a street light on top of the sign. He pointed out the sign company actually owns the sign and leases it to the bank. He said he felt the proposed sign is a better looking sign than the existing sign downtown. He said an option is to leave the present sign as it is if the new sign is not approved by the City or the BZA. He pointed out that in 1968 the present sign was presented to Council as a community service. He feels that the time and temperature provides a community service. He also pointed out that the present sign had been changed numerous times when the bank name was changed.

Mr. Phil Wall, of Bank of America, stated he felt the proposed sign would be an improvement over the present sign. He said he felt the proposed sign was more in keeping with the development downtown. He said the proposed sign is a solution that benefits not only the city, but also provides the bank with something they can be proud of.

Council discussed the request at length.

Councilwoman Price moved, seconded by Councilman Cunning and unanimously approved, that Council allow the Bank of America to re-erect the time and temperature sign on city property and to ask permission of the sign company to erect a "walk"/"don't walk" sign on this post for the City of Aiken.

#### TAXES

##### Dobson, Mabel Tax Sale

Ms. Mabel Dobson appeared before Council regarding two issues on property she had purchased at the tax sale. She said the first issue concerned two lots where the city had attached demolition costs. She said when she purchased the lots the demolition costs were not mentioned. She said she had a deed from the County for the two lots. She said the City at one time had asked her about purchasing the lot on Chesterfield Street. The other lot is on Abbeville Avenue in the Toole Hill section. She said she had signed a contract on the Abbeville Avenue lot to sell the lot to the City. She said she understands the City is waiting for her to lose the lot so they will not have to pay her for the lot. She felt it was not fair for the city to wait until November 5, 2004, for her to lose the lot. She said also there is an issue on two other lots.

Council discussed the issue at length. It was pointed out that in order for the City to purchase the properties, Ms. Dobson had to be able to give a clear title or deed the property to the City without liens or other charges on the property.

Mr. LeDuc stated that city staff had met on several occasions with Ms. Dobson and sent several things in writing concerning the properties regarding the liens and the demolition charges on the lots. Mr. LeDuc stated that in 1999 Ms. Dobson bought several pieces of property at the tax sale. Each one of the properties had some kind of lien on them. Some had liens for demolition of dilapidated housing on the property. The demolition was done by a contractor so the city had to pay the contractor for demolition of the buildings. Also, there were late taxes due on the properties. He pointed out Ms. Dobson had to pay these liens in order to get a clear title. He said staff had met with Ms. Dobson about two years ago and she expressed the fact that she was not aware of these liens and she felt it was unfair to her. The staff offered at that time that if she felt she was unfairly dealt with that the city would buy the lots back for what she paid for them at the tax sale. At that time she said she would think about it, but did not get back with the city. Recently Ms. Dobson was in the office again about fees due on the properties which range from \$3,845 to over \$10,500 on the four properties. He pointed out the city had paid the contractor for demolition of the buildings on the lots. He said Ms. Dobson is now asking the City to eliminate the demolition charges from the properties. He said he had told Ms. Dobson that the city could not waive the taxes or demolition charges on the lots.

Ms. Dobson stated the City would not let her pay the taxes on the property, but said she first had to pay the demolition charges on the lots. She said she had paid the County taxes on the property.

Mr. Gary Smith, City Attorney, stated liens for demolition of buildings on properties are filed at the RMC Office. This filing puts the people on notice that there is a lien on the property. He said Ms. Dobson evidently has not done a title search on the property prior to the tax sale, but had discovered the liens on the property after purchase of the property. He said it is up to the people buying properties at a tax sale to check on the property to be sure they can get a clear title. Mr. Smith stated his opinion was that it would be inappropriate to waive the lien, as the City has paid the demolition costs from the General Fund.

Mr. Richard Pearce, Staff Attorney, stated he had worked with Ms. Dobson for three years on these properties. He said he had discussed with Ms. Dobson on many occasions that she must file a title clearing action to be able to own the properties. This must be done before a person owns the property. He pointed out buying property at a tax sale is at one's own risk. The person buys it with all its faults. He said it is state law that a person does not own property until they have paid all liens and have a clear title to the property.

After much discussion it was the general consensus of Council that Ms. Dobson bought the properties but did not follow up to get a clear title. It was stated the liens need to be satisfied and taxes paid for Ms. Dobson to own the properties. It was pointed out one must be careful purchasing property at a tax sale. It was felt Ms. Dobson made a bad choice in purchasing the properties.

Ms. Dobson stated the other issue involved the house which she previously owned at 1427 South Boundary. She said the city deeded the property to her and then took it back and gave the property to Regions Bank. She said the city would not give back the city or county taxes which she had paid on the property.

Mr. Pearce again stated the city did not take the property from Ms. Dobson nor deed the property to Ms. Dobson, she bought the property at a city tax sale. Again Ms. Dobson did not file a title clearing action so she did not obtain title to the property. The tax sale was challenged by the owner of the property and the tax sale was set aside. He said the city was trying to defend the tax sale and trying to confirm the title with Ms. Dobson. The court did not rule in the City's favor and set aside the tax sale. He said there was a loan to Regions Bank and the bank foreclosed the loan. He said the same time the tax sale was being challenged there was a mortgage foreclosure. The City had nothing to do with the mortgage foreclosure. It was against the owner of the property who owned the property when it was sold at the tax sale. Over three years ago, Judge Smoak ruled that the tax sale was invalid. During the course of the litigation, Ms. Dobson collected over \$6,400 in rent, so she did get money off the property even though she did not legally own it. The court ruled that Ms. Dobson as a matter of law was not entitled to any money from the City. She appealed the case to the Court of Appeals. The appeal was dismissed and the Judge's Order stands. Mr. Pearce stated Council could not do anything about the South Boundary property, as that would be in contradiction of the Court Order and would subject Council to contempt citations.

It was pointed out the South Boundary property went through legal proceedings and the Judge ruled on the matter and Council cannot do anything about the property.

It was pointed out if a person is going to purchase properties at a tax sale they should make sure that a title search is done and there are no liens against the property which is being bought. The consensus of Council was that they could not do anything about the taxes or liens on the property which Ms. Dobson purchased at the tax sale. It was felt it was Ms. Dobson's responsibility to check on the properties before purchasing them.

TROLLEY CARRecreation DepartmentPurchaseTourism

Councilwoman Vaughters stated in view of the discussions which had taken place regarding curtailing tours of the city whether the City should buy a trolley car for tours. She pointed out another idea was having carriage tours. She pointed out carriage tours would be expensive with insurance, horses, etc. She wondered if the city might be better off subsidizing the carriage tours rather than purchasing a trolley car.

Councilman Cuning also stated he felt he needed a briefing on tours, and if the city was going to limit tours maybe the city did not need to purchase a trolley car.

Mr. LeDuc pointed out the city's current bus is over 10 years old and breaks down a lot. He said the present bus is used every week for tours and for other events during the week. He said through the discussions with the group it appears the city may have up to three tours a week. He said not only would the trolley be used for tours, but for taking people to other events around the city. The trolley has 25,000 miles and should help relieve some of the use of the present bus. He stated he had also talked to Jean-Paul Gautier and he will provide carriage tours for \$25 per person and can take up to 5 people on his carriage for a one hour tour. He said presently the bus has 20 to 25 people each Saturday. The trolley would supplement the bus. A new bus is about \$110,000. The trolley proposed to be purchased is about \$28,000. He said it was felt the trolley would provide a service for the city. He said the last time staff had proposed to buy a trolley, it was sold by the time the city got approval for use of the Accommodations Tax monies to purchase it.

Mr. LeDuc stated the city staff had met with the group which was opposed to any bus tours on any dirt roads in the city. He said they finally came to a compromise where the city could have up to three bus tours a week going down Two Notch Road only. There would be two tours during the week and one on Saturday. He said the city proposes some safety aspects on Two Notch Road to try to get the speed limit lowered. He said the plan is to use a sign which indicates how fast a motorist is going. He said the city also plans to use speed humps on Two Notch Road. He pointed out many school buses use Two Notch Road every day. Staff is also looking into a three way stop sign at Audubon and Two Notch Road. He said if the city does not purchase a trolley, then the city is going to have to purchase a bus fairly soon.

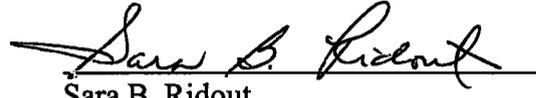
Council discussed the purchase of a trolley, and the general consensus of Council was to go ahead with the purchase of a trolley. It was suggested that the new tourism person could promote polo, as this has become a big business.

COLLETON AVENUEGang ActivityGroup Activity

Chief Pete Frommer reviewed for Council the gang activities which had been in the newspaper recently. He reviewed for Council what the Public Safety Department was doing for these gang activities. He said the city wanted people to feel safe in their neighborhoods, so Public Safety has extra patrol in the Colleton Avenue area. He said the patrol is catching people doing various things in the neighborhood, so the extra patrol is helping the situation. He said the city is working on getting a building to use for an afternoon center for kids and trying to get some teachers to help in the center. It was pointed out such a center keeps kids in a wholesome atmosphere. It was pointed out that the investigation on activities in the area takes time, but the city is working on trying to improve the area as well as other areas of the city. It was also suggested by Council that there be more activities at Smith-Hazel for the young people.

ADJOURNMENT

There being no further business, the meeting adjourned at 11:18 P.M.



Sara B. Ridout  
City Clerk

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