

Aiken City Council Minutes

REGULAR MEETING

June 24, 2013

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, George Grinton, Kim Abney, Ed Evans, Alicia Davis, Tim Coakley, Charles Barranco, Glenn Parker, Matt Braxton, Sara Ridout, Amy Banton of the Aiken Standard, and about 20 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:03 P.M. Councilman Dewar led in prayer, which was followed by the pledge of allegiance to the flag.

GUIDELINES

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

RECOGNITION

Mayor Cavanaugh stated Josh Ateca, a Boy Scout, and his dad Tony Ateca, were present. He pointed out Josh is working on his Citizenship Badge.

MINUTES

The minutes of the regular meeting of June 10, 2013, were considered for approval.

Councilman Ebner stated he would like some clarifications on the item regarding South Park Commons. He said there was a long discussion at the last meeting regarding the roads in South Park Commons. He said he had looked up some information about the Engineer of Record. He pointed out the paragraph in the minutes beginning "Councilman Merry stated he remembers having to do all the tests for his developments...."

Councilman Ebner presented a letter that Mr. Larry Morris sent out after Council adopted the Engineer of Record requirements. He said he was not on City Council at that time, and at the time he was mainly looking at Woodside roads. He said at the time he did not realize it covered the whole city. Councilman Ebner pointed out some items on the letter from Mr. Morris. "In lieu of the City Inspectors an Engineer of Record will be used." "If a project does not have a stamp of approval from the Director of Planning as of January 1, 2008, the project will comply with the new regulations."

Councilman Ebner stated Councilman Merry had commented at the last meeting that he had to use an Engineer of Record. He said the reason this is critical is that prior to the August 14, 2012, meeting with the Gem Lakes Extension residents, he looked at the records in the city files for the Gem Lakes Extension streets which were done by Kisner and Gaul, Inc. and also Colleton Park, which was done by Councilman Merry. He said these dates are important. The original drawing date for Councilman Merry was September 20, 2006. It was approved June 6, 2007. That was prior to January 1, 2008. He said when he looked up the Gem Lakes Extension the original drawing was dated by Hass and Hilderbrand November 5, 2007, with the preliminary approval by Planning being March 12, 2008, which would put it under the auspices of the Engineer of Record to take all of the tests. He said these are some critical dates in relation to Colleton Park as well as some of the other additions that were done in the city. He said he had other documents which concern Woodside, as he was only dealing with that in 2007 and 2008. He said he felt there was a disparity that needs to be reviewed. He said he would send Mr. Pearce an email with the dates that he has. He said he looked the dates up on August

13, 2012, in the Engineering office and went through the files on both of these additions. He felt it was important to look at the dates. Councilman Ebner stated he assumed by the comments that Councilman Merry did all the tests and he knew he did as they were presented to Council when Council accepted the roads. He said Councilman Merry did all the tests and his work was done prior to January 1, 2008, and the work for Gem Lakes Extension was after January 1, 2008.

Councilman Merry stated he was not sure of Councilman Ebner's point. He said his understanding was that nothing changed about what the requirements were. The change was just who witnessed the requirements. He said he was missing Councilman Ebner's point.

Councilman Ebner stated the point was that the Gem Lakes Extension streets don't have any tests made on them, but they were required to have an Engineer of Record according to the stamp of approval from the Planning Department which was after January 1, 2008, and no records exist. He said Councilman Merry did his subdivision work prior to January 1, 2008, and he met the requirements. He said he finds that in odd places in other areas of town also. He said he had done a lot of research in 2007 and 2008. He said his point is that Councilman Merry did the tests prior to 2008, but there was an approval after that which did not have the tests done.

Mr. Pearce stated the city does have some testing records for Gem Lakes Estates Extension from CSRA Testing. He said the developer had mentioned that they had done some further testing. He said there are testing records for Gem Lakes Estates Extension. He said staff would be glad to look at Councilman Ebner's email and double check the records against what Councilman Ebner's findings show.

Councilman Ebner stated staff needed to check that because what has officially been submitted for the Gem Lakes Extension shows there has only been one test made in relation to the specifications.

Mr. Pearce stated our understanding from the developer is that there is more than one test. He said staff would look into it.

Councilman Ebner stated we continue to get back and forth information, but when he looked in the records, and what we talk about sometimes, his interpretation may be wrong. He said, however, when he reads it and writes it down he felt he was close to what the records say.

Councilman Dewar stated he had asked several questions concerning Public Safety at the last meeting. He said in the paragraph "Mr. Pearce stated staff could give Council a report if that would help.... He said staff can give Council a full report once it is in place." He said those comments were referring to the potential reorganization in Public Safety. He said he thought he heard that information would come to Council before any significant changes were made to the structure of Public Safety.

Mr. Pearce stated the minutes reflect what he said. Staff will bring a report to Council. Councilman Dewar stated the minutes state the report would be once it is in place. He said that is the part he is concerned about. He said he thought he heard Mr. Pearce say at the last meeting that Council would get an evaluation of the reorganization or would be a part of the process for the reorganization. He said Council is concerned about Public Safety.

Mr. Pearce stated if that is a Council concern staff can bring a report to Council of what the intent would be. Councilman Dewar asked if that would be before it is implemented. Mr. Pearce stated there would be no structural change to the department. Councilman Dewar stated he was not sure Council knows what staff is thinking of doing. Mr. Pearce stated staff does not know either yet. It is just being discussed at this point. He said staff will certainly keep Council informed.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the June 10, 2013, minutes as submitted. The motion was unanimously approved.

PRESENTATIONS

State Champions

Mead Hall Golf Team

Mead Hall Tennis Team

Golf Team

Tennis Team

Proclamations

Mayor Cavanaugh stated Council would like to recognize two championship teams--the Mead Hall School Varsity Golf Team and the Mead Hall Varsity Tennis Team.

It was pointed out that no one was present from the teams from Mead Hall. It was suggested that the item be considered at another meeting when team members could be present.

BOARDS AND COMMISSIONS

Appointments

Doris Begley

Arts Commission

Alexander Grennor

Environmental and Energy Committee

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

Mr. Pearce stated Council has 14 pending appointments to fill vacancies on different City boards, commissions, and committees. Two appointments are presented for Council's consideration.

Mayor Cavanaugh has recommended that Doris Begley be appointed to the Arts Commission to fill the position of Kristin Brown who has resigned. If appointed, Ms. Begley's term would expire April 11, 2015. Ms. Begley would represent the Performing Arts category on the Arts Commission.

Councilmember Merry has recommended that Alexander Grennor be appointed to the Environmental and Energy Committee to fill the position of Charles Newton who resigned. If appointed, his term would expire December 31, 2014.

For City Council consideration is approval of two appointments.

Councilman Dewar moved, seconded by Councilman Homoki, that Council approve the appointment of Doris Begley to the Arts Commission with the term to expire April 11, 2015, and the appointment of Alexander Grennor to the Environmental and Energy Committee with the term to expire December 31, 2014. The motion was unanimously approved.

Councilman Ebner stated he would like to recommend the reappointment of Ronald Dellamora to the Environmental and Energy Committee and Marion Naifeh to the Park Commission.

Councilman Homoki recommended that Martin Buckley be reappointed to the Building Code Appeals Committee, Linda Lucas to the Senior Commission, and Phyllis Sorensen to the Recreation Commission.

BUILDING CODES – ORDINANCE 06242013International Building Codes2012 EditionsBuilding CodeFire CodeFuel Gas CodePlumbing CodeMechanical CodeEnergy Conservation CodeProperty Maintenance CodeResidential CodeElectrical Code 2011 Edition

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance for the adoption of the International Building Codes.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO AMEND CHAPTER 10 SECTION 10-2 OF THE AIKEN CITY CODE TO INCORPORATE THE 2012 EDITIONS OF THE INTERNATIONAL BUILDING CODE, WITH MODIFICATIONS; INTERNATIONAL FIRE CODE, WITH MODIFICATIONS; INTERNATIONAL FUEL GAS CODE, WITH MODIFICATIONS; INTERNATIONAL PLUMBING CODE, WITH MODIFICATIONS; INTERNATIONAL MECHANICAL CODE, WITH MODIFICATIONS; INTERNATIONAL ENERGY CONSERVATION CODE; THE INTERNATIONAL PROPERTY MAINTENANCE CODE, WITH MODIFICATIONS; THE INTERNATIONAL RESIDENTIAL CODE, WITH MODIFICATIONS; AND THE 2011 EDITION OF THE INTERNATIONAL ELECTRICAL CODE.

Mr. Pearce stated on a regular basis, the International Building Code Congress updates and amends the International Building Code. When it does so, the South Carolina Building Code Council reviews those amendments and directs adoption of them by local governments. Implementation of these revised Building Codes is mandated by the State. It is now time for us to adopt the most recent revisions to these building codes pursuant to our Building Official Mike Jordan. Since Council adopts these codes as part of our City Code of Laws, an ordinance is necessary to enact these recent revisions for construction occurring within the City limits of Aiken.

Mr. Pearce stated we are on a time deadline because the South Carolina Building Code Council wants us to have these revisions in place before July 1, 2013. He pointed out the state legislature reviewed the recommendations of the South Carolina Building Code Council and did not have any comments.

Mr. Pearce stated Council had first reading of the ordinance at the June 10, 2013, meeting.

For Council consideration, is second reading and public hearing of an ordinance to adopt the editions of the Building Codes as presented by the International Building Code Congress and mandated by the State of South Carolina through its Building Code Council.

The public hearing was held.

Mr. Mike Stake stated that he has an issue with adopting the International Building Codes. He asked if anyone had heard or understands Agenda 21. Some of the Councilmembers stated they had heard of Agenda 21. Mr. Stake stated Agenda 21 is a sustainability agenda. In 1992 President Bush, Sr. signed us onto Agenda 21 through an executive order when he went to the Rio Summit. He said this basically takes all our resources. He said by resource he meant water, land, etc. Whatever they deem a resource including people, they control. That is UN Agenda 21. He said it comes in a lot

of different phases and ways. They will tell you about sustainability, greenability, and smart growth. He said those are the key words to understand that it is all part of the UN Agenda 21. He said as a citizen of the United States we believe in property rights, and that we own our property because we work hard for our property. He said his position is that as an American signing us on by executive order to UN Agenda 21 in 1992 has had an insidious cancer affect. He said he moved from Denver about 2 1/2 years ago. He said Denver has swallowed Agenda 21 hook, line and sinker. There is not one place you can move or move about without someone having a regulation, issue, and the ability to cut your freedom to do as you wish. There is no self determination. He said he could live anywhere he wanted, but he chose Aiken because of its quality of life. He said he loved Aiken. He believes in city first, county second, state third, and everybody else wherever they fall. He said this is where we live and where we can have a conversation like this. Whether we are one side of the issue or the other side we live together. He asked how we can do that in a great way without having an international body dictate to us such as the International Mechanical Code with modifications, International Energy Conservation Code, etc. He said there are codes for a reason. He said he is from a background of private construction. He said he had done a lot of private homes. He said the type of homes that he had been a part of had been between 10,000 square feet and 20,000 square feet. He said he understands the need and necessity to have codes. He said his issue is that the international codes smack of Agenda 21.

Councilman Dewar asked how the international codes relate to Agenda 21 and if he had a specific rule in the code that reflects Agenda 21. Mr. Stake stated that we do by adopting the International Mechanical Code. They are the ones who dictate how it all changes. He said we would be adopting the codes on the international level. They are the ones who write the rules, not the people within the State of South Carolina. He stated the International Energy Conservation Code dictates what they believe is energy conservation. In a few years they may say you can only use X amount of gas, gasoline, natural gas, or energy for your home. As an American we understand that we have the freedom, as long as we can afford it, to have as much energy that we can afford. We decide how much energy we require. He said his issue, especially for the International Energy Code is that they are the ones who dictate to us. They are not Americans. They don't understand our way of living, and they definitely are not Aikenites. He said between all of us as we live in Aiken, we can come to some kind of consensus. However, when he needs to try to find someone on the international level to listen to him say that he does not agree with this, he wondered how far that would get and whether he would be getting farther from independence. He said with each step that we introduce ourselves into an international situation, we are taking another step toward dependence on an international level, not an independence.

Mr. Gary Smith, City Attorney, asked Mr. Stake if he had made his comments and concerns known to the South Carolina Business Code Council. Mr. Stake said he had not, because he had just learned about this. Mr. Smith pointed out that the City had already been mandated by the State of South Carolina to adopt the codes. He said the City does not have a choice. He said Mr. Stake's argument is not necessarily with City Council, but the argument is really with the State. He said the City is a political subdivision of the State of South Carolina.

Mr. Stake stated we are here to talk about the adoption of these codes. He said he felt we have a choice to adopt them or not. Mr. Smith stated when the language says we have been mandated to adopt the codes, they are saying we don't have a choice.

Mr. Stake stated then the State has signed us on to Agenda 21, and we have no choice. He asked why should we have any further conversation if we are being mandated.

Mr. Pearce stated the city has existing building codes, and they have been updated. The reason this matter is on the agenda is that the city reviews and considers the latest editions. The South Carolina Building Code Council affects the entire state. He said the City would not be able to issue building permits after July 1, 2013, if we failed to adopt the codes. He said the City's Building Official meets with the state-wide organization, and they reviewed the codes. He said in effect we would shut down development in

Aiken effective July 1 if we failed to adopt these versions of the building codes. We are already using existing building codes, the proposal is to adopt the latest versions of the codes.

Mr. Stake stated then his fight is with the State as the State has signed us on, and we don't have a choice.

Mr. Pearce stated the State had signed us on to the most recent version of the building codes. He said the building code represents a minimum building standard. There is nothing to stop anyone from exceeding the code requirements. He said the codes are for safety—fire safety, electrical safety, and to make sure the plumbing will work correctly with our city infrastructure. He said the codes had been reviewed by the State and the State Legislature had an opportunity to comment on the codes.

Mr. Stake stated he hoped he made his point clear—that no choice is a choice. He said the city has no choice. He asked how that is helping us with self determination.

Mayor Cavanaugh asked Mr. Stake if he had talked with anyone else in the community or other political bodies. Mr. Stake said this was his first stop, as he had just learned about it. He said he wanted to try to educate City Council that as we continue to do these types of things we have no choice. He said the question is why we don't have a choice because we keep getting signed on to mandates by the state. He said he could probably find enough people to say why are we being mandated by an international body. He said he had concerns about adopting international building codes and being mandated to adopt them and not have some self determination. He said the State of South Carolina does not live here, but the people in Aiken do.

In response to a question by Mayor Cavanaugh, Mr. Stake said Agenda 21 first started in 1992. He said it had been insidious in a lot of different ways. He said it can come in a lot of different names. ICLEI, which is the international body that pushes this in as far as conservation, has a website. Cities sign on to be a member. As a member of ICLEI you sign on to an agenda for smart growth, energy conservation, sustainability, etc. and you start using zoning laws and planning laws to accomplish the Agenda 21. He said the point is that as you sign on to this idea there are a lot of people who don't know what Agenda 21 is or what they are signing on to. He said in Denver they have taken whole sections of land and have turned them into urban areas. He said in Denver that means they have scrapped a lot of houses, or whatever was on the property, and they put up a multi-use type of idea where they have shops on the bottom and lofts, penthouses, or condos on top. Basically they want to try to pull you from rural areas and urbanize the citizenry. He said this is happening in Denver, Dallas and across the nation in a lot of different places. He said if you go to the ICLEI site you can see the membership. He pointed out that municipalities are losing tax money to pay for police, fire, etc. The UN Agenda 21 pushes money into communities so you can do these types of things. A city is eager to sign on because they don't have money for police, fire, expansion of city, etc. The Agenda 21 through ICLEI and a variety of different places come to you with money and tell you what you must use the money for and they control all resources. A word they use is repurpose. He said that is what he wants to keep out of Aiken. He said it creeps in very quickly and takes over very fast. Mr. Stake stated in looking at the International Building Code, and as Mr. Smith pointed out, we have no choice. It is a mandate. He said he wanted to call to Council's attention that we don't have the freedom that you believe we have. He said he has to take his issue to another level, but he wanted to make Council aware that UN Agenda 21 is very real because he fled from it, leaving Denver. He pointed out that the International Code adds more cost to a project. He said it had affected him personally. He said he had worked for two of the top five custom home builders in Denver. He said they would do two to four a year. He said with the way the economy turned around in 2008-09, he will probably not build another of those houses in another 15 to 20 years. He said he was set to build a 20,000 square foot home for an individual, but he could not because the prices were so high on copper, building materials, etc. and because of all the regulations that were heaped on top. He said the cost became prohibitive. He said the 20,000 square foot house that he had spent a year

with designers, general contractors, etc. in trying to put the house up, the individuals said they could not do the house any more as the cost had gone so high.

Councilman Merry stated he was aware that the changes in the Electrical Code and Residential Code will rather substantially inflate the cost of building residential structures. He said he did not know if the mandate is true or not. He said in years past the State of South Carolina has operated many years behind on the code adoption process. He said the Residential and Electrical codes will substantially increase the cost to build a house. He said the changes are safety related. He said there are things in the codes that will drive up the cost of a house, and he did not know how much is environmental as opposed to safety.

Mayor Cavanaugh pointed out that Mr. Smith had said at this point the city is mandated to adopt the codes.

Mr. Smith pointed out that the city does not have to have a Zoning Ordinance, but if we want to have a Zoning Ordinance we have to do it in compliance with state law. One of the requirements of state law is that we must adopt the building codes that they tell us to adopt if we want to have a development program in the City of Aiken. We have to comply with the state laws.

Councilwoman Price said as a point of information if you Google Agenda 21 it addresses sustainability development, agricultural, world poverty, one world government, economic growth, and environmental sustainability.

Councilman Dewar stated there are some people in the community that are concerned about our Open Space Element, as that can adopt some of the issues of Agenda 21. He said he admired Mr. Stake's passion, but he felt he had quite an education job ahead of him because most of the people on Council don't know what Agenda 21 is. In some cases we are impotent, and other cases we might be able to do things. A couple of years ago Council heard an issue about fluoride in the water. There were people for and against it. Council had to bone up on it and get expert help and Council made what they thought was an informed decision. He said Council has to be educated and the rest of the people on what Agenda 21 is.

Councilman Merry stated there are a lot of people in Aiken talking about Agenda 21, so Mr. Stake might find some help.

Mr. Stake stated Mr. Smith had pointed out the state mandate so there was nothing he could do here. He said, however, he did not feel that his appearance and comments were not profitable as he had at least raised Council's awareness of the UN Agenda 21 and how it creeps into a community with a dollar figure, but with the dollar it also has a big hook. He cautioned Council that Agenda 21 is here and it is around so when they make decisions like this it affects the global scope because the international community does not hold our American beliefs whatsoever.

Councilwoman Price stated that mandates in South Carolina are almost a way of life. Mandates are issued from the federal government and the state. The state imposes mandates on municipal officials. It has to be done so Council has no choice in many cases because of state requirements and state mandates. She said the International Building Codes is another one amongst many that we have seen over the years that come down.

Councilman Homoki asked if Council does not adopt the International Building Codes would the city lose its zoning rights. He said the city has to abide by what the state says anyway so by default we follow the state building codes.

Mr. Smith stated the city's ordinances and building codes have to be in compliance with state mandates. If they are not in compliance with state mandates, the city would not be able to issue any building permits. He said if the city did not have the rules in place in the City of Aiken, nobody else will allow a building permit to be issued. He said the

reason he believes the state mandates the building codes, right or wrong, is that they want every municipality, county, etc. to be uniform so the rules are the same from municipality to municipality or county. He said sometimes things get added that should not be added.

Councilman Merry stated he had had some experience with working with some non-code compliant folks who went before him on different houses or projects, and there really are some safety issues, particularly related to electrical. Some of the biggest changes in the residential code are electrical. He said he had seen some bad stuff in electrical and framing structurally. He said the code addresses that. There are also some things in the code relative to safety and the structural aspect of the lumber that we have today. He said in modern America we can't get lumber that is as strong or as good a quality as it once was, so they are changing the span tables such as how far a 2x12 can go before you need to go to something else. He said he did not know about the stuff Mr. Stake is talking about, but there are some good reasons for adopting the code, because there are some things that have changed. He said being a builder he did not want to see anything drive up the cost of a building that might make a home unattainable for a customer. However, at the same time he sees the other side such as safety and professional trade practice issues which are part of what the code addresses.

Mr. Stake stated he understood that we do need to have some uniformity in our building. He said he felt the state and the United States could take care of that. He said his point is that he felt we don't need an international code.

Councilwoman Price stated she felt this goes a little further than the code. She said when construction workers go from state to state, if there are uniform requirements then they have their credentials to carry with them from state to state.

Mr. Stake said he was okay with that. He just did not believe that an international body embodies what we believe is our true freedom. He said he appreciated Council's time and the opportunity to educate more people on UN Agenda 21 to let them know that it is alive, is costly and also costs our freedom because they can repurpose anything.

Mr. Tony Coffaro stated he admired what Mr. Stake did. He asked when we are going to stand up for freedom. He said we are losing our freedom in this county and the code is part of it. He said the code is an international regulation being imposed upon citizens of the United States of America. He said we have allowed this to happen. He said he felt no one had read the information. He said he felt Council had an opportunity to challenge the state, the Governor, and the people at the State House to ask what we are into. He said if we don't stand up for freedom here where does it stop. He said he felt we need to stand up for Aiken and for the United States of America.

Councilman Merry asked if it was possible for Council to get a copy of what the statute says as far as the adoption of the building codes. He said he felt there are some important safety and other issues in the building codes. He said he would like to see what the state legislature said. He said it seems odd that Council would have to vote on it if they don't really have a choice. He said he would like to see what language the state uses to force the city to do what they want us to do. He said he was not suggesting tabling the adoption of the building codes.

Mr. Pearce stated the city has a City Code section that talks about a building code, so adoption of these codes would be updating the present codes. He pointed out that the city would not be adopting a building code for the first time. This ordinance would be updating the recent amendments. He said that information could be obtained for Council, but we do need to have the codes in place by June 30, 2013. He pointed out the building codes are the minimum standards. People are entitled to build a building above the code.

Councilwoman Diggs stated she felt Council could not table the item, since the deadline is June 30, 2013, even if they wanted to.

Mayor Cavanaugh asked Councilman Merry if he felt there were some good things in the building codes.

Councilman Merry stated there are some good items in the codes. They will make construction cost more. There are good items on safety issues, with electrical matters being one of the main ones.

Mayor Cavanaugh stated he wondered once you get in if you can get out. He said that had been discussed. If you get out you abandon the standards.

Councilman Merry stated he felt it depended on the mandate language from the state. He said he had read the electrical and residential codes, but had not read all the others. He said he knew that his heating and air business was not excited about the mechanical code changes, but he did not know exactly what the changes are. He said he felt the ability for the city to change its mind depends on the language of the state mandate. He said there are some good things in the codes. However, on an average three bedroom house, the cost may be as much as \$3,000 to \$5,000 more in electrical costs. He said that will happen all over the country, not just in Aiken. He said there may be some things that are overkill, but it is definitely safer.

Councilman Dewar stated he felt the challenge is to try to tie it into Agenda 21 in somewhat of a negative way because he said he had heard him being negative about the Agenda 21 implementation. He pointed out Council has no choice at this time. He said Council needs to approve the updated codes or shut the city down. He said he felt the road ahead is education at the level that can create action and that is not City Council. He said from what the City Attorney has said, the action has to come from the state and federal levels. He said there is an educational level that needs to be addressed to Council. He said he was in favor of code changes. Generally they do well. They make it safer. It does make it more expensive but the code changes per se historically have been good.

Councilman Merry pointed out that the codes will be increasing some of the R factor requirements for insulation in a house, particularly in bonus rooms, pitched roofs, etc. He said that speaks to the conservation part that Mr. Stake was addressing. However, it seems at this time that Council does not have a choice.

Councilman Homoki asked if the state was in the same boat to the federal as the city is to the state in adopting the building codes. He asked what would happen if South Carolina did not adopt the international codes. He asked if all the states are adopting the federal standards. He said he assumed it is federal and then it flows down to the states and municipalities.

Mr. Smith stated he did not know the process that the state goes through to adopt particular codes.

Mr. Pearce stated our understanding is that the International Building Code Congress has the model code. The Building Code Council would have reviewed the codes. They have certain modifications that they have made. The codes would have gone through the entire public comment period before they recommend the adoption. The codes went through the state legislature. They had an opportunity to comment, and there were no comments.

Mayor Cavanaugh stated there was a motion for approval.

Councilman Homoki moved, seconded by Councilwoman Diggs, that Council pass on second and final reading an ordinance to adopt the International Building Codes as presented by the International Building Code Congress and mandated by the State of South Carolina through its Building Code Council. The motion was unanimously approved.

AIRPORT – ORDINANCE 06242013AAssignment of SubleaseVictory Aviation ServicesAiken Aviation Enterprises

Mayor Cavanaugh stated this was the time advertised for the second reading and public hearing of an ordinance to approve assignment of an airplane hangar lease from Victory Aviation Services to Aiken Aviation Enterprises, Inc.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING THE RE-ASSIGNMENT OF A LEASE BY
VICTORY AVIATION SERVICES, INC. TO AIKEN AVIATION ENTERPRISES,
INC.

Mr. Pearce stated Mike Laver, President of Aiken Aviation Enterprises, Inc. is in the process of assuming a lease for a hangar currently used by Victory Aviation Services. Under Ordinance 07092012A, City Council approved Victory Aviation's lease of this hangar from BusAv/Del Inc. With Aiken Aviation's proposed lease assumption, City Council approval via an ordinance is needed to comply with South Carolina law.

Aiken Aviation Enterprises, Inc. is our Fixed Based Operator for the Aiken Municipal Airport under a long term lease. Mr. Laver is the landlord for the property on which this hangar sits. However, in order to clarify the new status for this hangar as now under the management of our FBO, this ordinance is needed to modify the prior ordinance City Council adopted on July 9, 2012. Mr. Pearce pointed out a drawing of the leased property at the airport and the area marked as “premises” as the area to be transferred from Victory Aviation Services to Aiken Aviation Enterprises.

For Council consideration on second reading and public hearing is assignment of a hangar sublease from Victory Aviation Services to Aiken Aviation Enterprises, Inc.

The public hearing was held.

Councilman Dewar moved, seconded by Councilman Merry, that Council approve on second and final reading an ordinance assigning a hangar sublease from Victory Aviation Services to Aiken Aviation Enterprises, Inc. The motion was unanimously approved.

SOLID WASTE – ORDINANCE 06242013BCommercial Garbage CollectionDowntownPayment for Service

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the City Code regarding collection of solid waste in the city limits.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE REVISING CHAPTER 32 OF THE AIKEN CITY CODE
REGARDING GARBAGE DUMPSTER COLLECTION FOR THE HISTORIC
DOWNTOWN BUSINESS DISTRICT.

Mr. Pearce stated the city eliminated its commercial garbage collection division a few years ago. As part of eliminating this service, a commercial garbage collection service bid to collect garbage in the downtown area. As part of this collection several area businesses have shared garbage collection bins, dumpsters, and roll carts. While collecting this commercial waste has worked well, collecting payment for the service needs further revisions to our existing code to allow us to enforce payments.

A proposed amended ordinance has been provided to Council for consideration. City staff has worked with our City Solicitor to develop code revisions she considers to be fair to commercial garbage collectors, the contractor, and our city operations. It is felt the proposed modifications will better enable staff to enforce payment for various accounts in the downtown.

For Council consideration on second reading and public hearing is an ordinance to revise the Aiken City Code regarding Solid Waste Collection methods in the downtown area.

The public hearing was held.

Councilwoman Diggs moved, seconded by Councilman Ebner that Council approve on second and final reading an ordinance to revise the City Code regarding the collection and payment of solid waste in the downtown area. The motion was unanimously approved.

ZONING ORDINANCE AMENDMENT – ORDINANCE 06242013C

Storage Containers

Commercial Storage Containers

Outdoor Storage

Temporary Storage

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Zoning Ordinance regarding commercial storage containers.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING COMMERCIAL STORAGE CONTAINERS.

Mr. Pearce stated City Council, at their February 25, 2013 meeting, requested Planning Commission review of our Zoning Ordinance and any potential Zoning Ordinance amendments regarding commercial storage containers. Council passed an ordinance on first reading, then referred it to Planning Commission for review and recommended revisions.

Planning Commission reviewed the proposed amendments, and then unanimously voted to recommend these two changes:

First

To: Section 4.3.3.C Outdoor Storage, Temporary

Trailers, storage containers, or temporary portable ~~structures~~ buildings placed on a lot or property and used or intended for storage may be permitted in writing by the ~~Building Official~~ Planning Director for a period not to exceed three days in a calendar year except that shipping containers may be allowed by the Planning Director for the entire period of November 1 to December 31 each year in a total number determined appropriate for the proposed space and after approval by the Director of Public Safety. A site plan depicting the type, number, and exact location of the units shall be submitted to the Building Official Planning Director. Such shipping containers may not be stacked more than two high and, if so, must be interlocked.

Second

To: Section 3.4.2.F Converted Manufactured Homes and Shipping Containers Prohibited

A manufactured unit constructed for residential use may not be used for storage even if converted for that purpose. No container primarily intended for the shipment of freight or other materials on a boat, truck, or other vehicle may be used for storage except in the

LI, LM, and I zones except as permitted for temporary outdoor storage from November 1 to December 31, as set forth at 4.3.3.C.

City Attorney Gary Smith shared with Planning Commission that there are three types of outdoor enclosures:

- (1) Portable Buildings, whether 'stick-built' or pre-fabricated
- (2) Commercial Trailers, the trailer portion of a tractor-trailer truck
- (3) Shipping Containers, no wheels attached, intended to be placed on a tractor-trailer truck or rail car

The proposed amendments are explained in the memorandum from the Planning Commission Chair Liz Stewart. To summarize what is different from what was passed on first reading:

- (1) The November 1 to December 31 dates in this version apply only to shipping containers and do not allow trailers or temporary portable buildings.
- (2) The Planning Director would approve trailers, temporary portable buildings, and shipping containers for up to three days.
- (3) The Planning Director would approve shipping containers being used between November 1 and December 31 for storage.

Approval is shifted to the Planning Director from the Building Official as no building codes are involved with these storage containers. Please note that a site plan of the container location would have to be provided to Aiken Department of Public Safety as part of this process. Containers stacked on top of one another will have to be interlocked.

Mr. Pearce stated previously temporary storage containers were allowed for just three days, and there was no set period of time that they would be allowed as a matter of right. The Board of Zoning Appeals had several variance requests from the Zoning Ordinance, and they have recommended that the Zoning Ordinance be modified to allow the storage containers.

For Council consideration on second reading and public hearing is an ordinance to amend the Zoning Ordinance regarding commercial storage containers.

The public hearing was held.

Councilman Ebner moved, seconded by Councilwoman Diggs that Council approve on second and final reading an ordinance to amend the Zoning Ordinance regarding commercial storage containers. The motion was unanimously approved.

AIKEN GOLF COURSE - ORDINANCE

Highland Park Golf Course

James McNair

Residential Lots

Mayor Cavanaugh stated a request had been received for approval to sell some land adjacent to the Aiken Golf Course for residential development.

Mr. Pearce stated when City Council approved selling Highland Park Golf Course to James McNair, Sr. many years ago, they reserved the right to approve any requested sales of lots because Council retained the right of first refusal before any lot sale could take place. By ordinance 021296 that Council approved in 1996, the McNairs were allowed to sell up to five (5) lots adjacent to the golf course. A copy of that ordinance was provided to Council. The Highland Park Golf Course is now known as Aiken Golf Club.

Jim McNair, Jr. the current golf course owner and operator has sold these lots. They include:

Highland Park	Lot 43 and 44	Cofer
Bissel Street	Lot 45	Robbins
Bissel Street	Lot 46	Willis
Highland Park	Lot 47	Shannon

Mr. McNair has written again seeking Council approval to modify the 1996 ordinance to sell an additional lot adjacent to the course. A copy of the request was provided to Council for information. The request is to sell Lot 47. A copy of the plat showing the location of Lot 47 was provided to Council.

For Council consideration is approval of the sale of a lot adjacent to the Aiken Golf Club, formerly known as Highland Park Golf Club. Mr. Pearce stated approval would be by ordinance. An ordinance was not provided in the agenda packet. He said, however, he would like for Council to proceed with first reading of an ordinance for Council’s consideration based on the ordinance passed by Council in 1996. He pointed out the property is in the Historic Downtown Overlay District so the design for any development that would take place on the lot would have to be approved by the Design Review Board. He pointed out that in the past Mr. McNair had put in place covenants on the lots that would apply as far as any development to take place.

Mr. Pearce stated he would ask that Council proceed with consideration of first reading of an ordinance to approve the request to sell Lot 47 on the Aiken Golf Course for residential development pursuant to the protective covenants of April 29, 1996.

Mr. Pearce stated the lot proposed to be sold is listed as Lot 47 on the plat. He said there had already been a sale of five lots, and the request is for the sale of an additional lot.

Mr. James McNair, Jr. gave Council a history on the parcel requested for approval to sell. He said when he originally came before Council when they were going to do major renovations to the golf course, it was agreed by Council that they could take properties from the golf course property that would not impact the golf operations, but had the highest and best use as residential. It was agreed in 1996 that four lots, plus one parcel which would be a fifth lot, would be deeded to a Mr. Kenneth Reardon. It was agreed and the money from the sale of the lots was used to give them the seed money to begin the renovations of the golf course. At that time there were two other parcels that they considered, but at the time they did not want to come to Council requesting several pieces of property as they felt it might hurt their chances at the time to be able to go ahead with the golf course renovations. He said the parcel being requested is Lot 47 and was one of the parcels considered in 1996, but was not submitted on the list. He said in 2005 he came before Council to amend the provision to allow a small parcel to be conveyed to Kenneth Reardon from the golf course property. He said he pulled the request for Lot 47 on second reading because of Ms. Ann Parker who lived across the street from this lot. He said he and his father had known Ms. Parker for years. Ms. Parker came to him before the Council meeting stating she was not in good health and would like to see something done with the property, which is an eyesore, but she did not want to live her last years with construction, noise and the impact that it would bring. He said he pulled it. He said Ms. Parker passed away several years ago. He said he had had several people request that he put Lot 47 up for sale. He said it would be the last residential lot in the Highland Park neighborhood that would be available. He said the neighbors across the street, Will and Rebecca Harper, have asked him about the sale of the lot. He said the request is not just for the ultimate sale of the property. It is part of a bigger plan. One of the reasons it was tabled in 2005 is that they really were not ready. He said they want to take money from the sale of this lot and use it for an area at the Club House that is left of the walkway to the Legends Grill and the cottage which they redid, which won an award from the Historic Aiken Foundation. It is a huge eyesore. He said they have an old metal golf cart storage building which they want to demolish. They want to bring the golf carts up behind the building, below street level that would be hidden and possibly move on with some major Club House improvements that need to be done. The Club House was built around 1868 to 1875. He pointed out there was an email from Rebecca and Will

Harper, who are in favor of allowing the lot to be sold. He pointed out he agrees if the lot were cleared it would allow their homes to have a view across the fairway. He said from a safety standpoint, visibility, and aesthetics he felt property values would increase. He said in 2005 Council did amend a provision that was on the lot to Ken Reardon. He said he came to City Council. The lot had been deeded to Mr. Reardon. He wanted to use the lot with a portion of his property to build a home. That could not be done because there were restrictive covenants. City Council amended that and now the lot is the home of Dr. Shannon on Highland Park Avenue. He said he expects if Lot 47 is developed, it would have a home just as beautiful as the Shannon's home.

Councilman Merry asked the size of the lot, and if it could be subdivided. Mr. McNair stated the lot is .64 acre, and it cannot be subdivided. It is zoned RS-15.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council pass on first reading an ordinance to approve the sale of Lot 47, which is adjacent to the Aiken Golf Club. The motion was unanimously approved.

INFORMATION

Mr. Pearce stated he had attended the South Carolina City-County Managers Association meeting in North Myrtle Beach a couple of weeks ago. It was a very productive time. That association will be visiting Aiken January 16-18, 2014, for their mid-year meeting. Aiken will be hosting the group.

Mr. Pearce stated the Inspections Division is using iPads in making their inspections and the division is also taking credit card payments for any fees.

Mr. Pearce stated he had met with the folks at MTU about the engine that they are going to donate to the City. To emphasize the educational use of the engine, they are going to do cut-a-ways of the various engine components and label them so people can see them and will also repaint the engine. We anticipate the engine coming sometime this fall.

Mr. Pearce stated the Public Safety Department had promoted Aaron Dobbs, Matt Comer and Mike Grabowski to the rank of Sergeant.

Mr. Pearce stated Bill Inman from Aiken Electric Cooperative had brought a very sizeable check to the City for their franchise fee.

Mr. Pearce pointed out there were various events listed in his Issues and Updates memo. He pointed out the second Call-in for the Safe Communities Initiative to be held in the Council Chambers at 6 P.M. on Thursday, June 27, 2013.

Councilman Ebner pointed out Item 2 the Dougherty Road Corridor Study Open House. He said at the first open-house very little was said about what route is currently approved to be a cut across to Publix. Mr. Pearce stated we had not identified a route, but there were some possible routes mentioned in the report. Councilman Ebner stated the city had been negotiating with a property owner that has land between the street and the back of Publix. Mr. Pearce stated the property had been listed for sale. The City made an offer for the property and the property was withdrawn from the market. He said that property is not available to the City. Councilman Ebner stated his impression was that the property was the preferred route. He said the other routes through the neighbor where houses would have to be taken out were very unpopular. He said one route was taken out, but there were still two other proposals that also went through some houses. He said he wanted to be sure that the presenters on Thursday night explain the potential of what is to happen.

Councilman Dewar stated that was the presentation by URS out of Columbia. He said it would be nice if Council had a sense of what they are going to propose because last time they sure got sandbagged. Councilman Dewar stated he is not a fan of eminent domain, but he felt the City had been very patient in trying to get property for the connector road into the Aiken Mall from Capital Projects Sales Tax II. He said he was under the

impression that we would only need 5 to 10 feet for the road. He said if that was reasonable and not making an egregious impact on the homeowner, he felt the City should consider eminent domain. Mr. Pearce stated staff will take any guidance from Council. He said it had been a very clear message over the years that Council was not interested in an involuntary taking. He said that was why it had not been pursued. It was pointed out that one of the persons living in the house had passed away, but the wife is still living in the house.

Mr. Ed Evans, Planning Director, stated that a draft of the plan had been on the City website for about two weeks for people to review and make comments. He said Thursday night is an open-house meeting where people can drop in and look at displays. The consultants and Planning staff will be there to answer questions. The public can provide comments. The comment period is open until July 12, 2013.

Councilman Ebner stated his concern was that at the last meeting, they were obviously pushing some of the routes over other routes. He said he thought they might not have been as familiar with the street that the estimate was made for and the lot that the lady owns. He said he asked a couple of them about the preferred route and the city route currently. He said it was his impression that that was the chosen route for Capital Projects Sales Tax II. He said it could be moved, but any other route they had would take out two or three homes.

Mr. Evans stated the route represented in the plan is the Christee Place route. The other two that were discussed the previous couple of months have been dropped. The only connection to the south is Christee Place.

Councilman Homoki stated Council had cancelled the second Council meeting in July. However, the Planning Commission has scheduled a meeting inviting Council to an Action Item agenda on July 25. He said that kind of defeats the purpose of not having a second meeting in July. He asked if that meeting could be moved to the first week in August or back to July 9. Mr. Pearce stated it could be scheduled at the convenience of Council. It was suggested that the meeting be held on Tuesday, August 13, 2013. Mr. Evans is to contact the Planning Commission about meeting on August 13, 2013, at 4 P.M. in the Council Chambers.

PRESENTATIONS

State Champions

Mead Hall Golf and Tennis Teams

Councilwoman Price asked if Council was going back to the recognition of the Mead Hall Golf and Tennis Teams.

Mayor Cavanaugh pointed out that no one from the school or teams was present. He suggested scheduling the recognition for the next Council meeting. Staff is to contact the teams to see if they will be available at the next Council meeting.

EXECUTIVE SESSION

Attorney General Opinion

Gary Smith

City Council

City Employees

Mr. Gary Smith, City Attorney stated an opinion had been received from the Attorney General last week after the agenda had been prepared. He said he had shared the opinion with the Councilmembers by email. He said typically he would like to discuss those kinds of things with Council fairly quickly since it does involve a legal matter. He said we did not have time to put it on the agenda because the agenda had already been distributed. He said it would be appropriate to go into executive session to discuss the opinion if Council desires to do so. He said if Council wants to wait until the next

meeting and put it on the agenda that could be done. He said he wanted to get a feel as to what Council wanted to do.

After discussing the matter, it was the consensus of Council that since this Council meeting is over earlier than usual they would prefer to go into executive session at this time.

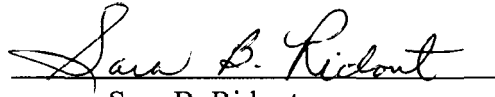
Councilman Dewar moved, seconded by Councilwoman Price, that Council go into executive session to receive a legal briefing. The motion was unanimously approved. Council went into executive session at 8:20 P.M.

After discussion Councilman Homoki moved, seconded by Councilwoman Diggs that Council come out of Executive Session. The motion was unanimously approved. Council came out of Executive Session at 10:04 P.M.

Mayor Cavanaugh stated Council received a legal briefing in the Executive Session and no action was taken by Council.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:05 P.M.


Sara B. Ridout
City Clerk