

Aiken City Council Minutes

August 27, 2013

WORKSESSION

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

Others Present: Richard Pearce, Stuart Bedenbaugh, Gary Smith, George Grinton, Ed Evans, Sara Ridout, Rick Toole, Rich Decker, Jason Brittan, Steve Kisner, Todd Gaul, Maayan Schechter of the Aiken Standard, and Channels 6 and 54.

Mayor Cavanaugh called the meeting to order at 4:03 P.M and welcomed those present for the discussion on Gem Lakes Extension Subdivision.

GEM LAKES EXTENSION SUBDIVISION

Roadways

Mr. Pearce stated he had sent a letter on August 1, 2013, to the residents of Moultrie and Huron, the developers of the subdivision, and contractors building houses in the subdivision. He said the letter contained the July 2, 2013, punch list that was prepared by Ted Jones in the City's Engineering and Utilities Department as well as response to questions which Mr. Rich Decker had asked. He said a copy of the February 25, 2013, Council minutes where Mr. Kisner appeared at the meeting and talked about their path forward for the Gem Lakes Extension Subdivision were also included. Since the February meeting, staff had a meeting in Gem Lakes Extension on Moultrie Drive. At that meeting a report was received from Rick Toole of W. R. Toole Engineers on their study and findings and recommendations about a path forward as far as taking the existing conditions in Gem Lakes Estate Extension and testing to see what the situation with the roads would be and then determine a path forward. Since that time we have had an opportunity to have a conference call with the developers. Tilden Hilderbrand participated in the call as well. He said after that he heard from Mr. Kisner, asking for an opportunity to come to a worksession with Council to talk about their path forward since his last appearance before Council. There are about four more lots in the subdivision to be developed. They want to talk to Council about the other four lots to be developed as well as their testing.

Mr. Pearce stated, as he had mentioned in his memo and as Council is aware, typically with a development, the developer would install infrastructure. With this particular development there is a one year warranty period on the infrastructure. The regulations have been changed to a two year warranty period. After the one year warranty period the city does an inspection and the Engineering and Utilities Department Director sends a recommendation to the City Manager regarding any request to dedicate infrastructure in a subdivision, which might include storm drain system, water lines, sewer lines, roadways and detention areas. Mr. Pearce stated he had shared with Mr. Kisner and Mr. Gaul that, before staff would come to Council with a recommendation about accepting the roadways in Gem Lakes Estates Extension, staff would look at the punch list items of July 2, 2013, prepared by Ted Jones.

Mr. Pearce stated the worksession was set up for today. The meeting was publicized as all meetings of City Council are publicized. The information was sent to Mr. Decker since he has email addresses for all the neighbors in the subdivision. The meeting notice was posted on the website, tweeted, and put on facebook.

Mr. Steve Kisner thanked Council for coming to the worksession. He said in August, 2012, they received an official punch list from the city. He said the agreement with the city was that in one year they would complete the punch list and then be prepared to turn the roads over to the city. He said an updated punch list had been received on July 2, 2013. He said they would go by that punch list. Mr. Kisner pointed out that Jason Brittan, their paving contractor, was present. Mr. Kisner stated he and Mr. Gaul were reviewing the punch list and making plans to do the punch list. They felt they would like

to meet with the City and discuss the City's position assuming they go forward with the punch list. He pointed out that their work would go beyond August. He said they are getting the last four lots cleared ahead of time so the excessive road traffic with the excavation equipment and dump trucks would be out of the area before they do the final repairs. He said once they complete the repairs on the punch list, and the punch list is signed off by the City, he said they would like to know what Council's position will be in terms of accepting the roads.

Mr. Pearce asked how the lot clearing would affect the schedule. He said at the Council meeting in February the developers were looking at trying to be done by the end of August. He asked how long it would take to clear the lots.

Mr. Gaul stated it would depend on the information gathered today from Council. He said the builder said it would take him about two weeks for clearing and grading the remaining lots, including lots 34, 1, 2, and 3, leaving only lot 21, which will be a basement house. He said that is all on one end. He said they wanted to try to keep the heavy traffic on that end and have them go in and out on that end. He pointed out that three homes have been sold in the area. The agreement to buy had to do with the builder's inventory. The builder is ready for three more lots, but they agreed to go ahead and clear the fourth lot and grade it, so the heavy traffic will be taken care of. He said the builder started the clearing today, as the weather has been much better this past week. It is hoped to have the lots cleared in two weeks. They also hope to get some positive input from Council at this meeting and move forward.

Mr. Pearce stated they talked about this in the conference call, but his understanding is that once the punch list is finished there will be a one year warranty period. Mr. George Grinton, Engineering and Utilities Director, said his understanding is that there would be a one year warranty period after the patches and items on the punch list have been completed, whether it is the original list or additional items on the list. The roads would be repaired, and one year afterward they could apply for the city to accept the roads if they meet the requirements. He pointed out that today it is two years warranty time for infrastructure for developments before the city could accept them. The Gem Lakes Extension is a previous subdivision and falls under the previous regulations.

Mr. Kisner stated the agreement they had was that the inspection was done in August, 2012. They had twelve months to complete the list, and the inspection would be done and there would not be another year waiting period. He said he would provide the documentation. Mr. Grinton commented that was not his understanding from the previous director.

Mayor Cavanaugh stated his understanding is that the warranty period is one year after everything is completed. He said what Mr. Kisner said would be a big change if work could be done up to that time and that would be part of the year. He pointed out the city would not know whether the work would be good for a year.

Mr. Pearce stated the Mayor had described the city's position. He said he had Mr. Rick Toole involved. He said staff, Council and residents had met with Mr. Toole at the Moultrie site. Mr. Toole talked about testing methods. Mr. Pearce stated what he understands the paving contractor will do is the full depth patching, opening a section, checking the situation in the area, and then doing the full depth patch. Then that would be considered done. He said this patching had been done in other areas, and we have seen the patches that have held with no cracking, and we have had other patches where it has been patched, but we have additional cracks. He said staff would want an additional one year warranty period to see how the new patches will hold up. He said there would be the concern of the neighbors about whether or not the patches will hold.

Mayor Cavanaugh pointed out that is what the policy has been for years. Nothing has changed, except that the warranty period is now two years for newer subdivisions. This project falls under the one year warranty period. Mayor Cavanaugh stated the job has to be done. He said patching or whatever has to be done, and a year must pass after that before the city would consider accepting the streets to be sure they are not going to fail again. He asked if that was correct.

Mr. Pearce stated staff would have that concern. He said that is what staff would want to do, since we have had some patches and some have held up with no additional cracking, but that has not been the case on some other patches.

Councilman Homoki asked when the clock would start on the one year. He asked what the marker is that would set off the one year clock.

Mr. Pearce responded that since we have had problems with some of the patches continuing to crack or a new crack form, staff would want to have all the patching completed, and then we would look at them in a year. Then as Mr. Kisner said, if the punch list is signed off and is good, Mr. Pearce stated he would get a memo from the Director of Engineering and Utilities recommending that the streets be accepted. That is when we would come to Council with a resolution to accept the roads. That would be subject to inspection by staff at the completion of the punch list items.

Councilman Homoki stated then the paver or contractor will tell the city when they are completed and the clock would start at that point.

Mayor Cavanaugh stated Mr. Pearce keeps using the term “this is what staff wants.” He said he was talking about what has been the city policy for years. Mr. Pearce responded that is what it is based on. Mayor Cavanaugh stated he wanted to make sure that everybody understands. It is not just what staff wants. It is what is in the development regulations.

Mr. Brittan, the paving contractor, stated the plan is that they have to finish moving the dirt, then make patches with full depth placement, which is above and beyond the city requirements to make the patches. After the contractor says we are done, the City Engineer reviews the work, and there will be a punch list. Once the punch list is satisfied, then the clock starts for the one year warranty. After the year there will be another punch list like there was in July, 2013, and that will have to be satisfied for the city to take the roads. He said he felt what they are trying to figure out is with all the different water, engineers, Toole and Tilden Hilderbrand, etc., if they do the punch list we have now, assuming the lots get cleared and we get the dirt moved, and we make the obvious patches that need to be made, Mr. Kisner and Mr. Gaul’s concern is will that be acceptable or will there be another engineer involved, and will the city require them to do some boring and water samples because of complaints from the residents. He pointed out nobody had any idea there was water there. He stated that may have been the reason the property was not developed in the beginning. He said many years ago they might have known that was a wet area and did not develop the area.

Mr. Pearce stated to answer Mr. Brittan’s concern, which is also Mr. Kisner and Gaul’s concern, Mr. Tilden Hilderbrand, from Hass and Hilderbrand, came and spoke as well. He said his understanding that is what staff would like to see done—completion of the punch list and then a year under a warranty period to make sure we don’t have any issues after a year. That is when the Engineering and Utilities staff would do the inspection. They would do a memo to the City Manager recommending acceptance of the roads or not recommending acceptance. In the past, typically when we had the one year warranty period and staff has been satisfied under the Development Regulations that the roads meet standards, there is a recommendation for acceptance. That is then brought to Council for a vote. That would be voted on in public session.

Mr. Brittan pointed out the roads are better than they were a year ago. He said they knew there would be more cracking on the edge of the cracks. He pointed out the punch list they have now has a bunch of cracks. He said if they crack fill the cracks, which is the proper way to prepare cracks, and is the same way the city would prepare cracks if it is done properly, is that acceptable or will the next punch list say, “remove crack fill or seal coat road.” He said they are trying to get to an ending point.

Mayor Cavanaugh pointed out the punch list they are talking about is dated July 2, 2013. He said it was developed with the wording such that if the things are done, then that should be acceptable. Mr. Kisner pointed out the punch list does not say how to fix it. It

just says they are there. Mr. Pearce stated the list alerts to the conditions that would prevent staff from recommending acceptance of the roads at this time. Mr. Brittan stated as long as they go above and beyond the city's standards, which they have, they went 8 to 10 to 12 inches of stone and 3 inches of asphalt then the roads should be accepted. He said they are by no means saying everything they have done is right. He said they realize they had some water issues. He said they are trying to get to the point where if they do all the patching and do the crack filling the roads can be accepted. The question is there something else that would block Mr. Kisner and Mr. Gaul from getting the roads accepted by the city.

Mayor Cavanaugh stated the city wants this to be a success also.

Mr. Grinton stated if proper road repair has taken place and the roads are open, and there are no additional cracks showing up, he would make that notation, and if they are good, they would make the recommendation that the city accept the roads. He pointed out there had been another road where he had recommended acceptance of the roadway, but Council had chosen not to accept the road. He said that is entirely up to Council to decide whether to accept the roads or not. He said if proper repair has been done and the roads are holding up for a year, he would recommend that the roads be accepted.

Mr. Kisner stated his response to that is why, as a developer, would they do the punch list. He said if Mr. Grinton recommends to Council that the roads be accepted, and Council elects not to, they have no control over that. He asked what the standard is. He said that was why they requested the meeting.

Mayor Cavanaugh stated he did not think that would happen. He said he did not think Council would reject something if it is done right. He said apparently the things on the list need some extra effort.

Councilman Merry stated what he heard Mr. Brittan say was the question of doing it right versus maybe a higher level of expectation, or their being held to a higher standard because there has been so much attention to this situation.

Mr. Brittan stated if one looks at the list it looks like a crazy list, but really 45 of the 52 items are cracking. He said if you look, it is where they made patches in the road. He said they saw cut and cut out a spot. He said this is like cutting a wall; you could plaster over the wall, but you would be able to tell it. He said they could repair the cracking, which is about 45 of the items on the list, in about three days. He said they could clean the cracks, heat the stuff, and properly crack fill, but you would be able to see the repairs.

Councilman Merry stated Council will hear from two sides—one side will say that 40% to 50% of the roads are patched and that much patching is unacceptable and needs to be recoated. The other side will say they have met and exceeded the city standards. He said he is guessing that what Mr. Kisner and Mr. Gaul are asking is that if you meet and agree to exceed city standards, is Council going to look at the question of what percentage of the roads is patched versus recoated, which is a higher standard.

Mr. Kisner responded that was correct.

Mayor Cavanaugh stated to him that does not have anything to do with how much patching you have. That is another issue and what happens to that, if anything, once it is finished. He pointed out Mr. Brittan had said how they would repair the cracking, and if that is what Mr. Grinton agrees to as the city standard, that should be good. He said he did not see Council coming back and changing the standard.

Mr. Brittan stated he did not think it was necessarily the city, but the subdivision itself has had a lot of unwanted attention and it is getting a lot of influence from the neighbors. Mr. Kisner and Mr. Gaul's concern is that they have spent \$100,000 in repairs already. Now they need to do a \$12,000 punch list plus another \$10,000 to \$15,000 worth of patching. He said they will get all that done and there will be a patch, a patch, and crack filling. They are concerned that everybody will say that does not look good, then what do they do. They want to get to an end result and have some kind of agreement before they

spend another \$50,000. He said he had worked with a lot of developers. He said he felt Mr. Kisner and Mr. Gaul are getting a bad rap. The people in the subdivision have not really dealt with a bad developer. They have not really dealt with someone who does not pay their bills, doesn't finish projects, etc. Mr. Kisner and Mr. Gaul have tried to do it right. Obviously there have been some problems, but they are not running from it, but are trying to make it right and trying to get to a stopping point. They want to have an agreement before they get another \$50,000 to \$60,000 investment to get the roads accepted.

Mr. Pearce stated as far as staff and using the existing regulations that apply to this development, there are no regulations for aesthetic appearance of the road; it is the integrity of the road. He said that is what staff will be looking at for the recommendation they make. Ultimately it is Council's vote as to whether or not to accept the roads.

Mr. Brittian asked Mr. Grinton if he had no problem with proper crack filling. Mr. Grinton responded when it is applied the proper way, he has no problem. Mr. Brittian stated he was talking about heating it up to the proper temperature, cleaning the crack out and using a machine.

Mayor Cavanaugh asked if Mr. Grinton and Mr. Brittian had met before and talked about the method of repair. He said he felt that might be a good idea to meet on the road. Mr. Brittian stated they had not met together. He said the last time an inspection was done, they were not invited to come. He said it would have been helpful if they could have walked it with them. He said usually the developer is notified there is going to be an inspection.

Mr. Pearce stated before work begins on the repairs, obviously it would behoove them when the lots are cleared and they are ready to do the roads, that they meet with staff on site and work through it. Mr. Grinton stated that could be arranged.

Mr. Brittian stated they did not go into it blindsided. They did meet with Mr. Larry Morris, Mr. Ted Jones, and Tilden Hilderbrand.

Mr. Pearce stated he thought there had been some meeting. He said we can follow up based on the existing conditions today, when the developers are ready to go forward. He said Mr. Grinton is very willing to meet at the site.

Mr. Kisner stated they had heard from the Mayor, Mr. Pearce and Mr. Grinton, and he wondered if we could hear from the other Councilmembers.

Councilman Ebner stated this meeting is an information session. He said what Mr. Kisner is asking is a legitimate question—what is Council going to do. He said this meeting is a worksession, so there are no agreements that can be made at this meeting. He pointed out in going back to the previous times Mr. Kisner had been before Council, one of the questions he had asked was if the City had inspected all the work that he had done. He pointed out Mr. Kisner's answer was yes that the City had inspected the work, and he felt that was a true statement. He pointed out that he and Mr. Kisner go back to 2007 when they were having some other road issues in the area. He said one of his concerns is not only the Gem Lakes Extension, but over the last few years there have been a number of road cave ins. Mr. Kisner pointed out that the 2007 roads were not his roads. Mr. Ebner pointed out that Mr. Kisner's roads came after the 2007 road, and there was a lot of talk about the testing that needs to be done as the road is built. He said to date the testing as required in the specifications has not been produced, at least through the official channels to Council. He said the other part where we have a sticky issue is that in the front of the City of Aiken engineering specifications, there is a check off list that is supposed to be done and City Council approves. On the check off list one of the things it asks for is all the test reports to be reviewed and included. Councilman Ebner pointed out the road that Mr. Grinton mentioned and recommended for Council approval, he brought up the question of where are the test reports. Councilman Ebner stated Mr. Kisner was not the only one to suffer from a lack of test reports; it goes for about 20 to 25 miles of roads. He said he felt Council had to deal with that issue, not only on the Gem Lakes Extension roads, but on a number of other roads that Council has not accepted or

that have not been brought to Council yet. He said the question is how is Council going to deal with the matter. He said the specifications to Council say that the test reports will be included as part of Council's acceptance. He said that will become the issue, and this is the issue, not only with the Gem Lakes Extension road, but also other roads that he has been keeping up with since the road in front of his house caved in in 2005. He said he felt that this needs to be a discussion at the September 9, 2013, City Council meeting. He said the question is how Council will accept the roads through our system where we did not get test reports. He said it is a discussion whether the city relieved it or whatever. He said his position is that he did not see where the city relieved it, but it is a fact that the test reports have not been made, not only for Mr. Kisner's roads but others. He said on the South Park road there are no signs of the road caving in, but the test reports do not exist. He felt Council has to overcome its own procedures to accept the roads. He said he felt they would have to do something to accommodate that because he felt the City inspected the roads and said everything was okay so you proceeded. He felt that would be the issue that he would request Mr. Pearce to put on the agenda for September 9, 2013. Mr. Pearce responded that may need to be on September 23, 2013, as there is a full schedule for September 9, 2013. Councilman Ebner stated he felt Council needs to overcome our own specifications for acceptance by Council. He said he showed those pages when we talked about South Park. He said they have to overcome that because they accept the roads by one standard, but they were not built that way. He pointed out Mr. Kisner was not the only one.

Mr. Kisner asked Councilman Ebner what he meant when he said it was not built that way. Councilman Ebner stated the city's specifications require tests as you put in the sewer lines and stormwater lines at a certain level. Then it requires tests as you go down the linear portion of the road, every 1,000 feet. If there is a failure typically you cut it in half until you get one. He pointed out for Mr. Kisner's particular roads those tests have not been made. He said he did not know if Mr. Kisner was required to make the tests, or if he got relieved to not make them.

Councilman Merry asked if the tests had not been made or if there just was no record of them being made. He pointed out he knew what he went through in doing his subdivision. He said it was hard to imagine the Engineering Department not requiring the tests. He said he understands the records do not exist, so there is no way to prove the tests were made.

Councilman Ebner stated there are only three or four testing companies in this area. He said CSRA does most all the work.

Mr. Brittan stated there is no procedure in place to produce the tests. He said the developer hires a contractor. The contractor starts performing the work. He makes a draw. He knows he has to have the sewer line tested, like Councilman Ebner is talking about, before he can do the next step. There has to be an air test, compaction test and a proof roll done, etc., but you don't ask him to give you the paperwork before you make the draw. You pay the bill. You think everything is going along. Somewhere down the road that paperwork never gets turned in to the city for Council to accept the roads.

Councilman Merry stated that is not to say that the tests did not happen; it is just that there is no documentation.

Councilman Ebner stated he had officially asked for these records for these particular roads and a number of other roads over the last 8 to 10 years.

Mr. Kisner stated he would go back and see if he could find the records. He said he knew that the required testing and the required inspections were done. He said he did not know where the documentation is.

Councilman Ebner stated the specifications call for ASTM standards to be used. It gives the procedure to make them and how long to keep the records. He said as long as the roads are under condition of not being accepted, the records should be kept. He said he had asked twice for those roads and had personal conversation with Mr. Morris, who had conversation with CSRA. He said he had not spoken with CSRA. He said he only spoke

with CSRA in 2006 when they tested the road in front of his house. He said he watched them do it. He said he had intentionally not talked to CSRA.

Mayor Cavanaugh asked if Mr. Hilderbrand would know something about the tests. Councilman Ebner stated he understood that Mr. Hilderbrand was not hired to watch the construction. He did the design. Mr. Kisner stated they were following the city procedures which were in place prior to the new procedures and when the city did the inspections.

Councilman Ebner pointed out that the Engineer of Record is really the city watching the testing. It implies that you have to use an Engineer of Record in the future, but technically it is replacement for the city inspectors is how it was set up. Councilman Ebner said he was saying if the records exist, they have not shown up yet, and he had asked for them twice and talked to Mr. Morris before he retired. He stated if Mr. Kisner has the records, then he could pretty well be home free. He said he personally just had not received the records.

Councilman Merry stated that as a matter of interest, as it happens he did his subdivision roads and Mr. Kisner did his roads roughly during the same time period and they used the same site contractor. He said he knew his site contractor did all the tests, as he was there for some of them. He said the same guy did Mr. Kisner's. He said it would seem unlikely that they would do all the testing on his subdivision and not do it on Mr. Kisner's, as the same contractor did the work. He said it just so happens that with the economy being what it has been that the site contractor went out of business and left the state. He said he did not have the records on his subdivision. He said the records probably went with the contractor wherever he went.

Mr. Kisner stated there was no way that the City Engineering Department would have given them approval to proceed with the project without the test results being made.

Councilman Ebner stated he reviewed the total files. He said every good engineer keeps an office file. He said an office file is not an official record. He said he asked if there was anything in the office file that shows any testing. He said all his reports were in the file for that particular road and for other roads they are not there. He said it gets odd to him as to why one road is in the file, but for a number of years he can't find any in the file. He said the procedure says they are supposed to be in the city file. The test results have to be in the file when Council accepts the roads.

Mr. Kisner asked if Councilman Ebner was saying the developer would be held accountable for the filing system of the city. Councilman Ebner stated no, but the testing company should have the files. He said Council just needs to see the test results. He said if the records could be produced by September 23, 2013, he felt they could come to an agreement.

Councilman Dewar stated he was confused. He said he did not recall ever seeing testing standards when they approved roads. He said he just sees a staff memo which basically says the City Engineer has evaluated the roads, and they recommend them for acceptance. He said the issue with South Park road was the first time it was pointed out that the city did not have what they were supposed to have. He said he was hearing that staff maybe had not given Council the information they should have for Council to make the decision on accepting the roads. He said he did not recall seeing any reports, and he probably would not understand them anyway.

Councilman Ebner stated the procedure has a check list of all permits done, testing done, and test reports in the file. Whoever recommends to City Council that the road meets the standards, that is all they should be saying to City Council. They don't have to bring in 50 pages, but when they say it meets the standards there are check off points and the City Engineering Department has to check these off and tell Council that they are good. He said having had his own road cave in, he started looking for stuff. He said he asked where the reports were that support the testing being done. He said whoever recommends to City Council is saying that all the reports exist. They don't have to be brought to Council. He said he went on his own to find the reports. He said he just wants

Council to understand. He said they had already had one discussion on the South Park road.

Councilman Dewar stated then it is sufficient for the City Engineer to do the check list, but Council has every right to expect that everything in the standards is met.

Mr. Pearce pointed out concerning the roadway north of the South Park Center, that developer is deceased. He pointed out that what was done in the past was what was done in the past. In the future there is a new Director and a new direction. In the past his understanding was that the certifications were based on the records that they had reviewed and the recommendation made to Council. He said if Council wants staff to provide the file from the development, we can provide the documentation, if Council wants the documentation. That is all public record and can be inspected before the Council meeting if Council has that concern. The other thing is that with the check list, staff can provide that with the memo recommending the acceptance into the city system and whether we have the item and reviewed it or there is an extenuating circumstance. He said the thing about the cul de sac north of South Park is that it has been in place for a long number of years. There was a small repair done around the storm sewer, but the roads have the integrity of a typical amortization, which would be a 20 year road.

Councilwoman Price stated she shares some of Mr. Kisner and Mr. Gaul's feelings that they have gone through the list and that they have done it all. She said she shares the community concerns with them saying they bought new homes and they feel they are supposed to have new roads that aesthetically look good. She said Mr. Kisner and Mr. Gaul may have done their job and no cracking is appearing in a year, but aesthetically it would not be the charm that the residents expect. The dilemma is if Council comes back again and says they have more work to do as we want them to make the roads aesthetically charming to the community. She asks where does it end.

Mr. Kisner stated that could be part of it. He said the question they are asking is whether there is anything over and beyond that list that would keep City Council from accepting the roads. He said they have the feeling there is, even though they may not be hearing it. He said that Councilman Ebner had pointed out that the data on the tests are not available in the City Engineer's Office. He said he did not have any control over that. He said he would go back and try to find the data. He said the inspections were done, and they were told to continue. He said as far as he was concerned that was not their responsibility. He said the aesthetics of the road is not part of the punch list. He asked if Council may come back in a year and say they did the punch list and everything is okay and Engineering recommends acceptance of the roads, but Council says they don't like the way the roads look. He said he and Mr. Gaul have a decision to make as a developer. He said that is if they are in a losing battle, they would just stop. He said why would they continue to spend their money, and they can't get a commitment from the city that says if you do these things they will accept the roads.

Councilman Ebner stated before he was on City Council he worked at the site. He said they did their own testing plus they subcontracted a lot of the testing. He said he called the owner of CSRA and asked about a particular development and whether they had taken any tests in the development and he responded no. He pointed out that he could not find any testing reports. He asked if anybody else had taken any tests and CSRA responded no. He said for some reason he felt the tests didn't exist. He said they may exist on the Gem Lakes Extension roads. He said Mr. Morris said he did not see the test results, but CSRA may have them. He said he felt they could say they have the tests or they don't have them. They may have shredded them already, but they should be competent enough to say yes they made the tests, but they had shredded them. He said that would raise a question in his mind as to whether the test results should be kept until the roads are finished.

Mr. Kisner asked if Councilman Ebner was questioning if the tests were made on his roads. He said as far as he was concerned that was the city's responsibility. Councilman Ebner stated he was not, but wanted to see the test results. He said that was a reason he wanted to have this discussion with City Council. He said the test results should be in the city files per our procedures. He said he was not saying whether they were made or not,

as that is immaterial. He said the regulations say the test results must come from the testing contractor, not the developer. He said he and Mr. Toole had a little discussion about whether they should be done or not done. Councilman Ebner stated the regulations say they must be done before the roads are accepted by the city. He said the Gem Lakes Extension is a real test case for other roads that will come up in the near future. He pointed out Mr. Kisner and Mr. Gaul got attention unwillingly because of the past history. He said he felt at the September 23 Council meeting that Council has to come up with a resolution as to whether we will accept the Gem Lakes Extension roads if we can't find the test reports.

Councilwoman Price asked if there was a check list or an actual piece of paper. Councilman Ebner stated there is an actual piece of paper. It is in front of the City of Aiken's specifications. He said he had shown it at a Council meeting a couple of weeks ago. He said it is in there and it calls for the test reports. He said he and Mr. Toole had had that discussion one time, and Mr. Toole said sometimes they don't do them. Councilman Ebner pointed out that in the front of the book the regulations say the test results need to be in the file. Council does not have to see the reports. He said the only way he got on Council was fighting concerning the roads in his neighborhood. He said he felt that was a Council decision. Councilman Ebner stated Mr. Gaul was asking a legitimate question as to what is Council going to do. He said he felt Council has to do that in Council session and vote on the matter.

Mayor Cavanaugh said let's go back. He said if the items on the punch list are done properly and meet the specs of the city, then why would Council not accept the roads after a year if the roads are still in good shape.

Councilman Dewar stated he did not know why we need to discuss the matter in another meeting. He said the problem is basic; the city staff is supposed to have these inspection records. They are the ones in charge of the process to make sure the road is built properly. He said he guesses where we find ourselves is that city staff can't prove that they inspected roads; they can't produce the inspection records. He said that is a quandary for the city. He said the issue for Council and the reason it is important is that if Council accepts a bad road, we are assuming that the city will be responsible for maintaining the roads.

Mayor Cavanaugh stated no one is saying that we would accept a bad road. He pointed out the punch list that must be completed to meet specifications.

Councilman Dewar stated that is the punch list right now, but he thought the developer is saying if they take care of the current punch list they would like the assurance that Council will accept the roads, but there will be another warranty period of a year before acceptance of the roads. He asked what happens after the developer finishes the punch list and comes to the city. He said he had heard the engineers say they need a one year period after repairs are made before recommending acceptance of the roads. He asked what happens if they get another punch list after the year.

Mayor Cavanaugh asked why there would be another punch list unless there is a failure during the year. Councilman Dewar responded there has been nothing but a history of failure on the roads. Mayor Cavanaugh asked Councilman Dewar if he thought the roads would ever be right. Councilman Dewar responded he did not know, but he was looking at the facts that have come to Council. He asked what if they do the punch list items and go a year and come back and there is other cracking. He said nobody can predict what is going to happen. He said he did not think Mr. Kisner could either, but he would do the best he could.

Mayor Cavanaugh pointed out we would have the one year warranty period. After the year Council can decide to accept the streets as they are or they can say no some corrections need to be made and watch them for another six months or so. Councilman Dewar stated Mr. Kisner is looking for a positive way to get the roads accepted by the city. Mayor Cavanaugh stated he felt they would not get that today. He said we had already said what needs to be done. The punch list needs to be completed and done right and go through a one year period. Councilman Dewar stated even if we do that, and we

accept the roads we would be violating city procedures because the City Engineer does not have the inspection records to look at. Mayor Cavanaugh pointed out though you can't prove they were not done. Councilman Dewar stated they can't prove they were done either.

Mr. Pearce stated the city files do have the staff inspection reports. He said what he was hearing Councilman Ebner say is that the CSRA reports are not in the file. He said he had heard the developer say that they would try to get those reports from CSRA. He said if that is something that Council wants to see, if the developer makes them available to staff, he would forward those to Council or have them available for inspection in the Engineering Office.

Councilman Ebner stated to have the reports in the file is fine. He said some on Council may read them and understand them. He said all he is saying is that the procedure is that the test results be in the city files. He said that is an important point. He said he would repeat something he said at a Council meeting. He said he asked Mr. Gaul at a Council meeting if he could verify that the city has inspected everything he has done and accepted it as it is. He felt that is an important point. He said he felt the procedure which has been in effect since 1987 requires that the test reports be in the files. They do not have to come to City Council. He said he had been over and gone through the files. He said he had been through 30 or 40 road files in the last 7 years. He said he thought that would be the only point. He said Council has to decide what we do. He said it is a city decision. He said if the tests were not made and the city says okay that they were not made, then we have to accept the road.

Mr. Pearce stated he would like to speak to that. He said we do have some CSRA reports in our files. We did have a staff inspection. He said if we need to connect, that part of the staff inspection was looking at the CSRA reports and handing them back to the CSRA person, we can clarify that. He said that is something that staff should do and he agrees with Councilmembers Ebner and Dewar. Councilman Ebner stated that was all that he was asking. He said that was in his comments to Mr. Pearce and to City Council. He said it is a City Council decision. He said Mr. Kisner is going to live by what is found from CSRA. If we don't have the records and the city can't produce them, we can't hold Mr. Kisner responsible for them. Mr. Pearce stated staff can clarify that staff verified that there was a CSRA report and checked that on their check list and they were satisfied. That would explain the reason why Mr. Kisner and Mr. Gaul were told to go on to the next step.

Councilman Merry stated the irony is that the two sides of the issue both want the same results. The homeowners want the city to take the roads and the developers want the city to take the roads. Councilman Ebner wants the city to take the roads. Everybody wants the city to take the roads. He felt everybody is working towards the same goal. It is just a matter of setting whatever that procedure is. He said he hears what Councilman Ebner is saying about copies of those tests being in the files. He said if you have procedures you need to follow the procedures, but there is no time machine to be able to go back and produce those tests, unless CSRA still has the reports. He felt everybody's goal--both the homeowners and the developers--is to have the city take the roads. He felt it would be a matter of the recommendation of the Engineering Department to Council as to whether or not they should be accepted at the end of the one year warranty.

Mr. Pearce pointed out the procedure has been changed. He pointed out staff is not doing the inspections any more, but an Engineer of Record is doing the inspections now. He said staff could clarify the question for this roadway as to what staff did.

Councilman Merry stated ultimately Council will get a piece of paper that says the Engineering Department recommends these roads. He said Council won't see it until the Engineering Department recommends acceptance. He said he had been through that and requested that roads be dedicated many times when the request never made it to Council because the Engineering Department said no. He said Council won't see this until the Engineering Department makes the recommendation that the roads should be accepted. He said by the time Council sees this again, the roads, according to Mr. Brittan, will be equal to or greater than the city standard.

Councilman Homoki asked what Council would be doing on September 23. He asked what Council would be making a decision on—is it whether to accept the roads understanding the inspections were done but there is no documentation available. He asked if we would be standing a chance of possibly changing our own rules and regulations as far as the criteria for acceptance of roads.

Councilman Ebner stated that is what it takes to be done. He said you have to remember his history with the roads and his background. He said when the road in front of his house fell in three times he started saying something has to be wrong. He said as he went out of his neighborhood and started checking Ascot, Lynn Street and others around the neighborhood, he started looking in the files. He said he worked with some of them at SRS. He said he called them and asked if they made tests on the roads. They have no reason to push him off as they are in business to make a living. He said he talked to CSRA regarding the roads in his particular neighborhood and asked if they had tested any roads in the last 10 years, and they said they didn't. He then wondered why they didn't test them. He said the way we got to the Engineer of Record was that the city was too busy so we would use an Engineer of Record. He said all the Engineer of Record is doing is enforcing the city's specifications. He said we didn't make any new regulations. He said Mr. Morris and Mr. LeDuc wanted to change some of the ASTM standards, but he did not want to as he felt there was nothing wrong with them. They are as good as the Romans built. All we did was put the Engineer of Record to look at the tests and say they made them and put them in your files. That was a substitute for the city doing the inspections. He felt there are a number of roads on which we will not find any test reports. He felt City Council needs to be aware when the city accepts the roads that we are going to have to fix some of them in the future. He said he thought Mr. Gaul has a pretty good case. Everything was accepted that he did. A mistake was made.

Councilman Homoki asked if we were drawing a red line and anything prior to the red line we will accommodate, but in the future we would hold them to the letter of the standards.

Councilman Ebner pointed out the standards are 50 to 75 years old. They are not new. He said he felt City Council needs to realize that one of the reasons that we are discussing this matter now is that some of the roads are caving in. He said we need to be aware that we have some roads that we have to accept. There are four or five areas that we have not accepted yet that Mr. Grinton is going to have to come to Council and say the test of time on the roads is good. Council is going to have to accept them. One of them is South Park Drive. He said on the Gem Lakes Extension we have had some issues show up that the roads are failing, perhaps from compaction or from water.

Mr. Pearce stated he could state that Ascot Drive has water leaks. He pointed out the city has the Engineer of Record coming forward. When staff was inspecting, we did have notes where they went down a check list and did an inspection. Those records are in the files and notes where staff said they were satisfied.

Councilman Dewar stated he felt all Council has a right to expect that when staff asks Council to accept roads that we have followed our procedures and that we are doing what is in the best interest of the taxpayers. That is to insure that we are accepting roads that have been built according to standards and that, as best as we can determine, we will take them and we will be responsible for maintaining them beyond that. He said we have not gotten to that point with these roads. He said he did not know what is wrong with the roads. He said he had heard water was a problem and compaction. He said he was not an engineer so just tell him whether the roads are okay. He said if the Engineering Department and the City Manager say the roads are okay and meet the standards, and the procedures have been followed, he is willing to accept them. He said we are now at the point where historically we have had so many problems that we now have a list. He said we now have a list of items that need to be fixed. If they get fixed, then we go into the one year warranty. We would probably do another punch list to make sure everything is okay. He said we could end up with another punch list a year from now. He said he did not know what the end result will be. Mayor Cavanaugh asked how we could end up

with another punch list unless there is another failure. Councilman Dewar stated there might be another failure. If there is another failure, it would need to be fixed.

Mr. Gaul stated there could be a different engineer and a different opinion. He said 12 months after the punch list is completed there could be another list because there is another set of eyes. They might have walked down the left side one time and down the right side the next time. He said three could walk through this room and find different imperfections.

Mr. Brittan stated the point they are trying to make and to which they have never gotten is being accepted to carry for one year. He said after the punch list is done there will be another time that the inspectors will come back. Obviously if there is another failure that will come up.

Councilwoman Price asked if in a year after the punch list is done, and based on your visible inspection, you see there are a number of obvious cracks, what do you feel the developers' responsibility would be in terms of repair. She asked if they would say "tough" and walk away as you tried the best you could.

Mr. Kisner stated they have not walked away from it yet. He said they did the roads in 2008 and after 5 years they are still there. He said his point for requesting the meeting was—to determine what is the end point. He said if they get an inspection that says it is okay, what is City Council going to do. He said they have heard so many different innuendoes, rumors, and falsehoods spoken that they don't know where they stand. He asked what are the standards. He said Councilman Ebner has brought up his opinion. Councilwoman Price has brought up the issue of aesthetics. He asked if those are standards for which they will be held accountable.

Councilwoman Price stated Council had heard in the Council meeting that some of the residents prefer that everything be dug up, tested and started all over again to make sure everything looks new like their homes. She pointed out that is extremely costly. She asked who will cover those costs. She said there are all kinds of things on both sides that the community would like versus what we are doing now in terms of the punch list to see if that will fix the problem. If it fixes the problem and there are no obvious problems and cracks or water leaks, but aesthetically it does not look charming to someone walking out their front door, do we accept those roads based on the repairs being done and not look at aesthetics.

Mr. Kisner stated he wished neither the cracks nor the patches were there, but the city standards do not address aesthetics. He said they might be willing to address that if we have assurance that the city will accept the roads based on city standards.

Councilman Homoki stated the question he had was that Councilman Ebner had alluded to the fact that the city went to the contractors and said the city does not have enough personnel to do the engineer of record and took a site engineer's word for it. He asked if that was reflected in our regulations.

Councilman Ebner stated it was effective after this subdivision was done. He said the original plan for Gem Lakes Extension was 2007 with the concept plan and they started in 2008. Any concept plan that was approved before January 1, 2008, did not have to have an Engineer of Record. He said an Engineer of Record is a person hired to stand there and be sure the work is done by the specifications. He said the Engineer of Record replaced a city employee standing there to be sure the work was done by the specifications. It does not change the specifications. It deals with the testing company and the testing company working with the city and providing the test reports.

Mr. Kisner stated it does change something. The ultimate responsibility for the roads lies on the Engineer of Record rather than the city and it gets very expensive. Councilman Ebner stated the Engineer of Record has a certain liability. He said what you are doing is a statistical analysis of the dirt. He said he thought you would have to agree that if you make a test every 500 feet that the area between the two 500 feet is probably good.

Councilman Dewar asked if we really need to have this discussed at another meeting if we all understand what needs to be done and what we expect to be done. Councilman Ebner responded if Mr. Pearce can come up between the city and the testing company with the test reports that would be fine. He said if we don't come up with the test reports, then he felt City Council has to agree that we didn't get the test reports, therefore we have to accept Mr. Kisner's roads after he does the patches and after a year warranty period. Councilman Dewar asked Councilman Ebner if he would not place a value on the staff reports that said they were done.

Councilman Ebner stated part of the staff report is a check list which says the test reports from the testing company have been reviewed and approved. The testing done by the company goes to the owner. It is a verification of what is going on. He said it is like an audit on the city budget.

Councilman Dewar stated then Councilman Ebner is saying it appears unlikely that we will be able to find these testing records and given that, Council may be in a position to possibly accept the roads without having those testing records. He said we would need to have authority to waive our own internal procedures under an unusual circumstance.

Mr. Pearce stated earlier he had said he will verify with staff that they were satisfied that the testing was done and that they looked at the testing report, even though there may not be a report in the file. That is for projects where city staff did the inspections. He said the procedure we follow is where staff does their work, and then there comes a time when the developer is ready to dedicate the roads. They finish the work and the warranty period is completed. He said that is typically when he got the memo from the Director in the past. He said that is what we would do in the future. He said when it comes to Council, Council should have the confidence that staff has done the due diligence whether the documents are in the file. If the city were inspecting, then we were satisfied there was a document that showed it was a proper roadway. With the Engineer of Record that person has a license from the State of South Carolina, so their license is on the line when they stamp the plans proceed.

Councilman Ebner said we have that in the city too. He said one of our city inspectors is certified by the Labor Licensing and Regulations Board. Councilman Ebner said just show the reports to him. Mr. Kisner said we could also go back to the city engineer staff person that did the inspections and reviewed the test results. He pointed out he is retired, but is still responsible.

Councilman Merry stated he felt Council was talking about two different things. Councilman Ebner stated on September 23 Council needs to address one issue. He said he just wants to see the reports. Mr. Pearce stated the city wants a copy for the public file as this is an issue.

Councilman Dewar stated he still did not know why Council needed to do anything on September 23. Councilman Ebner stated if we don't have the test reports, then we have to waive the procedure. Councilman Merry stated he would not vote to blanket waive the procedure. He said he would look at every road as it comes to Council, like we did for South Park, and make an individual judgment on each one as they come to Council. If in the past we did not do a good job of record keeping and we can't provide evidence that the tests were done, we would take those roads on a case by case basis. He said as Councilman Homoki had suggested we are drawing a red line in the sand to make sure that the Engineering Department knows that the records need to be kept. He said the Engineer of Record is more than just having someone look at the work. Those people realize, whether the city ordinance says it or not, that they are putting themselves at risk. That is what an Engineer of Record does. If they find themselves in court, it does not matter what the city ordinance says. The judge can stick it to them. He said if it is a million dollars worth of roads, and they find themselves in court for it, the insurance company will have a high powered lawyer defending that. He said they know they are at risk so they should have copies of the reports. He said he would not want to blanket waive the requirement, but he would look at each on a case by case basis. He said if it is a road like South Park that has a nine year track record, he does not care if the records exist or not, that road has proved itself to him.

Councilman Dewar stated this isn't an issue until Council gets a request from staff to accept a road. Right now the issues on the table are what are we going to do about the punch list and respond to the developers questions that Mr. Kisner has in terms of when can he reasonably expect to proceed to the point where the city will accept the roads.

Mr. Pearce stated from staff perspective we will look at a completion date, and look in a year to do a final inspection. If that is satisfied, staff will bring the request forward.

Councilwoman Price asked when Mr. Kisner would begin to do the 56 items on the punch list. Mr. Kisner responded probably in September. Councilman Dewar pointed out he had said earlier that they were grading the remaining lots so they could get the heavy equipment out of the neighborhood. Mayor Cavanaugh stated he had been in the neighborhood today and the roads look better to him than he has seen them in previous trips.

Councilman Homoki stated he felt September 23 may be too early, as they may not be finished with the work. Council said they would not be accepting anything. Councilman Ebner said if we don't have the test reports for the streets in Gem Lakes Extension, and staff says they did them, then for this particular road Council has to waive that item when the roads are accepted because the procedures say the test reports are to be in the files. It was stated that matter would be discussed on September 23.

Mayor Cavanaugh asked when the developer would expect to finish the punch list and work that needs to be done. He said it had been stated that they will begin the work in September.

Mr. Brittian stated the inspection report does not reflect the patching that they know they have to do in front of the three lots that are being cleared. He said that is additional patching other than what is on the list. He said when they start they want to move in one time which will be after the dirt mover clears the lots. If the dirt mover gets his work done in two weeks, then he will be there in two weeks to proceed with his work if he is given permission by the owners. He said they will start with the patching. They will go up into Moultrie, finish the patching that has not been done yet. He said they intentionally did not do that patching because they knew they were coming back to clear the lots. Mr. Pearce said that is the section from the detention pond starting up the hill on Moultrie. Mr. Brittian said his plan of attack is to perform the patching, go back and do the patching listed in the report, and then he will clean and crack fill. He said Mr. Kisner and Mr. Gaul have a concern about what was just mentioned about the aesthetics. He said when he gets through with the patching and the punch list, he will request Mr. Grinton to meet him out there and they will walk the area. He wondered if there will be another meeting held on-site in a tent with the neighbors complaining that the roads don't look good. He said crack filling is a proper procedure. They do it on highways all the time. He said that is a concern of Mr. Kisner and Mr. Gaul. He said if Mr. Kisner and Mr. Gaul do this work and spend more money, and it is up to standard, there will still be the issue of aesthetics. He said he had heard the Mayor say if it is up to standard that they will not be held to a higher standard. Mr. Pearce said he had heard that from staff also. Mr. Brittian stated there will still be the matter of aesthetics and the attention that the neighborhood is getting that is of concern to Mr. Kisner and Mr. Gaul.

Councilman Merry stated there will probably be people at the meeting who will say they paid a lot for their house and they do not think they should have roads with 50% of the roads patched. Then the developers will say they have an agreement that they will do the work to city standards. He said city standards do not say anything about aesthetics.

Mayor Cavanaugh stated that is something that Council will have to make a decision about then, but the work needs to be done first.

Councilwoman Price pointed out that Mr. Kisner had stated in good faith that he will look at that at the time. At this time his concern is to get rid of the cracks and eliminate that concern. She said Mr. Kisner had said it was not off the table that he would address the aesthetics. Mr. Kisner stated it was not off the table, but he had heard in one of the many

City Council meetings that he attended that it was discussed among Council that they might put some seal coat or provide some assistance financially to address the aesthetics to satisfy the homeowners. He said maybe it is something they could do together.

Councilwoman Price stated she felt we will have to look at that. She felt that we do not just need to remove ourselves from the issue. She said she recognizes that finances are involved to make it right for the neighbors.

Mr. Gaul stated do we move forward and spend money now or do we hang on to it and do small repairs over the next 10 years. He said they don't want to do that, but would like to do the normal procedure. He said the idea of this meeting with Council was to get comments, as they want to move forward, but they wanted some comfort that they could work together to do the work and not just make small repairs over the next 10 years and never come to the city and ask for acceptance of the streets.

Councilwoman Diggs stated if the developer completes the 56 items on the punch list in addition to the patches in front of the three lots that are being cleared, the work meets city standards and the residents are satisfied, would we be able to go on without the documents that Councilman Ebner is referring to.

Councilman Homoki stated his question about September 23 is if Council would be voting to accept the roads even without the documentation if they finish all their work to standards.

Councilman Ebner stated documentation would be the only issue they would be dealing with.

It was pointed out that the discussion by Council on September 23 would not have anything to do with Kisner and Gaul, and their name should not even come up. They would only be dealing with the matter of documentation.

Councilman Merry stated the question the developer is asking is if Council is going to hold them to city standards or to the neighborhood standards. The neighbors have a higher standard than the city standards. The neighbors have an expectation, right or wrong, of having beautiful new roads in a beautiful new subdivision and new homes. However, that is not necessarily fair to the developer if the city has certain standards. He asked if we would hold the developers to city standards or to the neighborhood standards. He felt by law the city would have to hold the developers to city standards.

Mayor Cavanaugh stated he felt we would have to look at the facts of the issue when we get there. He said we have talked about a lot of these things over and over again. He said we can't do anything right now, as we are not voting on anything at this time. In the meantime the work needs to be done.

Councilman Homoki asked someone to phrase exactly what Council would be doing on September 23. Councilman Ebner stated Council may not have the discussion if the records are produced, and he gets to look at them, then the matter is a dead issue. If we don't have the records, then City Council has to say we will accept the roads without the records. He said the records can't be recreated if they were not done when they were built. He said as Councilman Merry had stated Council will have to look at the matter for every road that is requested to be dedicated to the city.

Mr. Kisner stated he would like to summarize by saying as a developer he has a better feeling about where they stand today after their discussion with City Council than he did prior to today. He said he, Mr. Gaul and Mr. Brittian have to discuss the matter, but he felt it was safe to say that they will go forward with the punch list in good faith.

Mr. Pearce stated city staff is willing to meet with the developers at any time as they go through the path forward to help them along the way. He said if there are any problems for them not to hesitate to call him. Mr. Kisner and Mr. Brittian responded there had been no problems in working with Engineering and Utilities.

Mr. Rich Decker stated he was a little confused about how we are doing repairs. He said at the Council meeting on April 22, 2013, it was said testing would be done, and Mr. Toole would undertake that testing. It was stated that Mr. Toole would be making his own data as an independent engineer. He said the point is that at no time has he heard anybody say what the problem is. There is conjecture that maybe it is water or maybe it is compaction. He said Mr. Toole, at the meeting, said it could possibly be the soil conditions underneath the road and the only way to establish the proper fix for this was to do some test boring maybe up to six feet and establish what is going on with the roads. He said the developers will proceed to patch, and there has been a lot of patching. He said we are patching, and then we are noticing that the patches are sinking. He asked what really is the problem underneath the roads. He said we don't know what the problem is and everybody has acknowledged that they are not sure what is causing the problem. He said it could be a compaction problem, but we don't have compaction tests. It could be the soil conditions. What is the problem. He said they may spend more money, but it might not take care of the problem. He said as far as the aesthetics, aesthetics is one way of terming it, but he felt property values are another way of terming it. Mr. Gaul stated at one of the meetings at the pavilion one of the reasons the houses were not selling was because of the condition of the roads. He said he agrees with that. He said there are property valuations involved; we are talking about people's property values. He said anyone who has driven down the road can see that. The road is continuing to crack and break apart. It is worse than when we walked the road some time ago. He said we will see where it goes with the fixes. He said the residents have asked for three things—that an engineering study be conducted and an engineering solution be found for this road problem, find out what the cause is and fix it to address that problem, and to resurface the road. He said that is what the residents asked for in their petition.

Mr. Brittan stated if the study was done and Mr. Toole was hired, what position would the city take. Would it be that the city hired Mr. Toole and if the roads are not fixed by digging everything up and installing French drainage, the city will not accept the roads. He said that is the concern of the developers. He said that would not be fair to the developers; they built the roads by city standards. He said he thought the only way they would know the issues with water before starting would have been to perform boring tests or something like that when the development was started. He said no developer does that. He said that is the same case as Councilman Ebner's situation with the road in front of his house. He said if there had been boring done on his road, he probably would have known there were issues there. He said for the patching that has been performed, the cracking is at the edge of the patch where the patch was saw cut and where it stopped. It is not in the middle of the patch. Even if the study is done he felt the city could not hold the developer to another standard or they would not accept the roads. He said that was not in the original agreement.

Mr. Decker stated that is the point. We have a patch and where it wasn't patched, it continues to break. That is patched and the next section continues to break. It continues to break, and why is that.

Mr. Kisner stated he was going to have to leave. He said we have been through this discussion many, many times. He said as the developer they have assessed the situation. They have used very professional people to help evaluate the situation. He said they are very confident that they have a method of repairing the roads, and it is their responsibility. He said he did not think they need to rehash all the issues we have heard for the last two years.

Mr. Pearce said staff's take away from the meeting was that Mr. Toole was to look at the situation and come up with different approaches and make a report of those different approaches, which was done in the Moultrie Drive meeting. He said he understands from the developer and from Mr. Toole that the full depth patching is something that the South Carolina Department of Transportation does all around the city and all around the state. There was a choice of methodology. We said we looked at the boring sampling that Councilman Ebner mentioned, and that is contained in the report. He said Mr. Hilderbrand, who is also an engineer, made his report to Council about a proposed approach which was digging out the area, inspecting and then conducting a full depth patching, which is contained in Mr. Toole's report. There was no single approach when

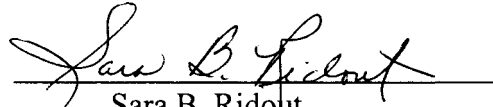
Mr. Toole made his report. He just assigned risk values and potential costs for the different methodology. Council never voted to pay for testing; they voted for the independent engineering assessment of the situation which was done.

Mayor Cavanaugh stated everyone should understand what is to be done from the discussion.

Mr. Kisner thanked everyone for coming and discussing the matter.

ADJOURNMENT

There being no further business, the meeting was adjourned at 5:25 P.M.


Sara B. Ridout
City Clerk