

## Aiken City Council Minutes

### REGULAR MEETING

January 12, 2015

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

Others Present: Roger LeDuc, Stuart Bedenbaugh, Gary Smith, George Grinton, Kim Abney, Tommy Paradise, Kim Coleman, Lisa Hall, Alicia Davis, Tim Coakley, Charles Barranco, Sara Ridout, Al Cothran, Warner Anthony, Michael Ulmer and Derrek Asberry of the Aiken Standard, and about 70 citizens.

### CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:03 P.M. Councilwoman Diggs 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 recognized two Boy Scouts present from Troop 115.

### ADDITIONS OR DELETIONS TO AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda.

### MINUTES

The minutes of the Work Session of December 2, 2014, Regular Meeting of December 8, 2014, and Work Session of December 17, 2014, were considered for approval. Councilwoman Price moved, seconded by Councilman Merry that the minutes of December 2, 8, and 17, 2014, meetings be approved. The motion was unanimously approved.

### BOARDS AND COMMISSIONS

Appointments

Nance Dukes

Board of Zoning Appeals

McDonald Law

Ben Lott

Design Review Board

Liz Stewart

Planning Commission

Andy Hallen

Environmental and Energy Committee

Mayor Cavanaugh stated Council needed to consider approval of appointments to various city boards, commissions, and committees.

Mr. LeDuc stated five appointments are presented for Council's consideration and vote at the meeting tonight.

Mayor Cavanaugh has recommended that Nance Dukes be reappointed to the Board of Zoning Appeals. If reappointed Ms. Dukes' term would expire December 1, 2017. Board of Zoning Appeals terms are for three years. Mayor Cavanaugh has also recommended the reappointment of McDonald Law to the Design Review Board. If reappointed Mr. Law's term would expire December 31, 2016.

Councilmember Diggs has recommended the reappointment of Ben Lott to the Design Review Board. If reappointed Mr. Lott's term would expire December 31, 2016.

Councilmember Merry has recommended the reappointment of Liz Stewart to the Planning Commission. If reappointed her term would expire December 1, 2016. Councilmember Merry has also recommended that Andy Hallen be appointed to the Environmental and Energy Committee to replace Alexander Grennor. If appointed Mr. Hallen's term would expire December 31, 2016.

For Council consideration is the reappointment of Nance Dukes to the Board of Zoning Appeals, McDonald Law and Ben Lott to the Design Review Board, Liz Stewart to the Planning Commission and the appointment of Andy Hallen to the Environmental and Energy Committee.

Councilman Dewar moved, seconded by Councilman Merry, that Nance Dukes be reappointed to the Board of Zoning Appeals, McDonald Law and Ben Lott to the Design Review Board, Liz Stewart to the Planning Commission and Andy Hallen appointed to the Environmental and Energy Committee. The motion was unanimously approved.

Mayor Cavanaugh asked if there were any nominations for the next meeting.

Councilwoman Diggs recommended that Norman Dunagan be appointed to the Energy and Environmental Committee, John Brecht to the Board of Zoning Appeals, and Dr. Barbara Bing to the Park Commission.

Councilman Merry stated he would like to recommend the reappointment of Bud Coward to the Board of Zoning Appeals.

Mayor Cavanaugh stated those recommendations would be on the agenda for the January 26, 2015, meeting.

#### INVESTMENT OF CITY FUNDS – RESOLUTION 01122015

##### Request for Proposal

Mayor Cavanaugh stated Council needed to consider a resolution setting a policy for investment of city funds and approval of Request for Proposal to invest city funds.

Mr. LeDuc read the title of the resolution.

#### A RESOLUTION SETTING A POLICY FOR INVESTMENT OF CITY FUNDS.

Mr. LeDuc stated this matter had been discussed on several occasions. Staff felt it was best that we go ahead and get someone who has some expertise in this field. He said the City has approximately \$25 million to invest. Mr. LeDuc stated the City of Aiken currently invests its non-operating funds with the Local Government Investment Pool (LGIP) at the average rate of 0.16%. The City has approximately \$25 million to invest, and we believe we can obtain an interest rate approximately 1% higher than we are currently receiving. Our investment strategies must meet all standards and laws required by the State for local governments and be manageable by the Finance staff. Our current investment policy which was written in the 1980's only allows us to invest in the Local Government Investment Pool (LGIP).

Mr. LeDuc stated staff would like Council to consider a resolution and a Request for Proposal to allow us to go ahead and invest these funds in different types of markets.

Tonight Warner Anthony, the City's longtime advisor and attorney for our Pension Plan,

will discuss with Council the rules and regulations that we must follow for any investment not with the State's LGIP. He will present three documents for Council's review.

The first is a Resolution to update our investment policy, which includes obligations of the United States and its agencies. The second is background information related to the changes and the third is a Request for Proposal that we would use to solicit for an investment manager for our funds. Mr. Anthony will review each of the proposals and recommend the most favorable investment strategy for the City.

Mr. LeDuc stated that by changing our investment policy we feel that we will add over \$300,000 in additional revenue to our overall budget with \$120,000 of that going into the General Fund. He said staff feels this is a very critical and very important move by the City of Aiken.

For City Council's consideration is approval of the Resolution for the Investment Policy and the Request for Proposal to Invest City funds.

Mr. Anthony stated he would like to give some background information on changes in investing City of Aiken funds. He pointed out that Mr. LeDuc had already covered some of the information. He said the City had mainly used the Local Government Investment Pool run by the State Treasurer's Office. That pool basically involves very short term investments with the average maturity a little less than 60 days. The returns in the past have been fairly reasonable, but because of the interest rate environment today the returns are now 0.16% or less. Of the \$27 million to \$30 million, the City has the need for some monies in a very short term period and the need for some monies not for a longer period of term such as 18 months and some maybe not needed as long as two to three years. The approach is to continue to use the LGIP for the short term investments. That money is immediately available and can be transferred from the State Treasurer's Office from the Local Government Investment Pool to the City immediately whenever needed. For the monies needed on a longer term investment by buying longer term maturities a higher yield can be obtained. The whole purpose of the approach is to try to keep it simple. Right now it is very simple. The City simply sends money to the Local Government Investment Pool in the State Treasurer's Office and gets money back whenever needed. He said we want to keep this process simple without involving significant administration issues on the part of the City.

Mr. Anthony stated one of the problems we face is that South Carolina law imposes substantial restrictions on investments of governmental units, i.e. the city. Generally the City is restricted to investments in U.S. government and agency obligations that must be held in the City's name. Certain other investments are permitted that he will mention as he goes through this. One point to make is that money market accounts are not a permitted investment. In a very limited situation a government money market account may be used if bonds have been issued, but that limited exception is not available to City funds discussed here. He said money market accounts are off the table as a permitted investment. Bank CD's are a permitted investment, but the restrictions under the State statute that the City must follow causes the use of bank CD's to be very complex. Bank CD's must be secured 100% by U.S. government agency obligations and best practices would dictate security of any bank CD's at 115% to 125% of the CD because you must be looking at it every day. If you purchase a CD and a 10 year government bond is given as security and the government bond loses value, additional security would have to be given. He said that one can see that using collateralization would mean that the money must be transferred out of the bank to a third party escalated. You would need escrow agreements, collateralization agreements, and daily record keeping of this. It requires constant monitoring and is complex. He said he did not believe that the use of the CD's would increase a bank's ability to loan funds to the local businesses. He said there is a study by a professor of Economics who formerly worked with the Federal Reserve System in the Kansas City Federal Reserve. The study showed that deposits with banks do not increase local lending, and in fact make borrowing more difficult mainly because you give the bank \$100 for the CD. Then the bank has to get \$115 and go buy government securities and transfer those government securities to an escrow agent. It is

not like the situation when the bank takes in monies from a CD and then has money available to loan in the local community.

Mr. Anthony stated he believes that the easiest way for the City to invest their monies on a longer term basis without imposing substantial additional requirements on the City administration is to use U.S. government and agency obligations. What the City would do is to identify the funds that it does not need for a period of time. He said, for example, of the \$30 million, \$6 million will not be needed until June, 2016 or June, 2018. The City would go out and buy directly from the insurer of the federal agency, agency obligations that would mature in June, 2016 or June, 2018. By getting a longer period it would increase the interest that the City receives. The City wants to look for professional services to help identify what bonds are best to purchase and to purchase those bonds on behalf of the City to be held in the City's name as a city investment.

Mr. Anthony stated that was a brief overview. He said he would be glad to answer any questions of Council.

Councilman Dewar asked Mr. Anthony if there was a period that he would recommend investments with the State. Mr. Anthony stated he would rely on the Finance Director to determine when she believes that the money would be needed. He said he would not make that decision. He said staff would know when the money will be needed. He felt the Finance Director would err on the side of caution and probably initially keep more than absolutely necessary in the LGIP just to make sure the City has ready access to cash in case a project comes up all of a sudden. Councilman Dewar asked what Mr. Anthony would anticipate the cost to be of a person to handle and recommend the bonds that we purchase. Mr. Anthony said he did not know, and that was the reason for the RFP. He said he would expect that we would get bids either on a dollar basis and maybe a percentage of assets being managed. He said at this point he had no idea.

Councilman Ebner said that in our prospectus did we say no CDs or are they automatically out because he felt nobody is going to buy 115% backup money. Mr. LeDuc responded that one of the problems, as Mr. Anthony stated, is that with a CD staff will have to spend more time monitoring expiration dates and other things that go along with it. By going with the U.S. bonds, less monitoring by staff would be needed. He said we don't want to have to hire a staff person to monitor the investments that we have. Mr. Anthony stated the new resolution to replace the resolution from the 1980s authorizes the investment of government monies in the LGIP and only in U.S. government and agency obligations. It does not authorize investments in bank CDs.

Councilman Ebner stated another question is that about \$10 million of the \$22 million or \$23 million is Capital Projects Sales Tax funds which is a separately voted on fund by the public. He asked if that would be considered as part of the pool of money. Mr. Anthony responded yes. He said it is all subject to the State statute on the limitation of investments.

Councilman Homoki asked how liquid the investment would be. He pointed out that we routinely turn around and take money out of our "rainy day" fund and project it towards the capital projects investments. He asked if this would hamstring us in doing that. Mr. Anthony stated the money in the LGIP would be immediately available. The structure of that is pretty much at par. For the government bonds and agency bonds to be purchased, the idea is to purchase them when you expect to need them. He said you know the yield to maturity. He said if something happened and you needed to sell them, there is an immediate market for government bonds. You could sell them, but if the interest rates have gone up since the bonds were purchased, you might not get them back at the purchase price. He said his idea has been that the City would keep a slush fund, extra money in the LGIP, to cover projects that might pop up before you thought you would need them.

Councilman Merry asked Mr. Anthony if the bond investments would subject the City to rate risks. Mr. Anthony stated you try to minimize rate risks because you figure when you will need the funds. He said the State statute requires that the City not invest in a maturity being longer than the anticipated time you need the funds. He said we would

buy the bonds that mature when we anticipate that we need them. Assuming that the decision as to when the City would need the bonds is accurate, there would be no rate risk because at maturity is at par. There is a rate risk if the investment is called. He said he would not recommend any callable bonds. He said he was recommending that the bonds be bought directly from the agencies at face value or par. You would not be paying any premium for these as you would be going to an agency to buy them.

Councilman Merry asked what if interest rates have gone up 25 basis points on a \$5 million bond and we did need to access the funds at some point. Mr. Anthony said there would be some investment risk. Mr. Anthony stated he would give an example. He said three to five year government bonds in the last 30 days have gone down from 3% to 2%. He said even if Council approves this and gets all the proposals in you will discuss with the person selected as to when is the best time to buy. Some of the funds may not be needed for five years and a decision may be made to keep the funds in the LGIP for six months and see what happens with interest rates. He said we would not want to be engaged in the business of interest rate arbitrage, but we do want to try to get the best return for the City for the money not needed to a future date.

Councilman Merry stated we would also want to make the funds as secure as possible. In the absence of using CDs what else is there other than LGIP. He asked if the only other choice is bonds. Mr. Anthony stated the only other choice is bonds. Councilman Merry stated if the Fed does what it says it is going to do that could create a risk to us if we put some of that money out for five years. Mr. Anthony stated we could assume that at the time the bond is bought that the interest rate at that time is better than you could get short term. You would need to make the decision as to whether it is sufficiently high enough to make that investment. He said we are not trying to develop a policy where we are buying and selling bonds. He said we are going to buy them at that time. He said the obligations that you are authorized are obligations of United States government, obligations of certain federal agencies that are AAA rates. General obligations of the State of South Carolina are also permitted investments. We could buy South Carolina bonds. He said he had not put that in there. Other examples are: Certificates of Deposit where the certificates are collateralized by securities of the government or federal agencies held by a third party as escrow agent and custodian of a market value not less than the amount of the Certificates of Deposit so secured including interest. Repurchase agreements when collateralized by securities as set forth in the section. He said we don't want to get involved in that. Certain government mutual funds where there has been a debt issue. That does not apply here. Certain subdivisions with regard to Medicaid funds which does not apply. He said that is the only investments that the State Statutes permit. He said State Statutes are very strict.

Councilman Merry stated clearly we will really have to commit to LGIP and then be fairly sure that we won't need any of the money that is going to bonds early. Mr. Anthony stated that is right. We need to be very sure. Mr. Anthony stated the choice right now is to stay with LGIP where we are with almost no interest return, or over commit to LGIP because we are there already and with respect to the other monies where we are real sure we will not need them, if the interest rate is attractive enough we will buy the agency bonds.

Councilman Merry stated another question he had was that he felt very strongly that, to what extent we could, he would like to see the money invested through local institutions because of its potential benefit to the people of Aiken and the City itself. Councilman Merry asked if Mr. Anthony was saying because of not being able to use CDs and because using LGIP is the only liquid way to manage the money and using bonds, there is really no way to invest in our local community. Mr. Anthony stated he was not aware of any way. He said the only way to invest in a local community would be to buy CDs, but in that case the local institution would have to buy additional collateral of 115% of the money, and there is no other way because it has to be government bonds in the City's name.

Councilman Dewar stated as long as the City buys the bonds we are guaranteed the interest rate provided we hold them until maturity. Mr. Anthony stated that is correct. Councilman Dewar stated then we are guaranteed 100% of the capital.

Mr. LeDuc pointed out for Council's information the City has a Depreciation Fund for vehicles, equipment, buildings, and computers. That has stayed steady over the last decade or more. It may go from \$10 million to \$9 million up to \$11 million. He said that is a very steady fund where money goes in and money goes out as we get vehicles and equipment. He said that is the one constant that we have that we know we could have for a long investment. He said obviously the Capital Projects Sales Tax money that we have we would be making projections of money that we will need in year 1, year 2, year 3, etc. Therefore, less of that money will be going into investment. He said we would err on the conservative side until we can make sure we have done this long enough to get a better idea as to what we want to do the second time around.

Mr. Roy Lindberg, of Security Federal Bank in Aiken, stated he wanted to say that if anyone needs a loan to see him because the Bank is interested in doing some CDs. He said they can make it fairly administratively simple. He said they want to make loans in the local community. He said he would suggest that if you have a bond portfolio, you also need to monitor that every day for the fluctuations because rates do go up and down. He said he had been investing in bonds for 20 years. A year ago the 10-year treasury was 100 basis points higher than today. It could go the other way so when the bonds have fluctuations in value, you need to be aware of that. You should not rely on a third party. You really need to hone in on that. He said Security Federal Bank could make it administratively simple with monthly reporting. The State of South Carolina has a bigger staff, but they invest in bank CDs and we have third party agreements. We send them a report every month. It is pretty simple. It is easier than balancing a check book. He said there was a study done by the Federal Reserve, but he said Security Federal Bank wants to loan money. He said we are sort of blessed or possibly cursed by living in a retirement community where there are more people interested in deposits than loans. He said Security Federal wants to make loans. He said if the City invested with Security Federal, they would make loans in the community. He said they have several employees who live in the city. He said he wanted to be a resource to the City. He said he knows about bonds. He said you can buy bonds at a premium. If you hold them to maturity, there is no problem with them. Or you can purchase them at a discount. Callable bonds are okay, but you don't know when the maturity date will be. He said Security Federal wants to loan money, and they can make it easy.

Councilman Merry stated they just learned that in order to properly collateralize CDs that are held by a local bank that the bank would have to go out and buy the collateral. Mr. Lindberg stated the bank already has excess investments so they could pledge those. He said they already own it. He said they have access to loan money. He said he felt the study that was done was not cause and effect. He said he thought the banks already have excess money so they are not loaning it because they are in his situation.

Councilwoman Price stated that Mr. Lindberg had made a great presentation. She pointed out that the City would go out for RFP.

Councilman Merry stated he wanted to make sure he understood this and then give Mr. Anthony an opportunity to speak again also. He said if Security Federal Bank already has excess assets that they can pledge against CDs, then if the City were to invest this money Security Federal could collateralize it according to the federal and state standards at 115% to 125% requirement under best practices and still have new money that they could loan within the community. Mr. Lindberg stated they would have money to loan plus some. He said when they get to that point he would let them know. He said that would be a good problem to have. He said he felt government bonds are a good investment, but he felt there needed to be diversification. He said Security Federal can provide quotes on bonds as well. He said he wanted to ask Mr. Anthony whether money markets are not a permissible investment. He wanted to know if that was money market mutual funds or money markets in a bank. Mr. Anthony responded no money markets. Mr. Lindberg stated Security Federal could collateralize the money market as well. He said someone would need to monitor the bond portfolio every day.

Councilman Ebner pointed out that he felt it was important not only for Council to consider, but for the audience, that was information to the City and not part of the RFP at

this point. He said he felt we should be sure that we understand that. He pointed out that none of us should forget that this is our money, including Council, those in the audience and the other 30,000 citizens. He felt we need to be on the conservative side of whatever we do. He felt we need to realize whose money it is.

Councilman Merry asked Mr. Anthony to speak to the excess assets that Mr. Lindberg had mentioned. Mr. Anthony stated as he understands, and he is not a banker and doesn't work in the Federal Reserve system, it appears to him that Security Federal has excess bonds that he could collateralize that he could easily convert that to cash and make the loans. He said he did not see that investing in a CD would generate any additional cash. If you give him \$100 in a CD, and he takes \$125 of excess assets and collateralizes it he still does not have any extra cash from our CD purchase. If he has extra assets and wants to make loans, he can liquidate those assets for the cash to make loans. He said he did not see where the CD would generate any additional lending capacity for the bank. Councilman Merry pointed out that would be new money coming in that he would not have to go buy new collateral as he already has the collateral. He would not have to spend that money. Mr. Anthony stated he would be taking the collateral out of the bank and moving it outside the bank. He said it would be the same as taking that money if he gets \$100 in. If one were to go to a bank and buy a CD, the bank takes a portion of that investment and puts it in reserve. He said we could say the bank puts 30% in reserves so they would have \$70 to loan in the community. If he is over reserve right now, then he can liquidate those extra assets and lend the money. If \$100 is deposited, and he takes \$125 out of his over reserve, he is in the same or worse situation than before he got the money. Mr. Anthony stated some states do not require 100% collateralization. Some states only require 50%. In that case, it would generate income, but South Carolina requires at least 100%. He said he also felt that it would require extra work on the part of the city to monitor CDs. It would be more work than is required on a bond portfolio. It may require a half person. He said he did not see that using the CD helps the local community by increasing the ability of local institutions to lend to the local community.

Mr. LeDuc pointed out this is a complicated issue. He said that is why staff wanted to have a Request for Proposal where we would be asking the various banks and institutions to give us what they feel meets the requirements. Before staff comes back with a final recommendation, we will have Mr. Anthony look at them and work through the process. He pointed out this is a very serious thing. It is the citizens' money, and we want to make sure that two to three years from now we are protected no matter what happens. However, we do want to get more interest revenue coming in. He said that is the whole purpose of this. He said it is felt that we could get upwards of \$300,000 in new money into the city revenue.

Mr. Anthony stated before Council is a new resolution to change the permitted investments from LGIP to include LGIP plus U.S. government and agency obligations as well as authorizing us to go forward with the RFP.

Mr. Anthony stated the matter is a very complex item, and he did not want to spend an hour of Council's time going over the matter. He said he wanted to cover the matter briefly and answer any questions of Council. He said he could talk a lot longer.

Councilwoman Price pointed out that the Interim City Manager had given Council very detailed information in the agenda packet on the investment of funds.

Councilman Homoki stated about three or four years ago he asked the same question as to why the City could not invest in some outside entity instead of getting .16% from the LGIP. He said he was told we had tried that, but the banks were not interested. Mr. LeDuc stated we were trying something different from going to this longer term. We wanted to go to a shorter term, but we could not get the banks in the past to give us a proposal so we decided to take a different approach. He said we may think we have a lot of money to invest with \$25 million, but most of them are talking about hundreds of millions of dollars when talking about investments. They consider ours a small investment. However, staff feels this is a large investment.

Mr. LeDuc stated the request was a motion to approve a resolution to adopt an investment policy and the Request for Proposal to invest city funds.

Councilman Dewar moved, seconded by Councilwoman Price, that Council approve the resolution for the investment policy and approve moving forward for Request for Proposal to invest city funds. The motion was approved unanimously.

CROSLAND PARK – ORDINANCE 01122015A

1407 Aldrich Street NE

Charles Means

TPN 120-12-02-004

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve the sale of 1407 Aldrich Street NE.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING THE SALE OF 1407 ALDRICH STREET NE

Mr. LeDuc stated Charles Means, a City of Aiken employee, has offered to purchase 1407 Aldrich Street in Crosland Park for the appraised value of \$65,000. He qualifies for a state grant for down payment assistance which must be repaid in three years. He also has provided us a pre-qualification letter from Security Federal that indicates he qualifies for a \$62,900 mortgage to purchase the property. He said he understands that Mr. Means has been before Council a couple of times previously to buy a house in Crosland Park.

Charles has been an excellent employee in our Solid Waste Division for the past six years. To provide the \$2,100 difference, Mr. Means will sign an agreement with the City to deduct \$40.39 from his paycheck for two years. If he were to leave the employment of the City, the balance would still be owed to the City.

Staff and the Interim City Manager have reviewed this purchase and recommend Council approval. If Council approves this sale, it will be the second sale in the last couple of months in Crosland Park.

City Council approved this ordinance on first reading at the September 8, 2014, meeting. For Council approval on second reading and public hearing is an ordinance to sell 1407 Aldrich Street to Charles Means for the appraised value of \$65,000 and a City loan of \$2,100, per the terms and conditions set forth in the Purchase and Sale agreement.

The public hearing was held.

Councilman Dewar asked where the money from the sale of this house would go. Mr. LeDuc stated the money would go back into account 112 which is the Crosland Park Account. If the city does not get the grant for the demolition of the seven homes that Council approved at the special meeting on Monday, January 5, 2015, then this money and the money received from the sale of the other home would go for the demolition of those seven homes.

Mr. LeDuc pointed out that the last two appraisals of houses in Crosland Park came in at the mid \$60,000 range. He said staff would probably be coming back to Council in February to talk about adjusting the price for the sale of the other homes in Crosland Park.

Councilwoman Diggs moved, seconded by Councilwoman Price, that Council pass on second and final reading an ordinance to sell 1407 Aldrich Street NE to Charles Means for the appraised value of \$65,000 and a City loan of \$2,100 per the terms and conditions set forth in the Purchase and Sale agreement. The motion was unanimously approved.

Councilwoman Price pointed out that Charles Means had waited a long time for the house. He has worked for some time with Trudy Boyd of Security Federal Bank, a real estate agent, and Ms. Langston to make this happen. She said she was happy for him



because he has been so determined and people were working with him to try to make this happen. She said those working with him should be applauded for what they had done to try to help him to get into his own home.

Councilwoman Diggs stated she thanks Ms. Nix and Ms. Langston as they have been diligent in helping Mr. Means. She was glad to see that we have been selling some of the homes in Crosland Park. She said the efforts are paying off.

#### BUDGET AMENDMENT – ORDINANCE 01122015B

##### Risk Manager

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the budget to establish the position of Risk Manager.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE FISCAL YEAR 2014-2015 BUDGET TO CREATE THE POSITION OF RISK MANAGER.

Mr. LeDuc stated as part of our ongoing budget discussions, Council has discussed with staff adding a full-time Risk Manager position.

The Risk Manager position would be assigned a number of tasks including:

- Assessing and handling minor claims. This work is currently done by an outside firm.
- Filing all property, auto and tort liability claims with SCMIRF, currently done by an outside firm.
- Preparing OSHA compliance reports on at least an annual basis.
- Fulfilling the role of Training Coordinator for all departments.
- Reviewing and updating all safety manuals and written programs on an annual basis.
- Maintaining all Certificates of Insurance for vendors working for the City, which saves on our Workers Compensation premiums.
- Working closely with the Safety Committee and City Departments to inspect facilities on a monthly, quarterly, and annual basis.
- Teaching Defensive Driving classes

We expect this position to pay approximately \$44,100 a year [after probation] plus another \$17,000 in benefits. However, we would realize savings of \$6,000 by handling all claims in-house, plus we believe this person would reduce our General Liability and Workers Compensation experience modifiers over time to realize savings.

Mr. LeDuc stated we are currently paying an independent firm \$17,000 to manage our various claims. He said the disturbing thing that he has seen is that the amount of General Liability that we are paying every year and the amount of Workers' Compensation liability has gone up tremendously over the last few years. He said if he looks at just decreasing the General Liability to a position half way between our best year and where we are today and the same with the Workers' Compensation, we would be saving over \$250,000 a year. If we go down to the lowest mark which we had in 2008 we would be saving over \$300,000. He said it takes the effort of everyone in the city to create an atmosphere of safety. He said it starts at the top and works its way down.

Mr. LeDuc stated the Risk Manager, if approved by Council, would at least initially be reporting to the City Manager. The reason for that is that the Department Heads and the employees under the Department Heads need to know that this is something that we have to work on day in and day out if we are going to make a difference. The way the State looks at insurance is they put an experience modifier. An average rate for cities across the state would be 1.

Currently, our General Liability modifier is 1.63 which means we are paying 63% higher than other cities. A reduction down to 1.5 would save us \$78,000 annually. Lowering the experience modifier to 1.0 would result in annual savings of \$188,000. As recently as

2008, our experience modifier was 0.79. He said our increase is over 100%.

Our Workers Comp modifier for 2015 is 0.851. We are 70% higher than what we were a few years ago. A reduction to 0.75 would save us approximately \$61,000. As recently as 2008, our Workers Comp experience modifier was 0.50.

Mr. LeDuc stated the savings alone for this position would make up for the cost of the position. It would not happen overnight. It will take some work on the part of everybody. He said he feels that long term having the Risk Manager there would be some tremendous financial gain by the city. Even more important we have an obligation to our employees to try to eliminate any major injuries or a death. The Risk Manager will help to make sure that our employees are safe. He said his biggest concern when he was City Manager was having to go to a family member and let them know that something had happened to an employee. There is a dual purpose for having a Risk Manager. One is to save money, but also to save injuries.

City Council approved this ordinance on first reading at the December 8, 2014, meeting. For Council consideration on second reading and public hearing is an ordinance establishing the position of Risk Manager. He pointed out that a job description and duties for the Risk Manager had been provided to Council.

Councilman Ebner moved that Council suspend the rules and discuss the matter. The motion was seconded by Councilman Dewar and unanimously approved.

Councilman Ebner provided some information to Council regarding the Risk Manager position as follows: Suggested amendment to create the position of risk manager.

Sec. 4 – Risk Manager to report to City Manager or Assistant City Manager.

Sec. 5 – Duties of the Risk Manager:

- a. Assess claims and handle minor claims in house.
- b. File all property, auto and tort liability claims with SCMIRF
- c. File all Worker's Compensation injuries with SCMIRF
- d. Prepare all OSHA compliance reports such as the OSHA 300 log
- e. Fulfill the role of Training Coordinator for all departments, working on all required OSHA training, monthly training sessions and associated requirements
- f. Review and update all Safety Manuals and written programs on an annual basis
- g. Maintain all certificates of insurance for vendors working for the city
- h. Inspect facilities on a monthly, quarterly or annual basis
- i. Provide data chart starting in 2008 for General Liability modifier, Workers Comp Modifier and OSHA 300 log to Council as part of the City of Aiken Annual Report. Include net annual savings/loss using 2008 as the base.

Councilman Ebner said he had had several discussions with Mr. LeDuc. One of his concerns is that duties for the position were not listed in the ordinance. The way the ordinance is currently written, it does not say who the person will report to. As talked about at first reading the position should report at the top to the chain of command. He said that is one of the concerns that he has. The other part which was in Mr. LeDuc's memo to Council includes the miscellaneous things the person will do. He said one of the ways we get judged is what Mr. LeDuc just said. He said his proposal would be that we would actually have the report from the Risk Manager as part of the annual report. He said the money is in the modifiers. He said that is not mentioned in the ordinance or the job description. He said if all the tasks are done properly the modifiers will go down. He said we have no way to judge whether we are doing good or bad. He said we don't want the position to become a clerical position as it is a professional position which could save us literally not only the money involved, but also the personal injury involved that comes with it. He said his proposal is to add to the ordinance that the Risk Manager report to the City Manager or his designee. Also, that we include his proposed item (i.) "Provide data chart starting in 2008 for General Liability modifier, Workers Comp Modifier and OSHA 300 log to Council as part of the City of Aiken Annual Report. Include net annual saving/loss using 2008 as the base." He said that is where the

modifiers come in. He said that should be charted out and put in the annual report that is prepared each year. He said that is his proposal.

Mr. LeDuc stated that every year the Municipal Association comes to the city and gives us a report on accidents and where we should be making changes. We actually get a report from the Municipal Association that is probably more comprehensive, even more so than what Council would be looking for in the report. He said Council could get a copy of that report.

Councilman Ebner stated in his experience in industrial and commercial construction management the three items that he had mentioned were the things they look at. If you drive these towards zero, not only would the business stay in business but also the contractors would stay in business. He said our numbers would put a contractor out of business once they get much over 1.62. He said the city is at the outside edge of those numbers.

Mr. LeDuc stated he would have no problem putting the items he mentioned in the job description. He said we typically do not put in the job description who that person reports to, but in this particular case he could see some justification for that. He pointed out that the Risk Manager would be in a position that needs to be identified as to who they report to. He said he believes that the Risk Manager, at least initially, should report to the City Manager until we feel that we have achieved what Council wants and get the modifier down to the level that we want.

Councilman Ebner stated he would modify who the Risk Manager reports to say the City Manager or designee. He felt to get back to where we were, it will take about three years. He said the numbers have to be reproduced for a couple of years.

Mr. LeDuc stated we should see the biggest benefit in year one. It is cumulative as we go forward. It will not happen overnight, but it is very achievable. When we started pushing hard in the late 1990s and early 2000s we were at the high modifiers. It took a lot of effort to get us to where we were in 2008.

Councilman Dewar stated he recalls that when he came on Council the City had one person doing both Risk Manager and Business Licenses and for some reason we have gotten away from that. He said he had mentioned at the last meeting that it was very successful with whoever that person was. Mr. LeDuc stated that person was Lex Kirkland. Councilman Dewar stated he recalled at the Employee Awards Event of some departments getting a safety award for excellence and someone getting a safety award because they needed to work harder on it. He said it was a focus, and the focus has disappeared. He said he was not sure that hiring another person versus having someone who has demonstrated success doing the job before is needed. He said he would not support the hiring of a Risk Manager at this time. He felt we should be able to get by with the one person as we did in the past.

Councilwoman Diggs asked what educational background this person should have. It was pointed out that is in the job description given to Council.

Councilman Merry stated that a true Risk Manager, a professionally educated, certified individual is expensive to hire, but they can make a profound difference in an organization culturally, economically, safety-wise, etc. He said unfortunately the City is not in a position to hire someone like that, but one day he hoped we can. He said that is what is known as an Enterprise Risk Manager who would look at everything, from the top down, bottom up, left right and sideways. He said this is a good start. He said we are not able to or ready for the full Enterprise Risk Manager, but if you want to see bangs for your bucks, you need to get one of those pros in here and it would be transformative.

Mayor Cavanaugh stated we need to remember one thing, and he thought Mr. LeDuc had mentioned it. He said we are all employees, and we all need to help this situation. He said we are the eyes. He said we can have a lot of eyes out there with our folks working and see things as well. He said we don't want to have a tendency to say we are not going

to do anything because we have a Risk Manager and that person could take care of things. He said we all can use our eyes and ears to help the safety situation as well.

Councilman Homoki asked if we had actually taken a look at what caused our numbers to go up. Councilman Dewar stated the answer to that is "inattention." Councilman Homoki asked if we had looked at why the numbers had gone up. He said back in 2008 and 2009 we were actually raking in money from all our work with the insurance companies. All of a sudden our numbers are up. He asked if anyone had seen a transition change. He asked whose job was it that the city transition changed where the numbers have gone up. Councilman Merry stated that is what a professional Risk Manager will do and hopefully this person can too. They determine the reasons that the modifiers are increasing, the number of claims, the severity, and the reason for the claims increasing. They look for patterns. They look for areas of improvement, and ways we might be able to change the way we do things. They look for things we can stop doing to avoid those risks, and actually try to get it back into control. There are sort of ebbs and flows and cycles in this. When you get your experience modifiers down in the .7 it does not take much in terms of claims to suddenly give it a rubber band effect and take it upward because you are comparing a certain amount of claims versus a lower amount of premium. He said there is ebb and flow and up and down. He said it is rather extreme to go to 1.63, but nonetheless with a good Risk Manager, hopefully this person will have the time to give to it to analyze the claims, look for the trends, and recommend ways to mitigate them.

Mr. LeDuc stated he understands what Councilman Dewar is saying about how we did it before. He said we also had at that time two part-time Business License Inspectors. He said we are going to eliminate one of those positions. He said we would also have a savings from that. Also, we would eliminate the outside firm coming in and spending \$17,000.

Councilman Ebner stated that safety and insurance issues are driven from the top down in any company, whether it is small, or a business like Councilman Merry's. Even if one of your contractors gets hurt it, it hurts your ratings when you buy insurance for your buildings.

Councilman Ebner stated he would propose that the ordinance be amended so the Risk Manager position reports to the City Manager or his designee. He said he would also request that a Section 5 be added which would state that the Risk Manager provide a data chart starting in 2008 for General Liability modifier, Workers Comp Modifier and OSHA 300 log to Council as part of the City of Aiken Annual Report, including net annual savings/loss using 2008 as the base.

Mr. Smith asked Councilman Ebner if he felt it was appropriate to simply amend the responsibilities and duties in the job description that Mr. LeDuc handed out for the job description at the meeting.

Councilman Ebner stated his experience is a little bit lacking on some of these if we don't put it in the ordinance. He said some of the suggestions were mundane duties and if those were done, you will get the last item he suggested. He said this is worth \$300,000 to \$500,000 a year to the City. He said it is a top-down driven affair.

Councilman Ebner moved, seconded by Councilman Merry, that Council approve on second reading the ordinance to amend the budget to include a full time Risk Manager position with the ordinance to be amended to include the statement that the person report to the City Manager or his designee and that Section 5 be added which would state that the Risk Manager provide a data chart starting in 2008 for General Liability modifier, Workers Comp Modifier and OSHA 300 log to Council as part of the City of Aiken Annual Report, including net annual savings/loss using 2008 as the base. The motion was approved by a vote of 6 to 1 in favor with Councilman Dewar opposing the motion.

HOLLOW CREEK PRESERVE – ORDINANCE 01122015CWoodside PlantationRoadway

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to convey real property to Hollow Creek Preserve, LLC.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO CONVEY REAL PROPERTY TO HOLLOW CREEK PRESERVE, LLC.

Mr. LeDuc stated in February, 2007, City Council accepted via a resolution an easement parcel from Hollow Creek Preserve LLC, the developers of Woodside Phase IV. This 0.69 acre parcel was to be used as part of a future road connecting Anderson Pond Road and Silver Bluff Road. The developer gave the city 66 feet of right of way for the road plus a potential horse trail of 25 feet. This property is no longer needed, and we would like to give the right of way to the developer so they in turn could possibly deed this to two adjoining neighbors. One of the conditions of the resolution was that if a public road was not constructed on this parcel, the easement would be terminated. We have prepared an ordinance and deed to formally convey this 66 foot right of way and the 25 foot horse trail property back to Hollow Creek Preserve LLC. Once the City does this, then the developer would own the property and convey it if they would like to the other property owners.

City Council approved this ordinance on first reading at the December 8, 2014, meeting. For Council consideration is second reading and public hearing of an ordinance authorizing the City of Aiken to convey real property to the Hollow Creek Preserve, LLC.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council approve on second reading and public hearing an ordinance to convey real property to Hollow Creek Preserve, LLC. The motion was unanimously approved.

WATER TOWER – ORDINANCE 01122015DAntennaAT&TYork StreetSouth BoundaryNew Cingular Wireless PSCCell PhoneLease

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the lease of space on the York Street water tower to New Cingular Wireless PSC, LLC.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING THE AMENDMENT OF A LEASE OF SPACE TO THE YORK STREET WATER TOWER TO NEW CINGULAR WIRELESS PCS, LLC.

Mr. LeDuc stated since 2000, Council has allowed AT&T and its predecessor companies to lease space on the York Street water tower for a cell phone antenna and equipment. With the current lease agreement set to expire in October, 2015, AT&T has approached us about extending the lease. Council last renewed the lease in 2009. Below are several items highlighted in the proposed lease renewal:

- The initial lease term would be for five years with two consecutive automatic renewals of five years each, which would see this lease extend to as far out as October, 2030.

- The rent during this new lease period would be for \$17,853.75 for the first five years, then would increase to \$20,531.81 for the second five year period [2020 to 2025] culminating in an annual lease payment of \$23,611.58 per year from 2025 to 2030.

Currently, AT&T pays us \$15,525 annually for this lease. Staff feels this is a fair lease and recommends its approval.

City Council approved this ordinance on first reading at the December 8, 2014, meeting. For City Council consideration on second reading and public hearing is an ordinance to approve the amendment of a lease of space on the York Street water tower to New Cingular Wireless PSC, LLC.

Councilman Homoki asked if we had changed our official address to 135 Laurens Street SW rather than 214 Park Avenue SW. Ms. Ridout responded that we did.

Councilwoman Price asked whether a 15 year agreement is too long for the lease agreement. She asked if the agreement with Aiken Electric Cooperative or others were for that length of time. Mr. Smith stated he thought the first lease was amended because the company that owned the tower changed their name. He thought the lease was 15 years to begin with and many leases are for that length of time.

Councilwoman Diggs moved, seconded by Councilman Ebner, that Council approve on second reading and public hearing an amendment to the lease for the use of space on the York Street water tower for cell phone antenna and equipment to New Cingular Wireless PSC, LLC. The motion was unanimously approved.

#### GARBAGE FEE – ORDINANCE 01122015E

##### Increase Fee

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to increase the monthly garbage collection fee.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE ESTABLISHING NEW CHARGES FOR RESIDENTIAL AND SMALL BUSINESS GARBAGE SERVICE.

Mr. LeDuc stated that at the December 8, 2014, meeting an item was placed on the agenda to increase the monthly garbage collection fee from \$14.00 to \$19.75 per month.

After much discussion, it was the general consensus of Council that they did not want to increase the garbage fee \$5.75 at one time. Instead they felt that the garbage fee should be increased \$3 per month at this time. Council would then consider any additional increases in the new budget year.

The garbage collection fee was last increased in 2007 from \$12.50 per month to \$14.00 per month. He said the intention at that time was to start raising the rate until we received enough funding to pay for the service. A user fee system, such as the garbage, water, sewer, storm drainage, etc. should balance between the revenues received versus the expenditures in that particular area. He said our expenditures presently are in the mid-\$19 range to provide the service. He said we fall short every year with the garbage fee not paying to provide the service. He said when we discussed this as one of the budgetary items to determine where we need to seek additional revenue, this was one of the areas that Council discussed. Instead of raising the fee from \$14 up to the full amount needed for the system, we decided to do that over an interim period of time with an increase of \$3 now. Then we will come back to Council in February with some other thoughts concerning solid waste. We will also talk about making the garbage service an Enterprise Fund so it is a stand alone fund. Depending on what Council decides in February, then we will be looking in the new budget probably making the adjustment to the full amount to pay for this service.

Council approved on first reading at the December 8, 2014, meeting an ordinance to increase the solid waste fee from \$14.00 per month to \$17.00. For Council consideration on second reading and public hearing is an ordinance to increase the garbage fee by \$3.00 per month. The fee increase would be effective with the February 1, 2015 billing.

Councilman Homoki asked if Council had agreed to make the garbage collection an enterprise fund. Mr. LeDuc stated Council agreed that in the new budget process that is what we would probably do. He said he would bring more information to Council in February on this matter as well as other budgetary items to discuss. Based on that we would more than likely go ahead and make this an enterprise fund. He said, however, he wanted to give Council updated information before Council makes that decision.

Councilwoman Price pointed out that Councilman Ebner asked that this be on the agenda at a previous meeting. She felt that was a good move as we have a program that is not supporting itself. She said moving to \$19.75 per month would be a \$5.75 increase and is a pretty big increase for the taxpayers. She said one of the reasons she suggested that we move to a \$3 rate increase at the last meeting, was so Council could look at the budget and determine whether Council needs to increase the solid waste fee in the next year.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve on second reading and public hearing an ordinance to increase the solid waste fee by \$3 raising the rate from \$14 to \$17 per month effective with the February 1, 2015, billing. The motion was unanimously approved.

#### INTERFUND LOAN AND NOTE – ORDINANCE 01122015F

Loan

Note

Widening

University Parkway

Aiken County Funding

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve an interfund loan agreement and note for the widening and improvements to University Parkway.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AUTHORIZING BORROWING FROM THE CITY OF AIKEN GENERAL FUND EQUIPMENT REPLACEMENT ACCOUNT AS OUTLINED IN THIS ORDINANCE FOR THE PURPOSE OF FUNDING THE WIDENING AND IMPROVEMENT OF UNIVERSITY PARKWAY.

Mr. LeDuc stated when Council received funding from the State Infrastructure Bank (SIB) it was originally in the amount of \$3 million with \$3 million hopefully coming from Aiken County and the last \$3 million coming from SIB for a total of \$9 million. Council looked at trying to add some additional funding for this project. Although the initial estimate is at \$9 million we felt a little more comfortable with a higher amount. We also wanted to have some assurances from Aiken County that they in turn would go ahead and fund their \$3 million before we would go ahead and restart this project.

Mr. LeDuc stated the first ordinance states that the City would go ahead and borrow from the Capital Projects Sales Tax to move this project up and to have the money available to start working on the project. Already almost \$250,000 has been spent on the preliminary engineering. He said the City did receive a resolution from Aiken County adopted last month stating that they will be providing up to \$3 million from the CPST funds for improvements to University Parkway. In addition they approved money for North Augusta. One of the hold ups was the splitting of the \$13.5 million they have between Aiken, North Augusta, and projects the County is working on.

Aiken County at their November meeting adopted a resolution to use up to \$3 million from their CPST funds for improvements to University Parkway. In a corresponding move at the Georgia/South Carolina ARTS meeting in December, they approved the new

Purpose and Need statement for Hitchcock Parkway. Also, the funding from SIB for Hitchcock Parkway was eliminated so the City could have more money for the University Parkway project and the Dougherty and Whiskey Road project. The University Parkway project will provide widening and probably go to a five lane section from the traffic signal at the entrance to USC Aiken and to the hospital back to Richland Avenue. For the last couple of thousand feet of the parkway there would be some widening and some improvements with a new entrance that would be opposite from Trolley Run Station.

Mr. LeDuc stated the State Infrastructure Bank (SIB) has forwarded the Intergovernmental Agreement for the University Parkway project. The agreement has to be approved by City Council and SIB prior to us continuing any engineering on this project. The agreement states that the City's \$3.0 million will be used before we can begin drawing against the SIB \$4.6 million dollars. The Dougherty at Whiskey Improvement should be ready for Council's approval after we approve this agreement.

Our City Attorney has reviewed this proposed Agreement which is the standard one used by the State Infrastructure Bank in administering the grants that have been awarded.

City Council approved this ordinance on first reading at the October 27, 2014, meeting. For City Council approval is second reading and public hearing of an ordinance approving the Intergovernmental Agreement for the University Parkway project.

Councilman Ebner moved, seconded by Councilman Dewar, that the rules be suspended for discussion. The motion was unanimously approved.

Councilman Ebner stated he wanted to make some comments. He said he, Mr. LeDuc and several Councilmembers had spoken to Mr. Rick Toole who had done the design for the project. He said when you are doing road work there is a lot of liability involved. He said we should not forget now or in the future that this is a city-sponsored project. He said our agreement with the SIB says that if the project runs over the total amount of the grant that overage would come from the city. He pointed out that Mr. LeDuc had said that if the project gets too expensive we can reduce some of the scope of the work. He said that was the first point he wanted to make. He said this is a city project. The other thing that he and Mr. LeDuc talked about and several others is that he feels, and he has some engineering reasons, that the estimate we have may not include some key issues. One of the issues is Waters of the State which is the Corps of Engineers study that has to be done which is probably \$100,000 to \$200,000. The biggest one is the storm water going towards out of town on University Parkway. About five years ago there was a detention pond that washed out from some old apartments up there. That issue has never been resolved. It is not a city issue because it is in the county and the state. That study has not been done, and that could be real expensive in a short period of time. He said he had reviewed the contract. He said the contract the City has with Toole Engineers is for the engineering and administration and inspection of the work. It does not supervise the contractor. He said he read those words specifically. He said that is an important point. Someone has to supervise the contractor. The agreement is what is called a short form. There are no directors and officers insured. There are no engineers' errors and omissions and no bond. The limit on the contract is a straight \$50,000. He said to him that is a red flag on a \$900,000 contract. Another part that was of concern to him is who is doing the inspection. It specifically states in the contract that we would use the City contracting cover letters, etc., but there is no reference in the specification to use SC DOT standards. He said he knows the design says that, but eventually the City has to get SCDOT to approve this road. He said that was one of his key concerns. He said he had worked for several organizations where the county has had resolutions to provide money to us before. He said he had talked to Mr. LeDuc and Mr. Jim Holly, who is the current Acting County Attorney, about sharing the cost with the County as we go along. He said in other words, we have \$3 million and they have \$3 million. As we spend money, we could divide the bill in half and send it to the County for them to pay half and the City pay half. He said Mr. LeDuc has said that the City has spent about \$260,000 presently. He said we should send a bill to the County and see if they will pay. He said these are some of his concerns. He said his last item is that he thinks that the appropriate people from the City, including Mr. Toole need to go sit down with SCDOT across the table from each other, and go down Mr. Toole's scope of work and see if it meets all the state's



qualifications. Whatever comes out of that discussion, it may be appropriate for us to have Mr. Toole do further investigation and design to eliminate some of these unknowns. He said those were his concerns in reading the contract and being somewhat familiar with this type of work.

Councilman Dewar stated the County resolution to him is a little confusing because of the wording. It says they will give us up to \$3 million. He said what is confusing is when everybody comes into play. Do they come into play right away. In other words as Councilman Ebner said we take our \$3 million and the County \$3 million and after that do we go to the SIB or do we go to the SIB after spending our \$3 million. He said the flow of money on this is confusing, and we are talking big bucks. He said he would like to see that clarified. He said the way it is written, it could be interpreted that the City will spend our \$3 million. We will spend all the SIB money, and then we will go to the County. He said the County Council had adopted a resolution, so he assumed they are good for it. He asked what happens if the cost is more than that. He said SIB says if the cost is more than that it is up to the City. He felt it should be up to the City and the County. He said he was concerned with the flow of money for the project, and it is a large contract.

Councilman Merry stated he agreed 100%.

Councilwoman Price stated based on the projects that Mr. LeDuc had given it is estimated to cost about \$9 million based on the SIB money of \$4.6 million, up to \$3 million from the County and \$3 million from the City. That is \$10.6 million which is a cushion. She pointed out there are a lot of questions as Councilman Ebner has mentioned. She said we don't have a design plan yet, and in talking to Mr. LeDuc we don't know what the actual cost will be until we get a design plan. She said there are a lot of questions.

Mr. LeDuc stated he had looked at the engineering contract that we currently have with Toole Engineers. He pointed out that this had been suspended, and we have stopped the engineering on the project. He said at some point we need to go back to them and discuss the engineering contract and some of the matters talked about by Councilman Ebner. He said he was not involved in the initial talks and the contract. He pointed out in the contract there is \$259,240 for construction management. Under construction management it says a senior project manager will be out there 4 hours a month and weekly supervision of 4 hours per week, construction inspection provided by an SCDOT certified inspector, and a field inspector will be on site every day for an average of 8 hours per day. They do intend to have someone on site 8 hours a day during the construction. He said he felt that question had been answered. He said the biggest question we have for a project like this or any other one, is that the \$9 million that was originally estimated is from looking at five lanes, or three lanes and a per cost per 1,000 feet will be X amount. Until we finish the final plans for construction, we will not know exactly what those final costs will be. At that point in time there will be some mile markers that we could bring back to Council that will say we added something or subtracted this, and we are on track or starting to get ahead. He said that is a conversation that should be happening on a regular basis to the City Manager and Council to keep them updated on what is happening with any of these major projects. We did add over 15% more when we went back to SIB. That is when we got the \$4.6 million. He said whether that is enough, he could not tell them one way or the other until especially the storm drainage study had been completed. That is probably the key area. He said he probably could come fairly close on what it would cost to widen the road, curb and gutter, any signalization, etc., but the big unknown is going to be an environmental study and the stormwater study. He said on the environmental area, he did not think there would be anything major, but for stormwater we may have to provide a much larger detention pond. Below where the pond is at the hospital there is a large culvert that goes underneath the road. There is a regional pond at the hospital, but they may need to have an enlarged pond where the failure occurred a few years ago. You could have some offsite requirements of \$500,000 or \$1 million, etc. That is the big unknown. However, you may not have to have anything. He said we may find that the additional water by widening the road will not be significant. He said he feels there will have to be some additional storm drainage, but what the amount is we don't know. He said we could be

spending up to \$1 million on design engineering and find out that the price is going to come in at \$12 million. At this point Council will have to decide whether we can go back to SIB and if they would give us any more money. The agreement says they are not promising any more money. He asked if the County would give any more money, or would we have to reduce the scope of the project. He said we can't move forward until we measure the cost of what it will take to finish a project like this.

Councilman Dewar asked if we could defer this until we know what the costs are. Mr. LeDuc responded that we will not know the costs until we finish the engineering or least go forward with more engineering. Councilman Dewar asked if we should do the engineering study before we go further. Mr. LeDuc stated all Council would be approving at this meeting would be to spend up to \$3 million and approve the agreement with SIB. If Council authorizes engineering to start in the next 30 to 60 days, we will not know anything until late summer or early fall as to what the storm drainage may be. He said if Council does not do anything tonight, we will not go any further with the project because we won't know anything more about the cost.

Councilman Merry pointed out that other than engineering we would not be going forward with other stuff anyway until we got the engineering done. He asked if there was an urgency to pass the loan agreement. Mr. LeDuc stated right now we are using money that we don't theoretically have because the CPST money has not come in yet for University Parkway. Councilman Merry stated then we need money to pay for the engineering work. Mr. LeDuc stated presently we have spent somewhere close to \$260,000 for engineering which we have never created a loan to spend money.

Councilman Dewar asked if Council should just approve whatever we think is needed for the engineering study. Mr. LeDuc stated the engineering study right now is for a little over \$600,000 for final construction plans. He said we are looking at an environmental study and stormwater study. That is mid-way. Of the total of \$868,000 the cost is \$600,000 for design. He said we would probably have to spend another \$150,000 to \$200,000 before we will have a much better feeling on what the storm drainage may consist of.

Councilman Dewar stated he would be comfortable changing the number on the loan agreement from \$3 million to \$800,000 until we get a better feel. He said this project might not get built. He said he did not think we want to commit a dime more than we need to.

Councilman Merry stated he would somehow like to tie our funds to the County funds. He said the County needs to be in this and not lag behind on paying their share of the project. They should be just as invested for each and every dollar that the City is.

Councilman Dewar stated there was a majority vote to approve the money for the project so he would accept at face value that they would give us that, but when you are dealing with money he would like to be sure. He said he would like to clarify the wording as he was confused with the "up to \$3 million." He said that is confusing to him.

Mr. LeDuc stated if Council wanted to modify the loan agreement, it could be worded to "loan up to \$400,000 with the County providing matching money as we move forward with the engineering." Mr. LeDuc stated if the City provides \$400,000 and the County provides \$400,000 that would be \$800,000 to be used for engineering. Councilmembers stated they would go along with that.

Councilman Ebner stated there are four things to at least get a number for on the cost of the project that is at least reasonable. One we need to have a SCDOT review. We need to do the stormwater survey in detail without a doubt because that can go anywhere from \$500,000 to several million. The other item is an environmental survey. He said as far as he knows, there has not been any manufacturing in the area so that should not be a problem. Then we need to do some core testing. Where we are going to do that backfill and put the wall in is like 40 to 50 feet down. Those four items need to be done. The \$400,000 would be very acceptable to do. Then if we want to squeeze the contract some we can do that as necessary.

Mr. Gary Smith, City Attorney, stated he thought SIB was looking for this agreement to be approved. Mr. LeDuc stated the next item is the SIB agreement. He stated the State is tying the agreement for University Parkway to the Dougherty and Whiskey Road agreement.

Councilman Ebner stated he did not really have a problem with the agreement. Mr. LeDuc stated the SIB agreement looks at the big picture and more long term. This agreement for the loan is saying that we are willing to borrow up to \$3 million, but it could be modified to borrow up to \$400,000 with the County providing funds up to \$400,000 for engineering design.

Councilman Dewar stated he did not mind adopting the agreement with the modification to \$400,000. He said, however, Council should approve the four points that Councilman Ebner mentioned at some point at the next several meetings that we have. He said those items are critical. Councilman Ebner stated it will take 4 to 6 months to do those items. Mr. LeDuc stated staff would have to come back to Council as we go forward with the engineering. Councilman Ebner stated by limiting the money, it has to come back to Council.

Councilman Ebner moved, seconded by Councilman Dewar, that Council approve on second and final reading an ordinance to approve an Interfund Loan Agreement and Note for the widening and improvements to University Park with the loan being \$400,000 to accomplish an SCDOT review with the design firm and the appropriate city officials, including a stormwater study giving an estimate of what it would take to do the work, an environmental survey and any remediation estimates, and some minimal test boring as the design firm may deem necessary. Also, that Aiken County contribute up to \$400,000 for the engineering study matching the City's costs for the engineering work as the work is done. The motion was unanimously approved.

Mr. LeDuc stated he would send a letter to Clay Killian telling him that the City appreciates the \$3 million, however, the City would like the County to match the City's costs for engineering as the costs are incurred.

Councilman Ebner stated it would take 4 to 6 months to get all this done. Mr. LeDuc stated one thing about the fees for the engineering, the contract states that "the fees outlined above do not include the following services: subservice underground engineering which would be the borings, property appraisal, right of way acquisition, and construction field testing. All those services would be in addition to the \$868,000 engineering cost. He said the one item that we would be doing up front in this area is the subsurface underground engineering.

Councilman Ebner stated the testing and the other two items would all be engineering related and estimate related. Mr. LeDuc stated those are supposed to already be included within the engineering fees.

The motion was unanimously approve as amended.

#### INTERGOVERNMENTAL AGREEMENT – ORDINANCE 01122015G

IGA

State Infrastructure Bank

SIB

TIB

Funding

University Parkway

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance approving an Intergovernmental Agreement (IGA) with the State Infrastructure Bank for University Parkway.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK FOR THE UNIVERSITY PARKWAY WIDENING PROJECT.

Mr. LeDuc stated the State Infrastructure Bank (SIB) has forwarded the Intergovernmental Agreement for the University Parkway project. This should be approved by City Council and SIB prior to us continuing any engineering on this project. The agreement states that the City's \$3.0 million will be used before we can begin drawing against the SIB \$4.6 million dollars. Aiken County has agreed to provide \$3.0 million for these improvements. Once you approve this agreement the Dougherty at Whiskey Improvement would be ready for Council's approval.

Mr. LeDuc pointed out that the agreement basically states that if the project goes over the \$10.6 million then it is a city project. He said there will be certain milestones that Council will be able to decide if something needs to change or necessary go back to the County, the City and State and ask for further funding.

Our City Attorney has reviewed and approved the proposed standard Agreement by the State Infrastructure Bank.

Council approved this ordinance on first reading at the October 27, 2014, meeting. For City Council approval is second reading and public hearing of an ordinance approving the Intergovernmental Agreement for the University Parkway Project with SIB.

Councilman Dewar asked for clarification. He pointed out that on page 1 of the agreement, there is a number of \$15.4 million. He said this is more than the cost for the University Parkway project. He asked if that was combined for University Parkway and Dougherty Road.

Mr. LeDuc stated that in about 2008 we went to SIB with 10 projects. Those 10 projects totaled \$101 million dollars and the \$15.4 million was monies that we felt could come from other sources other than the State or the City. Councilman Dewar asked how the \$101 million figure got into the project for University Parkway. Mr. LeDuc responded that he was not sure why they have that statement in the agreement. Councilman Ebner stated the number does exist. It might go back to 1999. There is a letter that goes back at least 10 to 15 years that listed the projects.

Mr. Smith pointed out that Mr. Jim Holly in drawing up the agreement was just reciting the history of the whole project request.

Councilman Ebner moved, seconded by Councilwoman Price, that Council approve on second and final reading an ordinance approving the acceptance of the Intergovernmental Agreement for the University Parkway Project with SIB for \$4.6 million. The motion was unanimously approved.

INTERGOVERNMENTAL AGREEMENT – ORDINANCE

- IGA
- State Infrastructure Bank
- SIB
- TIB
- Funding
- Dougherty Road
- Whiskey Road
- Intersection Improvements

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to approve an Intergovernmental Agreement (IGA) with SIB for Dougherty at Whiskey Road Intersection Improvement.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE SOUTH CAROLINA TRANSPORTATION INFRASTRUCTURE BANK FOR THE DOUGHERTY ROAD AT WHISKEY ROAD WIDENING PROJECT.

Mr. LeDuc stated the agreement is similar to the University Parkway. The State Infrastructure Bank (SIB) has provided the Intergovernmental Agreement for the Dougherty Road at Whiskey Road Intersection Improvement project. This should be approved by City Council and SIB prior to us continuing any engineering on this project. The agreement states that the State Infrastructure Bank will provide \$1.6 million for making intersection improvements at Dougherty and Whiskey Roads. This is an increase of \$700,000 from the original \$900,000 approved for this project.

Our City Attorney has reviewed and approved the proposed standard Agreement by the State Infrastructure Bank.

Originally the SIB was going to award us \$900,000 to add a right turn lane on Dougherty Road at Whiskey Road. Currently the traffic backs up for a block or more during certain times of the day. Probably 80% of those individuals want to turn right. The project is for a second right turn lane at the Bowling Alley for those turn movements. He said we are able to get the vast majority of the turn lane within the right of way. We will not have to take down any buildings. The estimate for the project came in not at \$900,000 but at \$1.1 million. He said plans for the project have been completed and approved by SCDOT. The only thing left is right of way acquisition and then going out for bids. He said we are within a few months of that project actually being able to go out for bids. Because the estimate came in over \$1.1 million not knowing what the right of way costs would be, we asked for \$1.6 million. The SIB would pay for this project 100%. If everything goes well and the bids come in like we think they should, we may not spend the \$1.6 million. That gives us a little bit of a cushion. This agreement for Dougherty Road and Whiskey Road is the same agreement for University Parkway. Approval would allow us to move forward on this project. He pointed out that we are not looking for County assistance, the project is 100% SIB funded.

For City Council approval is first reading of an ordinance approving the Intergovernmental Agreement for the Dougherty at Whiskey Road Intersection Project with SIB.

Councilman Ebner moved, seconded by Councilwoman Price, that Council approve on first reading an ordinance approving the Intergovernmental Agreement for the Dougherty at Whiskey Road Intersection Project with SIB for \$1.6 million. The motion was unanimously approved.

Councilwoman Diggs asked the timeline on the project. Mr. LeDuc stated the time line would be if Council approves the agreement at the second meeting in January, then the intention would be going back to the engineer Rick Toole and ask them to proceed with right of way acquisition. That could take as short as 30 days or could take as long as 60 to 90 days, depending on how many individuals they have to work with. Once that has been completed, then we will be able to go out for bids for the project. Normally it would be 30 to 60 days for bids. We would be looking at probably mid-summer to start construction. He said that is about a 6 to 9 month construction phase.

REZONING – ORDINANCE

247 Marlboro Street SE  
Patricia Reed-Hunter  
Andria Mikkola  
TPN 121-10-08-004

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to rezone property at 247 Marlboro Street SE from Light Industrial to General Business.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY CONSISTING OF 0.50 ACRES OF LAND, OWNED BY PATRICIA READ-HUNTER FROM LIGHT INDUSTRIAL (LI) TO GENERAL BUSINESS (GB).

Mr. LeDuc stated Patricia Read-Hunter, owner, and Andria Mikkola, applicant, are requesting that 247 Marlboro Street SE be rezoned from Light Industrial (LI) to General Business (GB). The property requested to be rezoned is a 0.50-acre lot. Currently a warehouse is on the lot, and it is proposed to be used as an art studio and gallery. The Light Industrial (LI) zone does not permit by right the use of the property for a studio/gallery. The General Business (GB) zone would allow the proposed use, but would also allow a broad range of commercial uses.

The Planning Commission reviewed the request at their December 9, 2014, meeting. Of concern was the issue of all the potential uses allowed in the General Business zone. It was noted that the Old Aiken Master Plan recommends future land use of the property be low-density residential attached or detached. It was also pointed out that under the current zoning of Light Industrial that all retail sales and services would have to obtain a special exception from the Board of Zoning Appeals and that would include the proposed studio/gallery. After discussion the Planning Commission voted unanimously to deny rezoning from LI to GB.

Mr. LeDuc stated that in the mid-2000s a planning study was done that looked at the eastern side of Aiken basically going out Richland Avenue and a few blocks north and south of Richland Avenue. They felt that most of this area should be zoned General Business. Over a period of time there were a number of warehouses and this was an industrial area. The hope was to convert this industrial property to residential property. He said we have an owner who would like to take this building at 247 Marlboro Street SE and go from the Light Industrial to General Business zone which is not in accordance with the land plan that was approved by the city. He pointed out that the Planning Commission at their December 9, 2014, meeting denied the request for rezoning from Light Industrial to General Business. Even though the Planning Commission denied the request for rezoning, it still goes before City Council for consideration. If Council votes on first reading to deny the rezoning, then we will not have second reading. If Council approves it on first reading, then we will have second reading on the ordinance.

For Council consideration on first reading is an ordinance to rezone 0.50-acre at 247 Marlboro Street SE from Light Industrial (LI) to General Business (GB).

Ms. Andria Mikkola, 25 Creekside Drive, showed a picture of the building in question to be rezoned. She said the building had been there for at least 75 years. It is an historic building, but it has not been cleared for the historic register yet but that is not her goal at the moment. She said she felt the building needs to be saved and something needs to be done with it. She said it is a gorgeous building. She said her goal is to use the building for an art gallery and art studio. The only way she can do that is by having the property zoned General Business. Light Industrial zone does not allow her to have that use in the building without a Special Exception. She said she has a closing date with her realtor at the end of January. She pointed out that the Planning Commission denied her request for rezoning to General Business.

Ms. Mikkola stated she heard that the proposed zoning does not follow the Comprehensive Plan which recommends that the future land use of the property in the Light Industrial zone be low-density residential attached or detached. She said the property had been grandfathered in for quite some time. She said she felt it would be difficult if they attempted to try to do this. She pointed out that the Old Aiken Master Plan says that structures and vacant land must be maintained both to enhance the appearance of Old Aiken and to encourage private investment. Historic districts and structures must be protected. Steps should be taken to protect the attractiveness of the area and improve those areas which are less appealing. She said everybody knows that side of town needs some TLC and have a reason why people want to live there. If you just keep adding residential property, there is no reason for them to move there. There would be less and less reason for people to move there because you are moving farther and farther from the core of downtown Aiken that we want to bring to the eastern side.

The Comprehensive Plan also says to consider sidewalks and other improvements to encourage connectivity to Colleton Avenue to draw shoppers to the eastern part of Aiken with particular emphasis on improving Williamsburg Street which is near the area she is interested in. She said she agrees that all the downtown retail and art spaces are on Laurens Street. She said that is fantastic as that is the core. She said, however, the building she is proposing to use falls under the plan as well. She pointed out the reference for tax credits for incentives for preservation of older homes and buildings which contribute to the character of the area. She pointed out Aiken is an equine community. She showed a picture of the warehouse area and stated we can bulldoze these down and keep building residential areas that really don't fit. They contribute, but this is a historic building why not restore it and make it something worthwhile.

Ms. Mikkola reviewed Goal 13. She said buildings should be protected and enhanced. Preserve older buildings when possible. The plan calls for the preservation of older buildings and says that the City should develop incentives for preservation of older homes and buildings which contribute to the character of the area. She said instead of tearing down historic homes and buildings when circumstances permit we need to protect in order to preserve old Aiken character and charm. She pointed out the building at 247 Marlboro Street SE was bought by its present owner in 1998. She pointed out that since that time nothing has been done to the warehouse. She said if it is not available to her as the buyer, this building would just start to rot. She asked if we just keep it there or tear it down. She said she did not want that to happen. She said the request is about the arts, and she does not see a problem with an art gallery going in the warehouse unless the city has another way for her to get this done or some recommendations.

Councilman Dewar asked Ms. Mikkola if she understood why the Planning Commission denied her request. Ms. Mikkola stated they were concerned that if she fails as a business what else could go in the area if it were zoned General Business as a lot of businesses are allowed in the General Business zone. She pointed out that with the property being .50 acres of land she felt that not much could go on the property. Councilman Dewar asked Ms. Mikkola if she understood that she has another option as well which is a Special Exception from the Board of Zoning Appeals. Ms. Mikkola stated she had talked with the Planning Department about that as well. Councilman Dewar stated he thought the matter was on the Board of Zoning Appeals agenda depending on what Council does at this meeting.

Ms. Mikkola said the other thing to mention about the General Business is the response to her proposal. She said the response said that no adjoining areas are zoned General Business. She said there are areas zoned General Business in the area. She said it is not like she was asking for General Business somewhere that it does not fit. It is a mixed use.

Councilman Dewar stated it would not fit in that area which is the reason the Planning Commission denied the request. He said it would not fit for some of those types of businesses that are allowed in the General Business category. He said that is generally why they disapproved it. He said we very much want her art studio in Aiken, and there is an easier way to get it done which is a Special Exception.

Councilman Merry stated that is an option, but this raises some questions for him. He stated the property is presently zoned Light Industrial and an art studio is not allowed in the Light Industrial zone. Ms. Mikkola agreed an art gallery and retail sales are not allowed in the Light Industrial zone. Councilman Merry asked if an art gallery or art studio is allowed by right in any zone. Ms. Mikkola stated the only by right is considered under Other Retail Sales and Services. She said that is the actual category.

Councilman Merry stated right now anyone can use the property for Light Industrial which would potentially be a very high intensive use which could negatively impact the surrounding properties. He said there could potentially be more intensive use of the property than what Ms. Mikkola is planning to do. He pointed out Ms. Mikkola plans to use the property for a studio and art gallery. Rezoning the property General Business would open the door for use of the property in a lot of other ways. He asked if there was any other classification for rezoning that could be used to allow an art studio and gallery

such as Limited Professional or something else. Ms. Mikkola stated the Office zone is the only one she had researched that allows an art studio and gallery.

Mr. LeDuc stated Mr. Paradise might be able to help. He said he had asked him if Limited Business could be a potential zone, but the answer was no.

Councilman Merry asked if the property were rezoned to Office would the zoning allow an art studio and gallery. Mr. Paradise, Interim Planning Director, stated the Office and General Business zones would allow an art studio and gallery by right. Limited Business zone would allow an art studio and gallery with a Special Exception as well as the Light Industrial zone by Special Exception.

Mr. LeDuc stated the property could be rezoned to Limited Business but a Special Exception would need to be made to allow the art studio and gallery.

Councilman Merry stated then the Limited Business and Light Industrial zones allow an art studio and gallery with a Special Exception. He asked if there were a way to consider adding art studios and galleries in more classifications in the Zoning Ordinance. Mr. Paradise stated Council would need to add an amendment to the Zoning Ordinance. In the time frame that Ms. Mikkola is working with there would not be enough time to allow that to happen. Ms. Mikkola stated they had been working on this for quite some time. It was pointed out that she has a closing time on the property by the end of January. It was pointed out if Council has second reading on the ordinance to rezone to General Business that would be January 26. The BZA meeting is on January 27. Councilman Dewar pointed out if Council does not have second reading on the ordinance the request could go to BZA on January 27.

Councilwoman Diggs asked if the BZA would have the ability to grant Ms. Mikkola's request. Mr. Paradise stated in the current zoning of Light Industrial, Other Retail Sales and Services are allowed by Special Exception. He pointed out that they have Ms. Mikkola on a track where she has applied both for the rezoning and for the Special Exception so if one fails she has not lost time in applying for the other.

Councilwoman Diggs stated she had driven by the building, and she would love to see an art gallery in the building.

Ms. Mikkola stated there may be some confusion. She pointed out that Other Retail Sales and Services allows photography, gallery and art studio and she would be able to sell items. In response to a question as to how long she had been working on the project, Ms. Mikkola responded that she had been working on the matter since October. In the beginning they did not think the property would need to be rezoned because they did not think an art gallery was a big deal, but found out that it was. She pointed out that art studio and gallery falls under Other Retail Sales and Services as there is not a category for art studio, crafters, etc.

Councilman Ebner asked when the zoning took effect. He asked if it was the 80s or 70s. He said he was getting into the grandfather situation to see how far back all this goes. He said the building is probably 35 to 45 years old. Mr. Paradise stated he had not looked into that. He said as long as he can remember that area has been zoned Light Industrial.

Councilman Ebner stated it says that you have to get a permit for retail sales and services. He said that was a feed store and there was a railroad track that unloaded box cars of feed. He said he could guarantee that the farmer 40 years ago backed up to the door loaded up and took his billfold out and paid for it. He said perhaps Ms. Mikkola needs to cut up a few frames in there for pictures to be a manufacturing base. He said he was getting a little facetious. He asked if the grandfather clause played into any of the old buildings or how do we treat that.

Mr. Paradise stated if there were retail sales and services that went on there years ago, once it ceased for a year the grandfather provisions went away. He said that is true in any zoning.



Councilman Merry pointed out the property is still zoned Light Industrial, and she could use the property for industrial purposes now. Councilman Ebner stated if Ms. Mikkola goes to the Board of Zoning Appeals they have a precedent that the building was used for retail sales and services. He said he did not think they could deny that. He said we could probably find someone in this community who bought something there. It was not that long ago. He said he was trying to help build a case as to what would be the right way to go and why the Board of Zoning Appeals might not approve it.

Councilman Merry stated the problem with going to the Board of Zoning Appeals is that they have very narrow criteria by which they have to judge the request. The problem is essentially does the request comply with the Comprehensive Plan, and if it does not why not. Is it because of some conditions beyond the buyer/owners control. That is not really the case here. It does not comply because we just all of a sudden changed the intended zoning for it. As long as the building does not get torn down, someone could buy the building and use it for industrial use. Of course, Ms. Mikkola's activity would be less intensive and have a lesser impact on the neighborhood than any potential industrial use would. He said as long as she keeps the use to something that would fall into the Office zoning classification then General Business might be too broad. It might give her the option of having a bar, etc.

Councilman Ebner stated he understands that. That is why he was trying to give her another approach. Councilwoman Price asked if the goal was to get to a Light Business and a Special Exception of that. Councilman Dewar stated the goal is to get the art studio built. Councilwoman Price stated then the goal is to get her in the building. Councilman Merry stated the goal is to allow the use without having to get a Special Exception from BZA because their criteria make it hard for them to grant a Special Exception in this case. He said they have to go through a certain process.

Councilman Dewar suggested that the property be rezoned to Office. Councilman Merry stated that is what he was suggesting. Councilman Dewar asked if there was any negative perspective from Planning if the property were rezoned to Office. Mr. Paradise stated he did not think so.

Councilman Dewar suggested that Council do that if that is the way to get it done.

Ms. Mikkola stated Office zoning would be fine with her.

Councilman Merry moved that regarding the property at 247 Marlboro Street SE that on first reading that Council amend the proposed ordinance and change the proposed zoning from Light Industrial to Office use instead of General Business and approve the amended ordinance on first reading. Councilman Dewar seconded the motion. The motion was unanimously approved.

#### BUDGET AMENDMENT – ORDINANCE

Hall of Fame Museum Coordinator

Parks, Recreation and Tourism Department

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the budget to establish the position of Hall of Fame Museum Coordinator.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AMENDING THE FISCAL YEAR 2014-2015 BUDGET TO CREATE THE POSITION OF THOROUGHBRED HALL OF FAME MUSEUM COORDINATOR.

Mr. LeDuc stated this item was on the agenda at the last meeting. Council asked that we remove it until we had a chance to better define this position. He stated as part of our ongoing budget discussions, Council has discussed with staff adding a part-time Museum Coordinator for the Thoroughbred Racing Hall of Fame and Museum. He said we are talking about a 20 hour per week position with some weeks being more and some weeks less. He pointed out that everyone knows that Lisa Hall is retiring probably in February.

We would like to have her continue in a part-time role. Her other current duties include rentals at Rye Patch and programming for Hopelands Gardens and Rye Patch. These duties plus others like Christmas at Hopelands would be overseen by the new supervisor. Her position would average 20 hours a week and would manage all facets of the Hall of Fame including the recruiting, training and scheduling of docents. This would give Ms. Hall the opportunity to make some changes that she has always dreamed about making at the Hall of Fame.

For Council consideration on first reading is an ordinance establishing the position of Thoroughbred Racing Hall of Fame Museum Coordinator. Once the position is created and approved by Council then we can see who might be available to fill the position.

Councilwoman Diggs moved, seconded by Councilwoman Price, that Council approve the ordinance on first reading to establish the position of Thoroughbred Racing Hall of Fame Museum Coordinator and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

#### INTERFUND LOAN AND NOTE – ORDINANCE

Loan

Note

Sanitary Sewer Improvements

Valley Green Drive

Highland Park Drive

Bid Award

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to approve a bid award and an Interfund Loan Agreement and Note for sewer improvements and repairs on Valley Green Drive and Highland Park Drive.

Mr. LeDuc read the title of the ordinance.

#### AN ORDINANCE AUTHORIZING BORROWING FROM THE CITY OF AIKEN GENERAL FUND EQUIPMENT REPLACEMENT FUND AS OUTLINED IN THIS ORDINANCE FOR THE PURPOSE OF FUNDING SANITARY SEWER IMPROVEMENT REPAIRS AT VALLEY GREEN DRIVE AND HIGHLAND PARK DRIVE.

Mr. LeDuc stated that in November 2010, voters approved the Capital Projects Sales Tax III which included money for sewer system improvements. Every three months we receive a check from the County for the money from the One Cent Sales Tax. The last check we received was in November. We do not have enough money currently in CPST III to fund this project. To begin work on the sewer line servicing Valley Green Drive and Highland Park Drive, we must first receive Council approval of an Interfund Loan Agreement and note to borrow money from our General Fund Equipment Replacement Fund until we receive sufficient revenue from CPST III. We conducted an initial bid opening on November 5, 2014, but the lowest bid came in 66% over budget. Staff re-evaluated the bid specifications and re-bid the project. A bid opening was held on December 9, 2014. The lowest responsible bidder was CBG, Inc. of Gaston, South Carolina who submitted the lowest responsible bid of \$279,477.70, which is within the expected budget for this project.

For City Council consideration is first reading of an ordinance for the approval of a bid award to CBG, Inc., and an Interfund Loan Agreement and Note for the repair/replacement of the sanitary sewer line at Valley Green Drive and Highland Park Drive.

Councilman Ebner moved, seconded by Councilwoman Price, that Council approve the bid award to CBG, Inc. and an Interfund Loan Agreement and Note for the repair/replacement of the sanitary sewer line at Valley Green Drive and Highland Park Drive. The motion was unanimously approved.

RESOLUTION 01122015H

Curb Cut  
Enmark Stations  
Joseph Heyward  
Triple H. Development, LLC  
181 Augusta Road  
Hitchcock Parkway  
TPN 088-06-09-001

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to approve a curb cut at 181 Augusta Road.

Mr. LeDuc read the title of the resolution.

A RESOLUTION APPROVING A CURB CUT REQUEST BY ENMARK STATIONS, INC. FOR PROPERTY LOCATED AT 181 AUGUSTA ROAD.

Joseph Heyward of Triple H Development, LLC has requested a curb-cut onto Hitchcock Parkway at 181 Augusta Road. A convenience store/fuel station is located on the 2.29 acre lot, but is not in operation at the present time. The property was annexed into the city in September, 2014, and Council expressed concern about the plat showing access to Hitchcock Parkway.

The project was developed outside the city limits with the development approved by the Aiken County Planning Department in December, 2011. When submitted to the County Planning Department the plans showed a curb-cut for Augusta Road and Hitchcock Parkway which was approved. However, SCDOT denied the developers an encroachment permit for access onto Hitchcock Parkway.

The request before Council is asking that the city write a letter saying the city would have no objections to having a curb cut on Hitchcock Parkway. He pointed out that the City cannot grant a curb cut as only SCDOT can grant a curb cut. He said the project did not annex to the city before it was developed, but only after the convenience store was constructed.

The Planning Commission reviewed the request at their December 9, 2014, meeting. The Planning Commission voted 5-1 to recommend approval of the curb-cut allowing a right-in / right-out only access onto Hitchcock Parkway with a duel driveway as shown in Exhibit C.

For Council consideration is a resolution to approve the curb cut request onto Hitchcock Parkway. If Council approves this change, the owner would still need SCDOT's permission to install this curb cut.

Councilman Dewar moved, seconded by Councilman Ebner, that Council suspend the rules and discuss the request. The motion was unanimously approved.

Mr. Bob Gilbert presented a power point. He stated he would like to ask Council to keep two questions in mind. First of all would the proposal for a curb cut into Hitchcock Parkway be consistent with City Council's latest stated version for the future of Hitchcock Parkway. Secondly, from an overall perspective does it make sense. He reviewed the latest stated version of City Council's vision for the future of Hitchcock Parkway. He stated it is the new Purpose and Need Statement for Hitchcock Parkway that was approved by the ARTS Policy Committee on December 17, 2014. He said he had highlighted the crucial objectives of the Purpose and Need. He said they are to "improve traffic flow" and "improve safety." The Purpose and Need Statement is:

"The purpose of the project is to **improve traffic flow**, particularly during hours of peak traffic volumes, and **improve safety** along the corridor through the implementation of various operational improvements. These operational improvements may include, but are not limited to, the construction of turn lanes, paved shoulders,

passing lanes, and signal improvements. Other benefits will include **increased safety** for pedestrians and cyclists and continued economic vitality of the City of Aiken."

Mr. Gilbert stated he had visited the site today and took some pictures. He showed the pictures to Council. He pointed out the convenience store, Hitchcock Parkway and Route 421. He also pointed out the barriers that had been erected by SCDOT to keep traffic from exiting the convenience store directly onto Hitchcock Parkway. He pointed out they tried several other measures, and they did not work so finally they put barriers up and constructed a berm to prevent vehicles from accessing directly onto Hitchcock Parkway. Presently the access is in and out on SC 421. He presented another view of the convenience store and pointed out the traffic signals at the intersection of Hitchcock Parkway and SC 421. He said this is a busy intersection. He showed a picture of the current entrance and exit to the convenience store which is off SC 421 and the barriers to prevent access to and from Hitchcock Parkway.

Mr. Gilbert stated if the barriers were removed and there was an authorized access provided on to Hitchcock Parkway, it might be used as a cut through for people wanting to get from 421 to Hitchcock Parkway and avoid the traffic signal. He said this area is a bad intersection. He showed a picture of the barriers and the closeness of them to the intersection and traffic signals. He pointed out what the Planning staff had written, and that they were worried about that. They say they believe the cut would be in violation of the design requirements at this point, but that has yet to be determined. He pointed out the right turn lane off of SC 421 going east on Hitchcock Parkway. If you are standing there, you would realize there is an intersection between the access point and the right turn lane. He said think of making right turns that are going to try to occupy the same space as people coming out of the access point on Hitchcock Parkway. He said that is one problem. The other problem is that the requested access is very close to the busy intersection. He presented another picture of the barriers showing how close they are to the intersection and actually coinciding with the right turn lane off of SC 421.

Mr. Gilbert showed a picture of the Huntsman Shell Station, pointing out Huntsman Drive and Hitchcock Parkway. He said the point is that if this is such a great idea for the station at the intersection of 421 and Hitchcock Parkway, surely the owners of the Huntsman Shell being astute business people would say that would be a great benefit for them too, and they want an access directly off Hitchcock Parkway. Presently the access, similar to 421, is to go on Huntsman Drive and turn in.

Mr. Gilbert asked what one could observe and conclude from this information. First of all in reading the letter from Enmark requesting this action, they attribute the fact that the station has been closed to poor access and circulation resulting from the fact that they don't have access directly onto Hitchcock Parkway. He said two observations came to his mind. One, there is an Exxon station ¼ mile away from the station at Hitchcock Parkway and 421 which is closed. They had wonderful access both from Hitchcock Parkway and U.S. 1. There is also a closed Kents Korner station at the other end of Hitchcock Parkway. It also had great access off of Silver Bluff Road and Pine Log Road. He said he suggests that the conclusion that could be taken from this is perhaps the problem is not with access. The problems are elsewhere in terms of the business. If the claim is valid that there is poor access and circulation and the result of the failing business, how is it that Huntsman Shell two miles away has been at that location for decades. He said it was there when he came 25 years ago and was not new at that point. They have been continuously in business. They are in the same situation as far as access as Enmark is at Hitchcock and 421. Secondly, if this claim is valid, he would think Council may expect to hear from the Huntsman Shell owner whose owner realizes all of a sudden if he just had access directly on Hitchcock Parkway he would be making a lot more money. He said it would be natural for a small business person to come to Council with that request.

Mr. Gilbert asked where does it end. When Hitchcock Parkway right of way was obtained, the property owner at that time at the intersection of Hitchcock Parkway and 421 was compensated by SCDOT for accepting this access prohibition. The first owner was paid to accept that restriction. The owner Triple H built the facility without SCDOT approval to Hitchcock Parkway. Surely they knew SCDOT approval was required. They

L built the facility and now they want to be made whole or they are alleging that they can be made whole if SCDOT will grant them access. He said one question is why Hitchcock Parkway users' safety and travel time should be negatively impacted because of an apparently poor business decision. He pointed out that stores had closed on the west end of Hitchcock Parkway and on the east end of Hitchcock Parkway, both of which had wonderful access. We have a facility in the middle of Hitchcock Parkway on Huntsman Drive that has prospered during these years without access to Hitchcock Parkway. He pointed out there is no assurance that the business will succeed with Hitchcock Parkway direct access. In fact, he felt there is a great deal of evidence that it won't succeed. He said he would not want to wish that failure on them. He felt the evidence is there to say they probably won't succeed.

Mr. Gilbert asked what we conclude from that. The traveling public and taxpayers could well be left with a compromised roadway in terms of safety and smooth flowing traffic and a closed business.

Mr. Gilbert stated City Council's latest statement of their vision for the future of Hitchcock Parkway and the objectives contained in that statement were: improved traffic flow and improved safety. He asked if the request meets that objective. He said he felt the answer is clearly no. The second question is whether granting this access or giving support to the granting of the access by City Council would improve safety on Hitchcock Parkway. He said he felt that it would not.

Mr. Gilbert stated his conclusion from this is that the proposed direct access to Hitchcock Parkway violates common-sense safety design criteria for close proximity to a busy intersection, and it will inhibit Hitchcock Parkway traffic flow. Mr. Gilbert asked if he could answer any questions or address any comments.

L Mayor Cavanaugh stated he felt Mr. Gilbert's comments were a very good analysis of the situation as far as he was concerned. He said he drives Hitchcock Parkway all the time. He said from the first time he saw that he did not think it would be a good idea to have access to Hitchcock Parkway. He said he does not think that access would help improve traffic flow or improve safety.

Councilwoman Price stated she has other examples to give on this. She said she could go either direction on the request. She pointed out there is the Walmart on Richland Avenue and there is a BP station on the corner where there is ingress on University Parkway and Richland Avenue. Then on the southside of town there is a station across from McDonalds on Whiskey at Pine Log Road. They have ingress and egress on Pine Log and Whiskey. It depends on what you say in terms of accident prone traffic and those kind of things. She said she was a proponent to seeing businesses being successful. She said Mr. Gilbert was saying the access impacts business in no way but that it depends on the management if they fail or not. Councilman Price stated as Mr. Gilbert talked she wondered about the tax base, and what we can do to insure that businesses have every opportunity to succeed and not her personal desire for the city that only one ingress and egress to that location be allowed. She said she does recall discussing this regarding the bypass possibly widening and holding off with an ingress/egress at that location. She did not remember whether that was a determining factor for DOT in terms of only having one location for an ingress/egress where it is now. She said she had mixed feelings on this.

L Mr. Gilbert stated one of the reasons Hitchcock Parkway works as well as it does now is because it is designated as a controlled/limited access roadway. Any additional access points have to be approved by the Secretary of SCDOT. It is a high level decision. He said adding traffic signals or anything that inhibits the flow of traffic will be detrimental to the capacity of the roadway. He said he felt the evidence that he had been able to collect says that access is likely not a contributing factor to the failure of that business. There were failures 1/4 mile away with a similar facility with the best access you could expect and on the other end of Hitchcock Parkway the same situation.

Councilman Merry pointed out that those two businesses did not fail. Those businesses were sold to a different owner who chose not to operate them. Councilman Dewar pointed out those stations were closed, but not closed because of failure of access. They

are closed because they were sold and the new owners decided not to continue them as a gas station. They removed the tanks, etc.

Mr. Gilbert pointed out that obviously if they had been a money making proposition, they probably would have continued. Councilman Dewar stated he could assure him that the reason the people bought them was for a money making proposition. It could be a business related decision.

Mr. Gilbert stated the controlled limited access is really a key. If Hitchcock Parkway is opened up to multiple additional access points, all bets are off with respect to the capacity of Hitchcock Parkway. Councilman Dewar pointed out there are only a certain number of access points allowed. He said he thought there was only one access point left. Mr. Gilbert stated he had inquired to SCDOT regarding the number of access points allowed. There are no more allowed now. He said any additional ones will have to be approved by the Secretary of Transportation. Councilman Dewar stated he thought SCDOT always had to approve any access points. He said if there are none left, the issue is moot and we need to move on. Mr. Gilbert stated the owner could appeal again and ask for an access point. He said the Secretary of Transportation would make a decision.

Councilman Dewar stated he thought SCDOT was not going to do anything with this until they finish the design of the improvements to Hitchcock Parkway. They have already said that. He said he hopes DOT does nothing until they decide what the road is going to look like. He said he had been told that there is to be a five foot wide path on both sides of Hitchcock Parkway, and that would take care of bicyclists, breakdowns, etc. He said he doubts there will be room for an access. Mr. Gilbert said his reason for being present was to urge City Council not to endorse this idea. He said he felt it sets a bad precedent. He said there are a lot of design questions to be answered yet about Hitchcock Parkway. He said he would suggest that City Council should not endorse this idea.

Ms. Dione' Carroll stated she has represented Concerned Citizens in the discussions and disputes over how Hitchcock Parkway should or should not be modified in the future. She said she had been very impressed with what the city has done in embracing a sensible approach through only making and suggesting modifications to Hitchcock Parkway that hopefully are the ones we really need and we moved away from the super highway that we so much feared when she first came to talk to Council about the process. She said she would only say that encouraging sort of an ad hoc case by case single situation recommendation about how to manage transportation is letting the tail wag the dog. She said we are going through a signing process now. There was an application for an encroachment permit in this exact location before, and it was denied. It was denied because they were in the transportation planning process. They are in it now; it is underway; it is going. We just saw the Purpose and Need has been recently changed, and we can expect to see a plan in the foreseeable future. She said don't set the plan based on one service station's need. There needs to be a broader planning process. She said she understands, and we have heard an acknowledgement here, that DOT is not going to plan that way. It really would not be sensible planning from the City to encourage planning that way. She said to her writing a letter like this is letting the tail wag the dog or encouraging the tail to wag the dog. She said let's see if DOT will make the appropriate decision at the appropriate time. She asked that Council not encourage it one way or the other.

Mr. Doug Carroll, of Enmark Stations, Inc., stated that Triple H Development is not present at the meeting. He said he wanted to address a couple of the points that were mentioned. He pointed out that Kent's Korner was sold to Circle K, and that is why they have closed. They closed a number of stations throughout the state. He said the cut through argument is certainly valid and could be used on any corner lot anywhere that has double access points. He said there may be a citizen that does that once in a while, but they could do that anywhere throughout the City of Aiken or anywhere. He said he could not speak to the payment for right of way as to whether any payment was made to Triple H when they bought the property and whether DOT told them they would not be able to have the access point. He said he could not address that because he was not privy to that. He said what he wanted to speak to Council specifically about is that they would like to open another location in Aiken. He said they have opened a couple recently. In

Aiken County they have opened four, and they have been acquisitions from Triple H Development. Palmetto Express was the former name of the company.

Mr. Carroll stated without the access point Enmark would not move forward with the transaction and the station will remain closed. He said it closed sometime last year for a variety of reasons. He said lack of business was one of them. The reason for lack of business is because you can only get to the station one way. There is only one access point. In retail business, specifically to the convenience store, it is impulse. It is typically not a planned stop. The business has to be available and have multiple access points. Ingress/egress is critical to the development of convenience stores and other types of quick service restaurants, etc. He said this property is now in the City of Aiken sitting there vacant generating no tax base when you have an opportunity for a company that could make it a vibrant location. He said they know how to run and operate the convenience stores and have been doing it for 51 years successfully. He said it would be a shame to leave that property underutilized and potentially vacant for an extended period of time if they walk away from the table.

Mr. Carroll stated he did not want to continue to pitch. He said all the information has been provided to Council. He said he would like to answer questions if Council has any.

Councilwoman Price asked how the business on the east side of town was doing. Mr. Carroll stated the business on Edgefield Highway was doing well. He said the Charleston highway location on the south side was much better. He said that is a very busy location. Mr. Carroll stated one of the comments was about adding traffic signals. He said they certainly were not proposing to add a traffic signal. He said there are adequate traffic signals at that intersection. He said when you have a four-way intersection like this and there is a light and an access point on the other side of the light we call that far corner. He said on far corner access you can drive any location anywhere in the City of Aiken or anywhere else and you will see an access point for far corners. There is controlled traffic flow by the traffic signal. There is a decel lane in place. There is a yield sign coming off the Augusta Highway to go south on Hitchcock Parkway. There are measures already in place to make this a transition for customers. He said they backed off their position asking for a full access point, right-in and right-out, left-in and left out because they knew there would be an issue with safety. He said all they are asking for is a right-in and right-out primarily because DOT may put a median down that road at some point and a full access would then do no good anyway.

Councilman Merry pointed out that DOT can grant this or not grant the access regardless of what City Council may say. He pointed out that whether the city writes a letter supporting the request, he would still have to make application to DOT to request the access. Mr. Carroll stated his understanding is there were not enough funds for Hitchcock Parkway and the project has somewhat been sidetracked.

Mayor Cavanaugh stated there are some funds. We are going to do it a different way. We are not going to have the widening with extra lanes. He said there is a lot of traffic on that road. He said in the future there will be more traffic.

Mr. Carroll stated Hitchcock Parkway is already set up for limited access as there are only a certain number of traffic signals along the parkway and long stretches without any kind of intersections. He said because of the grade he would not expect that would ever change. He said the parkway is already limited access. There are only a few intersections where anything could be proposed in the future. He said setting precedent or not it is limited by the geography.

Councilwoman Price stated the reason we are in this position with Hitchcock Parkway is that we had a large contingency of businesses that supported the widening and citizens that did not support it and funding for the project was short \$8 million which was an issue as well. Those factors are the reasons why the Hitchcock Parkway did not move forward with the widening.

Councilman Dewar stated Hitchcock Parkway will be widened, but not as originally designed.

Mayor Cavanaugh asked Mr. Carroll why SCDOT denied the access before. Mr. Carroll stated he came into the process late, but his understanding is that they started the acquisition process in March, 2014. He said his general understanding is that they went to SCDOT and asked for the full access at one point and were denied based on the fact that they were in the planning process of the road and it was an imminent project. He said he was sure that everyone is aware that DOT projects can take quite some time. He said even in the planning process this could be four or five years down the road before anything ever happens.

Councilman Merry pointed out that Mr. Walsh's letter from DOT was that the access could not be approved at this time which was in 2012. He said by copy of the letter he asked Mr. Gantt to ensure that the request is reconsidered during the design of the upcoming project referring to the widening process. It was a not now, but maybe later type answer.

Mr. Carroll stated since the project started out, they would have to keep the property under contract indefinitely or they would have to close on the property and try to open the business and operate it as it is which they are not prepared to do.

Councilwoman Price asked Mr. Carroll if their position was that they are going to walk away because they can't have the second ingress/egress, and we will lose an opportunity for a business to go there. Mr. Carroll stated that is right. He said they need the best access.

Mayor Cavanaugh asked that we get back to the two matters that Mr. Gilbert brought up which are part of the Purpose and Need Statement for Hitchcock Parkway.

Mr. Carroll stated as far as whether the access would improve traffic flow on Hitchcock Parkway, he could not say that it would improve traffic flow, but he could say that it is no different than someone taking a right that does not have to come to a stop off of Augusta Highway 421 to then go south. He said it is a matter of people using common sense and a traffic signal operating and being timed and in working with DOT to get the time in place. He said regarding the point of would the access improve safety, he felt that having a right-in and right-out that it would improve safety. He said if they were asking for a full access he could see the case where you could end up with a potential problem intersection.

Mayor Cavanaugh stated he felt the access would not improve the flow or the safety. We would just be putting another opening there. He said he could see cars having to stop for somebody coming out and also the other way. He said he did not think the access was necessary. He pointed out that it had already been mentioned that farther down Hitchcock Parkway there is another station with no access on Hitchcock Parkway and only access from Huntsman Drive. He pointed out at that station access is on a road that you come out to the traffic signal and turn left or right.

Mr. Carroll responded that different businesses have different business models. He said their business model requires a high traffic location. He said we want to build a service where people can move more quickly and efficiently. He said that is why the access is critical.

Mayor Cavanaugh asked if there were plans to have more gas tanks or enlarge so they can serve more people. Mr. Carroll stated there are no plans at this time to expand the canopy. The only thing they would do would redo the outside, put up their colors and modify the inside as well. Mayor Cavanaugh asked if there was space to expand the station if they desired. Mr. Carroll stated there was not space to expand the canopy because there is a steep drop off on the south side of the property. There is a waterway adjacent and because of that he felt it would be very challenging to expand the building. He said to have proper circulation, they most likely would not expand the canopy. He said the footprint does not allow for it.



Mayor Cavanaugh stated he comes out at Dibble Road all the time and has been doing that for 30 plus years. He said there is enough traffic now that sometimes it bothers him. He felt with the access we would be adding more input into the parkway. He said there is input now going in and coming out at one spot at the station. They can get to the light and either turn right or left at the light, and it is very safe. He said to add the access to Hitchcock Parkway he felt would not improve safety.

Mr. Carroll stated that gas stations don't add to the traffic. He said they work with the traffic that is there and service the traffic that is there. He said gas stations are not a destination so they do not generate traffic.

Mayor Cavanaugh stated he did not understand that. He said the station is a destination if the person needs gas. Mr. Carroll stated the station is a convenience. He said many people make the decision to get gas when the light comes on. If they happen to be coming down Hitchcock Parkway if they can take the right in that would be very helpful for them. He said they are not a destination in the fact that a person leaves work to go home for the day or they leave their home in the morning and say they are going to Enmark on Hitchcock and 421 because they have the best gas and fried chicken. He said they would love for that to be the case, and they are trying that from a marketing standpoint. He said, however, that is not the case.

Councilman Dewar stated he noticed when Circle K purchased the other two stations that they removed the tanks. He said if the station closes would the former owner have to remove the tanks. Mr. Carroll stated he did not want to speak to that question as it is an environmental question. He said he thought there was a time period when they would be required to do that.

Councilwoman Price stated she could think of many situations where we have an ingress and egress safety problem in Aiken where it interferes with traffic flow. She pointed out Honey Baked Ham for example. She pointed out the ingress and egress at that corner. She said there are two ways to enter and there is a traffic signal at the intersection. In terms of citing a concern for the business, she does not see that as a valid argument given numerous situations in the town. Secondly, she wondered how many times we are going to say no to businesses. She felt that we say no to businesses a lot.

Councilman Homoki stated going back to the point about the traffic. He said from where he lives he is not going to drive down and get gas at the station as a destination. However, if he is on his way home from either the University or Augusta and he needs gas and he is there he might pull in and get gas. He said if you really look at it the right turn would be like an acceleration lane. The traffic will be slow because it is starting up hill. Having some kind of access makes sense. Most of the people would be turning right if they are coming down 421 toward the Parkway heading south. He said he did not think many people would weave their way through a gas station to get on Hitchcock Parkway. He said he agrees with Councilwoman Price. The City is not the final arbitrator. DOT will make the decision. He said maybe DOT will have some better ideas of what to do with the intersection. He said we don't know what they have in mind as far as designing the ultimate Hitchcock Parkway. He said to say no to the access because of what people perceive today is unwise. He felt the city should write the letter and let DOT sort it out. Maybe they will come up with a solution.

Councilman Dewar stated DOT will sort it out anyway. He said if the property were within the city before it got built, he did not think they would have approved it. He said if we had the Traffic Engineer that he asked for when he first got on Council, he felt they would not recommend it. He said the entrances and exits are too close to the intersection. He said you just don't want to do that. He said if we were doing Honey Baked Ham again, he felt it might not be approved. He said the problem with South Carolina is that everything is grandfathered. He said there is so much grandfathering going on.

Councilman Merry stated we could write a letter, but he was not sure DOT would allow the access because it is so close to the intersection. Councilman Dewar stated he felt it really was not the city's issue and that Council really should not be discussing it. He said it is up to DOT.

Councilwoman Price stated she would suggest that each member of Council write a personal letter to SCDOT.

Councilman Merry asked if DOT had asked for a letter or if the buyer had asked for a letter.

Mr. LeDuc stated some time ago he was contacted concerning the possibility of the city sending a letter to SCDOT. At the time the property was outside the city. He said before the city would consider it the property would have to be inside the city and then Council and the Planning Commission would have to vote on the matter. He said that kind of started the process of getting the property inside the city. He said the City Manager could not write that letter.

Councilman Merry asked if DOT asked for anything from us. Mr. LeDuc responded no. Councilman Merry asked if DOT cares what the city says. Mr. LeDuc stated he was sure they do. Mr. Carroll stated DOT does care and that is another reason they have gone this route. Because of their involvement in multiple communities, it was the recommendation that they get the buy-in from the city.

Councilman Homoki stated he was not meaning to be facetious, but it seems that Council has heard arguments for the last year and a half about the sparseness of traffic on Hitchcock Parkway and no improvements. All of a sudden now we have a critical traffic problem there.

Mr. Carroll stated if you look at the traffic counts, they are down. The traffic counts are only 200 cars a day more than it was in 2006. The traffic count has not expanded to a point that you can't drive on the road. The total count is 18,400 now.

Councilman Merry stated if people want to use this gas station and then go south on Hitchcock Parkway, that will be the same number of cars whether they have to go through that intersection or they come out of the driveway. It will be the same number of cars. It will not add traffic. He said it would not improve traffic flows at the intersection, but he did not think it would detrimentally affect it either. Councilman Merry stated he can't get past the fact that when the people bought the property and developed the property that they had to know this was a restricted access road. He said that should have been in the business plan from the beginning. He said that is a hang up for him. He said he agrees with Councilwoman Price in the sense that we want to do things that help or empower businesses. He said he could go either way. He said he was not convinced that DOT will give that curb cut anyway because of the proximity of the intersection. He said it is only a few hundred feet from the intersection, and we know that a curb cut was not granted near the light at Stratford Drive because it was too close to the intersection and the cut had to be moved back north on Whiskey. He said he was not sure DOT would allow the cut anyway. He said he was not crazy about being put on the spot and having to make a decision without knowing what DOT will say.

Councilwoman Diggs asked Mr. Carroll if Council votes to have the letter written and DOT decided to deny the request then what would Enmark's plan be. Mr. Carroll said they would move on to another project.

Councilman Dewar stated it does not matter what Council does, it is up to DOT. They have already said they are going to wait until they finish the design which should be pretty close now. They have been on the design phase of this project for a year. He felt the change of the Purpose and Need may make the project easier for them. He said he was expecting to hear from them shortly on the project.

Councilman Ebner called for the question. Councilman Dewar seconded the call for the question, and it was unanimously approved.

Councilman Homoki moved that the city send a letter to the SC Department of Transportation agreeing with opening up the access to Hitchcock Parkway from the property at 181 Augusta Road. The motion was seconded by Councilwoman Price. The

motion was approved by a vote of 4 in favor and 3 opposed. In favor of the motion were Councilmembers Diggs, Homoki, Merry and Price. Opposed were Mayor Cavanaugh and Councilmembers Dewar and Ebner.

### JURY BOX 2015

#### Municipal Court

Mayor Cavanaugh stated Council needed to consider approval of the Jury Box for Municipal Court for 2015.

Mr. LeDuc stated Sara Ridout, City Clerk, has prepared a Jury Box, which, under state law, must be submitted to City Council for approval.

Under the Council-Manager city government model, City Council acts as Jury Commissioners for our City Court. Each year, Council must approve the preparation of the names for our jury box. According to the affidavit from the City Clerk, our box contains two compartments--designated as Compartment A and Compartment B. The names of all registered voters and holders of a valid driver's license, or state identification card, issued pursuant to state law are placed in Compartment A. During the year jurors are randomly selected from this compartment and after selection for a particular term of court, the names are then placed in Compartment B. Therefore, the names are not selected again during the calendar year. We have placed a total of 14,817 names in the box.

For City Council consideration is approval of the 2015 City Court Jury Box.

Councilman Dewar moved, seconded by Councilman Ebner, that Council approve the preparation of the Municipal Court Jury Box for 2015. The motion was unanimously approved.

### MEMORANDUM OF UNDERSTANDING – RESOLUTION 01122015I

#### Theater Coordinator

#### Aiken Community Playhouse

Mayor Cavanaugh stated Council needed to consider approval of a resolution to adopt a Memorandum of Understanding with the Aiken Community Playhouse for a Theater Coordinator.

Mr. LeDuc read the title of the resolution.

### A RESOLUTION AUTHORIZING THE CITY OF AIKEN TO ADOPT A MEMORANDUM OF UNDERSTANDING WITH AIKEN COMMUNITY PLAYHOUSE.

Mr. LeDuc stated in 2007 the City and the Aiken Community Playhouse (ACP) entered into an agreement to hire a Theater Coordinator to assist in the daily operation of the theater. This position was added as part of the budget process at that time, and we are bringing this to Council's attention since we need to update the MOU. Since the approval of the original agreement the ACP has been paying 70% of the Coordinator's salary and the City 30%. With your approval we will continue sharing the expense of this person with the City Manager having the ability to renew the agreement for a two year basis. He said there were no major changes, but a few updates were made in the MOU.

For City Council consideration is approval of an update of a Memorandum of Understanding with the Aiken Community Playhouse for the Theater Coordinator.

Councilman Dewar moved for approval of the resolution for renewal of the Memorandum of Understanding with the Aiken Community Playhouse for the Theater Coordinator. The motion was seconded by Councilwoman Diggs and unanimously approved.

### MEMORANDUM OF UNDERSTANDING

#### South Carolina Fire Academy Public Safety Station 5

Mayor Cavanaugh stated Council needed to consider a request for approval of a revised Memorandum of Understanding with the South Carolina Fire Academy.

Mr. LeDuc stated at the November 24, 2014, meeting, Council unanimously approved a Memorandum of Understanding [MOU] between the South Carolina Fire Academy and the City of Aiken Public Safety Department. The purpose of this MOU is for the South Carolina Fire Academy's regional representative to be able to use the City's portion of Public Safety Station 5 at 23 Citadel Drive for office space since we have offices, sleeping quarters, and a large bay area. Since Council's approval of the MOU, the Fire Academy noted that the MOU needs to be amended to eliminate the indemnification clause found in Section IV (B) to be in compliance with South Carolina law. Once this is done, the Fire Academy will sign the MOU.

City Attorney Gary Smith reviewed this amendment and recommends Council formally vote on its approval in its revised form.

For Council consideration is approval of a revised Memorandum of Understanding with the South Carolina Fire Academy for the use of the City's portion of Public Safety Station 5 for office space.

Councilwoman Diggs moved, seconded by Councilman Ebner, that Council approve the revised Memorandum of Understanding with the South Carolina Fire Academy for the use of the City's portion of Public Safety Station 5 for office space. The motion was unanimously approved.

### EMPLOYEE POSIITONS

Unfreeze  
Parks, Recreation & Tourism Department  
Recreation Supervisor  
Facilities Assistant  
Maintenance Worker II  
Public Safety Department  
Environmental Control Officer  
Public Safety Officers

Mayor Cavanaugh stated Council needed to consider a request to unfreeze some employee positions.

Mr. LeDuc stated when Council approved the 2014-15 budget one of the conditions was the freezing of all existing and proposed positions. To unfreeze these positions department heads could request Council to open up these positions on a case by case basis. We have eleven open positions for Council to consider unfreezing. This would allow the departments to fill these positions through the normal hiring process.

The following positions are requested to be unfrozen:

#### PARKS, RECREATION AND TOURISM

Recreation Supervisor- 1 vacancy. Full-time position. Position needed for the operation of Hopelands/Rye Patch. In addition to the duties that Lisa Hall currently oversees, this person would also coordinate Christmas at Hopelands and other PRT duties. Mr. LeDuc stated this is the position that Lisa Hall currently holds. With the Hall of Fame portion being removed from the position, they still have programs and rentals at Rye Patch. This person would be handling the rentals at Rye Patch and the programs such as Christmas at Hopelands. This person will probably be stationed at Rye Patch. He said we plan to move the Tourism Supervisor up town. Then the Recreation Supervisor could move into

that location. The primary focus will be to do programs and rentals at Rye Patch.

Facilities Assistant - Pool Operator - 1 vacancy. Part-time position. Position needed to operate the pool at Smith-Hazel Center.

Maintenance Worker II - 1 vacancy. Full-time position. Position needed for maintenance in Hopelands and other parks and fields. If vacancy is filled from within, this vacancy would also apply to the next lower position.

Maintenance Worker II - 1 vacancy. Full-time position. Position needed for maintenance and cleanup and setup for events at Weeks Center, Tennis Center, Health Center and Ceramics Building. If this vacancy is filled from within, this vacancy would also apply to the next lower position.

## PUBLIC SAFETY

Mr. LeDuc stated in the Public Safety Department we previously had two Environmental Control Officers who were both Public Safety Officers. We are recommending that this person who is moving and needs to be replaced not be a Public Safety Officer, but be an individual who would be a Class III. A Class III is limited on the arrest powers they have. In an animal case they would have certain arrest powers. The amount of certification they would have to go through would be far less than a regular Public Safety Officer. He said we have several Public Safety positions that need to be filled. Three officers left recently to go to the SRS site in security.

Environmental Control Officer - 1 vacancy. Full-time position. Position needed for animal control and litter control. This position was formally held by a certified officer Class I who moved out of state. We are recommending using a Class III officer who has limited powers of arrest, has 8 days of training versus 9 weeks for Class I, and only needs one legal update yearly.

Public Safety Officers - 6 vacancies. Full-time positions. We started the fiscal year with a few vacancies due to a new school resource position and vacancies in investigations. Every few years SRS hires new security officers with beginning rates over 50% higher than our starting salary. We were informed last week that three of our PSO officers have accepted security positions at SRS.

For Council consideration is to unfreeze three full-time positions and one part-time position in the Parks, Recreation and Tourism Department and seven full-time positions in the Public Safety Department.

Councilman Dewar stated he wanted to make one comment. He said the city is still having high turnover, higher than it should be. He said he did not know what to do about it. He pointed out that we had just raised the pay of Public Safety Officers. He said it is frustrating to lose the employees. He said he had thought we had got matters worked out for Public Safety Officers. He said we are losing employees in every department. He said it is a shame as turnover kills us.

Mr. LeDuc stated he would have some suggestions for Council in February. He said one of the things that we have not done in a long time is have a merit increase. We have had increases for Cost of Living and even those have been fairly minor. In talking to Public Safety Officers and others that have left, especially officers, they compare with each other what they do and how they do it. He said there are approximately 30 people who all have the same position. When one gets a raise and they get the same raise no matter what level of competency and experience they have, it gets frustrating for some of them. He said staff would like to look at a merit increase this year. He said that would be one of the things he will be proposing to Council. He said the merit increase would be based on performance. He said one of the things mentioned by the Public Safety Officers is the fact that they would like to be recognized for what they do as an individual.

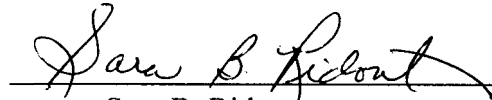
Councilman Dewar stated he had heard more negative comments about the pay raises given than positive which is frustrating. Mr. LeDuc stated because they got the same

raise no matter how competent they were. Councilman Dewar stated, however, you run into problems when you selectively decide who will get an increase and who will not. That causes turnover as well.

Councilman Ebner moved, seconded by Councilman Merry, that Council unfreeze four positions in the Parks, Recreation and Tourism Department, and seven positions in the Public Safety Department. The motion was unanimously approved.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:04 P.M.

  
Sara B. Ridout  
City Clerk