

Aiken City Council MinutesREGULAR MEETING

September 10, 2012

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Larry Morris, Alicia Davis, Phil Berley, Charles Barranco, Tim Coakley, Ed Evans, Kim Abney, Sara Ridout, Amy Banton of the Aiken Standard, Channel 6 and 12, and about 35 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Councilwoman Price 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.

MINUTES

The minutes of the regular meeting of August 13, 2012, were considered for approval.

Councilman Ebner stated he had some issues trying to match the schedule versus the cost sheets for the Capital Sales Tax Projects. He said he would like to see the cost sheets and the schedule sheets match. He said he had commented to Mr. Pearce on this matter. He stated he was talking about the amount of money that the citizens had approved for the Capital Sales Tax. Mr. Pearce responded the reason the two would not match is that Council approved money, for example, for the SPCA Building and that would not be in the timeline because that is already a completed item and the SPCA has received their money and the Certificate of Occupancy for the building so there is nothing left on that project.

Councilman Ebner stated he felt the real issue was the Capital Sales Tax Project No. 2. As we finish up, he felt we need the schedule and the cost information to match. He pointed out that some projects have an overrun, and they need to match. He wondered if funds have to come from the budget to cover the cost. He said there is a considerable difference on a number of the projects versus what's left to do.

Mr. Pearce stated there were some carry over funds from the first round of sales tax. He suggested that he and Councilman Ebner meet to go over the concerns and see how they could put that together for the benefit of Council. Councilman Ebner stated he did not mind approving this with the caveat that he and Mr. Pearce review this to be sure we can account for the money. He pointed out we are getting close to the end of the second round and will basically finish the funds in November, 2012. Mr. Pearce stated the city would actually have another revenue set the first of 2013. Mr. Pearce pointed out the consideration at this time is approval of the minutes, which reflect what Mr. Morris presented to Council at the last meeting. He said updating the form would not affect the minutes. Councilman Ebner stated he was more interested in the dollars than which projects are done in Option 2. He felt for Option 3 Mr. Morris needs to look at the order. He pointed out infrastructure was high on the list, and he would request that we look at that. He stated there was a lot of discussion at the time on the infrastructure issues, and he would like for the infrastructure to fall about where it was listed on the ballot. He stated on the timeline listing there were about four or five Parks, Recreation & Tourism projects listed ahead of the infrastructure projects.

Mr. Pearce stated the City Attorney may have to look at that. He said we could have the projects in the order as they appeared on the ballot.

Councilman Dewar stated he had two concerns, and he hoped he had passed them on to the City Manager. He said he would like to unclump the sums. For example, on the timeline sheets there is a listing for Aiken PRT for \$5.25 million. He said he would like to see those listed as they were on the ballot submitted to the voters.

Mr. Pearce pointed out that was in the finance portion of the information given to Council. He said that information was highlighted in yellow on the document showing the second penny and the third penny. He said the document given to Council was the proposed timeline as Mr. Morris saw it in August. He stated how the projects will actually work out depends on how we go forward as far as getting designs done and the necessary permitting. He said the timeline is a snapshot on how we expect the projects to proceed. He said Council expressed a concern about whether we would spend the money as it comes in, so staff was trying to organize the projects. Mr. Pearce stated the minutes just reflect what the presentation was, not necessarily what the procedure will be.

Councilman Dewar stated his other comment possibly should be discussed as an item at the next Council meeting. He said generally speaking we have not put backup material for presentations in the minutes. He felt in this particular case failure to do so does not let Council go back and look and see what Council talked about and what was actually presented to Council.

Mr. Pearce pointed out the information was in the agenda packet. He stated that information is on line. He said the minutes Council is considering at this time go with the documents that were presented at the last Council meeting. All of the documents from the last agenda packet are available for reference.

Councilman Dewar stated his concern was that if someone wants to look at these minutes three years from now they will not have the backup material and will not be told that the backup material for this particular discussion on the Capital Sales Tax Projects list by the Engineering & Utilities Director is in the packet.

Mr. Pearce stated the minutes refer to the meeting and refer to the documents that were discussed. The documents are in the agenda packet that is kept forever.

Councilman Dewar stated Council had talked, largely at his initiation several times in the years since he had been on Council, about improving the quality of our minutes, to even getting to the point of making them verbatim. He said he did not feel that the minutes adequately reflect what was discussed.

Councilman Wells moved, seconded by Councilwoman Price, that the minutes of the August 13, 2012, meeting be approved as submitted. The motion was approved by a vote of 6 to 1, with Councilman Dewar opposing the motion.

#### PRESENTATIONS

##### Juilliard in Aiken

##### Banners

##### Downtown

Mayor Cavanaugh stated a request had been received from Juilliard in Aiken to place banners in the downtown area.

Mr. Pearce stated Dr. Sandra Field, President, Juilliard in Aiken, has again requested temporary installation of their festival banners at seven intersections in the Historic Downtown District. Ms. Dorothy Ridley was present representing Juilliard in Aiken.

This annual event has grown by leaps and bounds over the last several years and has been

involving hundreds of local students in music who probably would not otherwise have the opportunity to mix with musical talent represented by Juilliard.

They are requesting banners to be hung at the following intersections:

- 4 Park and Laurens
- 4 Laurens and Richland Avenue
- 2 Newberry and Richland Avenue
- 2 Park and Newberry
- 2 Chesterfield and Park Avenue
- 2 Chesterfield and Richland Avenue
- 2 South Boundary and Whiskey

For Council approval is the temporary installation of Juilliard in Aiken banners from February 1, to March 17, 2013, at seven intersections in the downtown district. The banners would be up for approximately six weeks.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the request to place the Juilliard in Aiken banners in the seven intersections requested from February 1 to March 17, 2013. The motion was unanimously approved.

#### Pink Ribbonettes

#### Pink Ribbons

#### Downtown

Mayor Cavanaugh stated a request had been received from the Pink Ribbonettes to place pink ribbons in the downtown area.

Mr. Pearce stated Irene Holley, President of the Pink Ribbonettes, is present as well as Dianne Hadley, the Vice President of the Pink Ribbonettes. Also present is Barbara Sanders, from the Cumbee Center to Assist Abused Persons. He pointed out that October is Breast Cancer Awareness Month and also Domestic Violence Awareness Month. He stated last year we actually had two color of ribbons downtown during the month of October. Presently, Teal ribbons are in the downtown area for Ovarian Cancer Awareness Month in September. In talking with the two groups, the proposal would be to do as we did with the teal ribbons. At an intersection there is a place to put four ribbons. That would mean we could have two pink and two purple ribbons at each intersection. Then also alternate the placement of the pink and purple ribbons in the Newberry Festival Center. Ribbons would be placed at the intersections of: Laurens at Park, Laurens at The Alley, Laurens at Richland, Newberry at Richland, Newberry at The Alley, Newberry at Park and Chesterfield at Park (Courthouse Circle) as well as in the Newberry Festival Center.

Mayor Cavanaugh asked if anyone from the Pink Ribbonettes would like to speak.

Ms. Irene Holley, President of the Pink Ribbonettes, stated the Pine Ribbonettes is a group of people who are working to support survivors of breast cancer and their caregivers. The organization was founded about 1995. The latest statistics she has are that there are about 600 women in Aiken County that are diagnosed with breast cancer every year. The Pink Ribbonettes have monthly meetings and are there as a support group for the breast cancer survivors and their caregivers. It is not just for women. They actually have a man active in the group that is a breast cancer survivor. She said they would like to place the pink ribbons in the downtown area again this year to make people aware of breast cancer. She said a big event for the Pink Ribbonettes is the tea on Thursday, October 11, 2012, held at Aiken Technical College. She said the Pink Ribbonettes along with Aiken Technical College, USC-Aiken, and the Aiken Regional Medical Centers are sponsoring the tea, which is free and open to the public. Last year there were over 200 people at the tea.

For Council consideration is approval of the request of the Pink Ribbonettes to place pink ribbons in the downtown area.

Councilwoman Diggs moved, seconded by Mayor Cavanaugh, that Council approve the request of the Pink Ribbonettes to place pink ribbons in the downtown area at the intersections requested as well as the Newberry Festival Center. The motion was unanimously approved.

Cumbee Center to Assist Abused Persons  
Purple Ribbons  
Downtown

Mayor Cavanaugh stated a request had been received from the Cumbee Center to Assist Abused Persons to place purple ribbons in the downtown area.

Mr. Pearce stated Barbara Sanders, of the Cumbee Center to Assist Abused Persons, has requested that they be allowed to place purple ribbons in the downtown area as a reminder that October is Domestic Violence Awareness Month. In addition, she would like to place the silhouette displays at key locations as well.

We will need to coordinate with the Pink Ribbonettes to ensure a tasteful display and so that both groups will have an equal opportunity to communicate their message. Both groups worked very well together last year, and we believe the Public Safety staff can work with them to make sure we have a successful commemoration again this year.

Ms. Barbara Sanders, a Domestic Violence Case Manager and Crisis Counselor at the Cumbee Center for Abused Persons, stated she wanted to talk about how domestic violence impacts the citizens of Aiken. In 2011 the Aiken County Sheriff's office received 1,510 domestic complaints. Of that number 365 were written and verified as domestic violence. This year from January, 2012, to September 3, 2012, the Sheriff's Office received 1,264 domestic violence complaints. Of that number 271 were written and verified as domestic violence, including five that were domestic violence homicides. In 2011 the City of Aiken Public Safety Department received 900 domestic violence complaints. Of those the Victim Services Advocate received 77 as domestic violence cases. From January 1, 2012, to August 31, 2012, the City received 715 domestic violence complaints. Of that number the Victim Services Advocate has received 59 as domestic violence cases, including two domestic homicides. In 2011 the Cumbee Center to Assist Abused Persons provided emergency shelter services to 131 individuals, including 73 women and 58 children. The Cumbee Center provided non-shelter services which included legal advocacy, crises counseling, medical advocacy, and referrals to 1,230 clients last year. The agency also served 141 victims of sexual assault. Approximately 1 in 5 female high school students report being physically and/or sexually abused by a dating partner. Domestic violence is the leading cause of injury to women. About 1 in 3 high school students have been or will be involved in an abusive relationship. Children ages 0 to 3 are most likely to experience abuse. About 1 in 50 U.S. infants are victims of non-fatal child abuse or neglect in a year. 1,500 children die every year from child abuse and neglect. That is about 4 fatalities every day. 79% of children killed are younger than 4 years old. She said the facts are very startling when you look at them in the context of the numbers. She pointed out the numbers she cited are only by two law enforcement agencies in Aiken County. They have not counted the cases involved by the other municipal law enforcement agencies in Aiken County. She said these numbers may seem low, but she wanted Council to consider the number of calls that did not come in to the City or the County. She pointed out there are a number of victims of domestic violence that do not report the violence for many reasons, with the main one being fear. They have no place to go or a place to take their children. She said they are asking Council to help them inform the public and make the citizens aware that October is Domestic Violence Month, and that there is no excuse for domestic violence any time or anywhere. She said last year they requested permission from the city to place some silhouettes in the downtown at Park Avenue. She said they were making that request again this year. Last year they recognized the five women who were killed

during the month of July alone in Aiken County. It was a great medium to get the public involved. She reviewed the various public media used last year to make the citizens aware of domestic violence. She said again this year they are also asking that they be allowed to place purple ribbons in the downtown area along with the pink ribbons.

For Council's consideration is approval of the installation of purple ribbons in the downtown area during the month of October as part of Domestic Violence Awareness observations and the placement of silhouettes.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the placement of purple ribbons in the downtown area during the month of October as part of Domestic Violence Awareness month at the intersections of: Laurens at Park, Laurens at The Alley, Laurens at Richland, Newberry at Richland, Newberry at The Alley, Newberry at Park and Chesterfield at Park (Courthouse Circle) as well as in the Newberry Festival Center along with the pink ribbons. The placement of silhouettes in the park as granted last year is also approved. The motion was unanimously approved.

### RECOGNITION

#### Eagle Scout Badge

Mayor Cavanaugh stated he would like to recognize Phillip Edwards who is present at this meeting. He is working on his Eagle Scout Badge and attending the Council meeting as part of the requirements.

### BOARDS AND COMMISSIONS

#### Appointments

Mayor Cavanaugh asked if Councilmembers had any recommendations for appointments to city boards, commissions, or committees.

Mr. Pearce stated there are 12 appointments for which Council needs to make recommendations.

Councilman Ebner stated he would like to recommend that Judy Sennett be reappointed to the Community Development Committee.

Councilman Dewar stated he would like to recommend the reappointment of Don Barnes to the General Aviation Commission.

Mayor Cavanaugh stated he would recommend that Eugene McKie be reappointed to the Community Development Committee.

Councilman Homoki recommended that Alton Johnson be reappointed to the Community Development Committee and that Stephen Peterson be reappointed to the General Aviation Commission.

Mayor Cavanaugh stated the recommended appointments would be on the next agenda for Council's consideration.

### FRANCHISE – ORDINANCE 09102012

#### Fiber Optic Cable

South Carolina Telecommunications Group Holdings

SCTG Holdings LLC

Spirit Communications.

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to grant a franchise agreement for fiber optic cable within the Aiken city limits to South Carolina Telecommunications Group Holdings, LLC a/k/a Spirit Communications.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING SOUTH CAROLINA TELECOMMUNICATIONS GROUP HOLDINGS, LLC AS A TELECOMMUNICATIONS SERVICES PROVIDER WITHIN THE CITY LIMITS OF AIKEN.

Mr. Pearce stated the City has been contacted by the principals of Spirit Communications. As they have done with several other South Carolina cities, they want to be able to provide alternative fiber optic cable communications infrastructure for business service, including long distance and local phone service, internet access, private line, and metro ethernet to their customers in the City limits. They are requesting that the city sign a franchise and consent agreement. The City Attorney, as well as staff members, has reviewed the proposed franchise agreement. He said the City Attorney can confirm to Council that our understanding in the telecommunications arena is that the franchise agreements and registration are handled at the state level under the state statute. Based on Aiken's population size, we are allowed to charge a set franchise fee.

At the August 13, 2012 session, Senior Counsel for Spirit Communications Business and Legal Affairs, Michael D. Baldwin, provided details on how their company can help local businesses and other customers improve their communications with customers and business partners. Mr. Pearce stated he had spoken with Mr. Baldwin since the last meeting concerning undergrounding the fiber optic cable. He said Mr. Baldwin was very clear in the conversation that the company would prefer to have as much of their fiber optic cable underground as possible, because that lengthens the useful life of the cable. Mr. Pearce stated that there is already conduit on Laurens Street. He pointed out that in Mr. Baldwin's letter of request he stated "Spirit's plans for this project and the construction specifications will adhere to all South Carolina Department of Transportation and City of Aiken policies, procedures, as well as state and local statutory requirements." Mr. Pearce stated Council had been very clear as a policy and in the development regulations that utilities be underground in new development, and in older areas that we underground as much as feasibly possible.

A map was displayed which showed the areas that Spirit Communications anticipates putting fiber optic cable.

City Council unanimously approved this ordinance on first reading at the August 13, 2012 meeting. For City Council consideration on second reading and public hearing is an ordinance to grant a Franchise Agreement for fiber optic cable within the Aiken City limits.

The public hearing was held and no one spoke.

Councilman Dewar asked if the company has to dig up the street to put their cable in, if it would be the responsibility of the company to repair, fill up the hole and pave the street. Mr. Pearce responded that it would be the responsibility of the company to repair the street if they have to dig to put the cable in. He pointed out, however, that there is already conduit on Laurens Street so they would just have to access the conduit and not have to do trenching on the street.

Councilman Dewar moved, seconded by Councilman Wells, that Council pass on second and final reading an ordinance to grant a Franchise Agreement for fiber optic cable to be installed by Spirit Communications in the City of Aiken. The motion was unanimously approved.

ANNEXATION – ORDINANCE 09102012A

603 Douglas Drive  
Andrew H. Jernigan  
TPN 122-06-05-014

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex 603 Douglas Drive and zone it Residential Single-Family (RS-10).

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY OWNED BY ANDREW H. JERNIGAN AND LOCATED AT 603 DOUGLAS DRIVE AND TO ZONE IT RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. Pearce stated Andrew H. Jernigan owns 603 Douglas Drive [TPN 122-06-05-014]. This property is contiguous to the City limits. He has petitioned to annex his property into the City limits of Aiken and for it to be zoned RS-10.

The Planning Commission met July 10, 2012, and reviewed this annexation petition. They unanimously voted to recommend approval of this petition to annex this property into the Aiken City limits.

City Council approved this ordinance on first reading at the August 13, 2012, meeting. For Council consideration is second reading and public hearing of an ordinance to annex 603 Douglas Drive into the Aiken City limits and to zone it RS-10.

The public hearing was held and no one spoke.

Councilman Wells moved, seconded by Councilwoman Diggs, that Council approve on second and final reading an ordinance to annex 603 Douglas Drive and zone it Residential RS-10. The motion was unanimously approved.

FIREARMS – ORDINANCE 09102012B

Discharging Firearms  
City Code  
Indoor Firing Range

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the City Code Section 22-4 regarding discharging firearms or other weapons in the city limits.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE REVISING CHAPTER 22 OF THE AIKEN CITY CODE TO AMEND SECTION 22-4 REGARDING DISCHARGING FIREARMS OR OTHER WEAPONS WITHIN THE AIKEN CITY LIMITS.

Mr. Pearce stated as discussed at the Council meeting in August he had been contacted by an investor who desires to develop an empty building into an indoor firing range. Council will recall that the Aiken Department of Public Safety maintains an indoor practice range on DuPont Drive at its Training Facility. With the way the City Code is written, an indoor firing range could not occur because it would have been a criminal act to fire a firearm within the city limits.

In order to ensure that our officers and users of our ADPS firing range are legally conducting weapons training at our ADPS facility, and so that commercial ventures for indoor firing ranges could be undertaken in appropriate circumstances in compliance with other applicable laws, an ordinance modifying our City Code for this activity was

prepared. Since our first reading of this Ordinance, we have added language to clarify permitted uses at our ADPS indoor range. The proposed language now reads “Nothing in this Code shall prevent the discharge of firearms on the Aiken Department of Public Safety firing range in accordance with their procedures or on an approved indoor firing range constructed, operated, and maintained within all applicable local, state, and federal rules, regulations, and laws.” The reason for the additional language is that he and Chief Barranco looked at the proposed ordinance after first reading, and they realized that sometimes there are visiting agencies that come in and use the firing range. In the past there was a sporting enthusiast club that leased the range to use it to train their members in safe firing of firearms. We wanted to make sure that the uses for the Public Safety firing range would not be in question and that as long as it was being used within the Department procedures it would be appropriate.

City Council approved this ordinance on first reading at the August 13, 2012 meeting. For Council consideration is second reading and public hearing of an ordinance to amend City Code 22-4 to allow discharging firearms in appropriately permitted indoor firing ranges operating in compliance with all applicable local, state, and federal rules, regulations, and laws.

The public hearing was held.

Councilwoman Price pointed out this is not the way it was worded at the first reading. She said something had been added to the second reading of the ordinance. She pointed out the comment of “I have been contacted by an investor...” She said we did not talk about an investor at the first reading. She said the reason she approved the proposed ordinance at first reading was because we said the city was in noncompliance based on the firing range the Public Safety Department is using and that it was not legally in compliance. So she approved the ordinance on first reading. She pointed out it now says “I have been contacted by an investor...” She said it is implied that we are agreeing with an investor who desires to develop an empty building as an indoor firing range in conjunction with making the City legally in compliance with the City’s indoor firing range. She said she would like to know who the investor is and secondly the location of the empty building before she votes on the ordinance.

Councilwoman Diggs pointed out that at the last meeting they were in agreement as to having the residents in the area of the proposed facility to come and express their feelings as to whether they would be comfortable with a firing range in the area.

Mr. Pearce pointed out that in his memo for first reading he had stated “Recently I have been contacted by a landowner who desires to develop an empty building into an indoor firing range.” He stated Wade Brodie is present and can speak on the matter because it is a building that is owned by the Aiken Corporation. The landowner’s inquiry and the inquiry from the private investor are not what guided the proposed ordinance. What guided this is that we took a look at the City Code to see if it could be done and realized that the exceptions we had did not appear to cover the operations of the Public Safety firing range. He said we need to keep in mind also that we discussed in August that changing the City Code does not automatically allow that activity to take place at that range. The Board of Zoning Appeals is meeting on September 25, 2012, and for that location the way it is zoned, there will have to be an application and public hearing at the Board of Zoning Appeals for a firing range to be at that specific location. None of it can happen if we don’t modify the City Code to allow a firearm to be shot inside the city limits in a regulated, compliant facility for firing weapons indoors, which would be an indoor shooting range. He apologized if there was some confusion.

Councilwoman Price stated she must not be making herself clear. She pointed out that the last two paragraphs of the City Manager’s memo, in her opinion, apply to what was discussed at the first reading. The first two paragraphs are new items with an investor who desires to use an empty building. She felt that should be a separate ordinance for consideration. If a community has an investor that is interested in putting a fire range in their community, they need to be informed first. She felt Council would be approving two items in her opinion under one second reading of an ordinance.

Mr. Pearce stated he would review it one more time. He said it was the inquiry about a firing range that made them go to the City Code, and that is when they saw that it would be impossible for anybody to have a private indoor range to fire weapons. There are two steps to the matter. The first step is that the City Code allow an indoor firing range that is compliant with all applicable regulations to allow weapons to be fired. To have a firing range on a specific piece of property is not something that comes before City Council because of the Zoning Ordinance and state law. That is a special exception approval, and there will be a specific application for a firing range before the Board of Zoning Appeals at their meeting on September 25, 2012. That request is posted, and the people in the area will receive notice that the application is pending. A notice will be placed on the property regarding the meeting on September 25, 2012. If Council passes the City Code modification at this meeting, that does not allow an indoor shooting range at the facility. It just means that an indoor shooting range, once it complies with all federal, state and city ordinances can then operate. Under the Zoning Ordinance they must come before the Board of Zoning Appeals for a Special Exception approval for an indoor firing range. That means you can have that use of that facility on that property. That is the public hearing being referred to. It is something separate from what Council is considering at this meeting.

Mayor Cavanaugh stated he felt this was a protection for the citizens so that a shooting range cannot go anywhere until they have the hearing before the BZA, and the citizens can voice their opinion. This applies to anywhere in the city. He said previously it seemed that we were talking about one particular place. Staff looked into the matter and saw that a firing range could go in a lot of zones without having a public hearing and citizen input.

Mr. Pearce stated that is why there is another ordinance on the agenda under New Business which will protect all of the citizens. A shooting range cannot go anywhere until there is a request to the Board of Zoning Appeals and a public hearing held on the request. The citizens will have knowledge of the request and have an opportunity to voice their opinion on the request.

Councilwoman Price stated her question again is what significance and relevance does the first two paragraphs in the City Manager's memo have in ensuring that the Public Safety Officers are legally conducting weapons training. How does an empty building and developing a new facility apply to these last two paragraphs?

Mr. Pearce stated the reason we brought the Code modification to City Council is because of the inquiry from the private sector whether they could open an indoor firing range. Staff said "no" an indoor firing range could not be opened, because one cannot shoot a gun in the city limits. There is no exception for a firing range. Then we realized we had the Public Safety facility on DuPont Drive. In looking at the wording regarding peace officers and the actual discharge of their duties, that did not fit because that sounds like an officer on patrol. However, we have to train our officers, and they take a shooting proficiency test every year, visiting agencies come in, and others have asked for access to the shooting range. Under the existing Code staff did not feel that we had the proper protection for Public Safety and others who use the range.

Councilwoman Price stated the question is if an indoor shooting range goes into the empty spec building on the Northeast side of town, will the citizens have a chance to come before City Council.

Mr. Pearce responded the citizens would not come before City Council because City Council does not have the jurisdiction to hear the request. It goes before the Board of Zoning Appeals in a public hearing on September 25, 2012.

Councilwoman Price stated she wanted that to be clear. She said she is aware that the City has an indoor shooting range in a neighborhood off DuPont Drive that has been there for a long period of time. She said some may feel that the people off Williamsburg Street, Marlboro and Orangeburg Street should not be that concerned if the spec building

is used for a firing range. She said that concerns her greatly. She said she wants the City's firing range to be legal, but she wanted to go on record that the matter concerns her greatly.

Mr. Pearce stated he appreciates the concern, but they were trying to make sure this is done in accordance with the law that is applicable. The state legislature has said that items that come under the Zoning Ordinance are exclusively with the Board of Zoning Appeals.

Councilwoman Price stated she understands that, but it is quite interesting to people that the two circumstances coincide. There is a building that is available and now we are not legal operating our weapons training facility and suddenly we have a developer who has applied for an indoor firing range in an empty building. She said this does not pass the smell test, but she would move on.

Mr. Pearce stated the point is that kind of question had not come. When we took a look at it, we knew we could not have any private investment with the way the City Code was drafted. Then we saw that it would be questionable about the City's shooting range even though it had been there for years.

Councilwoman Price stated the spec building that belongs to the Aiken Corporation has been empty for a long time. She said she wants it sold and off the books too, but to get it off the books and not consider the people living in the neighborhood concerns her.

Councilwoman Diggs asked how people in the neighborhood will be notified of the public hearing before the BZA.

Mr. Pearce responded that signs will be placed on the property, and the hearing will be advertised in the paper under the legal ads. The public notice will be on the website and on the calendar of meetings.

Councilman Honoki asked if there was a zoning code for a firearms business.

Mr. Pearce responded that is covered in the item regarding amending the Zoning Ordinance under New Business. He said there are several designations, including Light Industrial and Light Manufacturing. The way the Code is set up, it requires Special Exception approval. There were some commercial areas where it would have been allowed by right. We want to make sure all the commercial areas are the same where the Special Exception will be required.

Councilwoman Price stated she had more passion with this issue given the number of gun violence that has taken place in the community. She pointed out the empty building location is in a highly populated African-American community and that gives her some great concern.

Councilman Dewar asked for a point of clarification. He asked if approval of the ordinance on second reading would (1) make the Public Safety firing range legal and (2) under certain circumstances, which will be discussed under new business, allow an indoor firing range to be built within the city limits. He pointed out consideration of an ordinance amending the Zoning Ordinance would be more specific in terms of where firing ranges could be located and the process.

Mr. Pearce stated Councilman Dewar's statements were correct. The proposed ordinance under New Business would show the commercial areas where someone could have an indoor firing range, but it would take Special Exception approval, which is a public hearing and a vote by the Board of Zoning Appeals.

Councilman Dewar pointed out then once Council passes the ordinances Council will be through with the matter. If someone wants to build a firing range, it will not come before Council, but will go before the Board of Zoning Appeals by state law.

Mr. Robert Conway stated he was confused about the matter. He said if the matter has to go before the board, why is it being discussed now.

Mr. Pearce responded it is because you can't have an illegal activity use on a particular piece of property. The City Code, as it is currently drafted, does not allow an indoor firing range anywhere in the city. He pointed out that several cities have indoor firing ranges, but we did not realize there is no exception for firing ranges in Aiken. We looked at the Public Safety range, and that is questionable. Part of the local requirement would be if someone wants to have a shooting range at a particular location that has the right commercial zoning designation for it, then one must come before the Board of Zoning Appeals and have a public, advertised hearing so anyone interested can come and hear the presentation. The request must take adequate measures to insure the safe use of the facility and to comply with the noise ordinance. Under the Special Exception approval there are a list of criteria in the application that is required by state law, and they must meet every one of the criteria before a Special Exception use can be allowed. That allows a full presentation and discussion about the proposed use of the property. It is specific to that business.

Mr. Conway responded that he understood that, but since this information was known prior to being presented to the Board why was it bundled with the existing firearms use on DuPont Drive. He asked why it was put together. It was presented as one situation while there are two situations.

Mr. Pearce stated at the August 13, 2012, meeting he talked about a landowner asking about a firing range use. At that time there was no contract. He said he understands now that there is a contract so that is the reason he mentioned the investor. He pointed out that we get questions from the public, and we take a look at it, and previously no one has really looked at it but in researching the matter you find out there is a potential problem. He said we wanted to make sure that the City Code was set up so that the City's operation would be legal without question. Since there was some interest in investment in the use of some property, so long as all the regulations are complied with and there was an opportunity for a public hearing before a board that the state law has set as the authority to hear it, we were trying to take care of business as far as what the City's business was and as far as what the private sector may want to set up as a business.

Mr. Conway asked if the proposed firing range facility would be private or public.

Mr. Pearce stated he did not know, but Mr. Brodie was present and may be able to address that question. He said he would assume that there is some sort of membership, but he did not really know.

Mr. Conway stated the problem he has is that the information was not presented in the manner in which it should have been presented. First it was bundled in a situation which led him to believe that the reason for changing the City Code was to bring the City in compliance with the Code. However, it appears to him that was not the only consideration, but there was consideration for a firing range. Thirdly, we need more information concerning the whole picture which has not been presented in a comprehensive manner.

Mr. Pearce pointed out that the August 13 minutes show that he talked about the fact that a landowner had asked about that kind of operation, and he also talked about the Public Safety firing range. He said this is not the first time he had talked about the two issues, but they had been talked about in August.

Mr. Conway stated he understood that the matter had been discussed in August and approved on first reading. This is the second reading of the ordinance, but he felt they still do not have the complete information.

Councilman Dewar stated he understood where Mr. Conway is coming from, and he wondered if the City Attorney could opine as to whether or not there is a significant

change between the first reading and second reading which he felt Mr. Conway was suggesting. He said he was talking about the additional language which was a concern of Councilwoman Price.

Mr. Gary Smith, City Attorney, stated Council has the ability to consider amended language from first reading to second reading on an ordinance. He said what he was hearing as being the concern is the language in the City Manager's memorandum. The language in the memorandum has no bearing on the ordinance itself. It may have created a concern situation for the citizens, but it is not part of the official language of the ordinance before Council.

Mr. Pearce stated we talked about a landowner wanting to know whether that kind of business could be on some land. He said his memo stated that there is an investor who is interested in purchasing the land. That would be something that would come before the Board of Zoning Appeals on September 25, 2012, and that is where the complete information should be in a public hearing.

Councilman Homoki asked what category a firing range is under. He wondered if it was Light Industrial or commercial. He wondered about the difference. He said a company could come in and make fence posts at this facility as Light Industrial. He wondered if they would have to go before the Board of Zoning Appeals if the property is already zoned Light Industrial. He pointed out if we don't designate whatever a shooting range is there is no reason for them to go to the Board of Zoning Appeals, because if they fit in the category they can have the business there by right.

Mr. Pearce stated Councilman Homoki was correct in his statements. He pointed out a firing range was not listed in a category and that is why we have the proposed amendment to the Zoning Ordinance to specifically list Indoor Firing Range and have the indication that it would take Special Exception approval. Mr. Pearce stated the ordinance including firing ranges in the Zoning Ordinance is on the agenda for first reading under New Business at this meeting. He pointed out first we have to have the City Code that allows a firearm to be shot within the city limits at an indoor firing range. Then the next step is to have the Planning Commission at their September 11, 2012, meeting look at the proposed amendment to the Zoning Ordinance, which would list Indoor Firing Range in the Office zone, General Business, Planned Commercial, Downtown Business, Light Industrial and Light Manufacturing zone, with the applicant going before the Board of Zoning Appeals for approval of an Indoor Firing Range. The Planning Commission meets on Tuesday, September 11, 2012, regarding the proposed ordinance. They will have a recommendation for the Council meeting on September 24, 2012, regarding amending the Zoning Ordinance. That is to make sure that all commercial operations considering an indoor firing range have to go through the same process to keep it fair. Then, at the Council meeting on September 24, 2012, there will be second reading and public hearing on the Zoning Ordinance modification. The way it is lined up now is that at the meeting on September 25, 2012, the City Code would be addressed at the Board of Zoning Appeals meeting. The Zoning Ordinance would be addressed at the Planning Commission meeting of September 11, 2012. Depending on how the hearing goes before the Board of Zoning Appeals, the law would be in place for a proper review of the request.

Councilwoman Diggs asked if Council does not approve the proposed ordinance, what effect would it have on what the City is doing now as far as conducting weapons training at the City's firing range on Dupont Drive. She asked if the City is presently illegally conducting the training and if Council does not approve the ordinance what happens.

Mr. Pearce stated the operation would be questionable as to whether the City could continue now that the issue has been discussed at length. He said that was the revelation they found when they looked at the City Code. He said we are trying in the City Code to have the opportunity, not only to use the Public Safety range, but if there is someone who wants to have an indoor shooting range business in the city limits to provide an avenue for them if they are in compliance with all state laws and the zoning ordinance to have

that considered. It is not automatic. It has to go through an approval process just like we do with shopping centers, etc.

Councilwoman Price pointed out that at the last Council meeting they discussed that this would be a for-profit business. It would be people coming in to train or to learn how to fire firearms. She asked how long the City had been out of compliance with the City's indoor firing range.

Mr. Pearce stated he did not know how long the firing range had been on Dupont Drive, but it had been a number of years.

Councilwoman Price said as she stated at the last meeting, it is her wish that the City become compliant. She just has objections to discussing an investor and an empty building and then the fact that we already have a contract that could possibly be approved for an indoor firing range. She said she has some real issues with that.

Mr. Pearce stated that would be discussed at the Board of Zoning Appeals public meeting on September 25, 2012.

Councilman Dewar stated he wished there was a way this could be done so Council could stay involved, but apparently there isn't. Mr. Pearce responded that the Zoning Ordinance takes over on this matter. Council has control through the City Code.

Councilman Dewar moved, seconded by Councilman Wells, that Council pass on second and final reading an ordinance to amend the City Code Section 22-4 regarding discharging firearms or other weapons in the city. The motion was approved by a vote of 6 to 1. Councilwoman Price was opposed to the motion.

Councilwoman Price said she had stated her objections. She pointed out the City had been in non-compliance for a long time.

Councilman Homoki stated he did not think the peace officers were not in compliance. He felt that the actual discharge of their duties is to stay and maintain their efficiency with weapons. He felt the shooting at the Public Safety range was fully acceptable and was not a violation of any kind of City ordinance.

Councilwoman Price stated then the question is why are we doing it.

Mr. Pearce stated there was a question, and we took the opportunity to clarify it.

#### HABITAT FOR HUMANITY – ORDINANCE 09102012C

Hampton Avenue

McCormick Street

TPN 104-16-21-001

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to convey land at Hampton Avenue and McCormick Street to Habitat for Humanity.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO SELL CERTAIN PROPERTY TO HABITAT FOR HUMANITY.

Mr. Pearce stated Richard Church, as Executive Director of the local chapter of Habitat for Humanity, has requested that Council approve the deeding of land owned by the City of Aiken at Hampton Avenue and McCormick Street to Habitat. They propose to construct homes in this area as a mini-development. Their entire land acquisition budget is \$10,000. They are offering payment in this amount for this property. Council will recall that we purchased this property as part of our Northside Revitalization Plan. Mr. Pearce stated he had had a question regarding the zoning of this property. He stated the

property is zoned RMH, which is Residential Multifamily. That zone does permit single family residents by right on the property, so long as they comply with the development plans set forth in the Zoning Ordinance.

This parcel originally had several dilapidated structures on it at the time the City purchased it. They have been removed, and this property has not yet been redeveloped. The City of Aiken and Habitat for Humanity have enjoyed a good working relationship for many, many years. We have helped them with home construction projects, donating 16 parcels of land thus far. This conveyance will enable further redevelopment of our Northside.

Mr. Pearce stated he had asked Larry Morris to look at the original purchase price and compare that to what the land value is, based on the County's assessment of the property. The property is assessed in the range of \$30,000. Habitat has offered \$10,000 for the property, which is their entire land acquisition budget. In the past Council has donated up to three lots per year to Habitat at no cost for them to construct homes. By developing the property Habitat will make it income producing, as it will be single family residences.

Council approved this ordinance on first reading at the August 13, 2012, meeting. For Council consideration on second reading and public hearing is an ordinance to convey land owned by the City of Aiken at the corner of Hampton Avenue and McCormick Street to Habitat for Humanity for \$10,000.

The public hearing was held and no one spoke.

Councilman Ebner asked if Habitat would just be going through the normal procedures with the city and not have to go to the Board of Zoning Appeals. Mr. Pearce stated the process would depend on what Habitat wants to build on the property. The Zoning Ordinance sets forth a certain minimum lot size, setbacks, frontage, etc. If the plans meet the conditions set forth in the Zoning Ordinance, they can be approved administratively and not have to go before a board. However, if they need a variance from the regulations, they would have to go before a board. Residential use is permitted on the property.

Councilman Ebner stated he had Mr. Church get the closing attorney and the construction contractor to check out the property. It appears Habitat can put five houses on the lot, and if they meet all the guidelines they would go through the normal procedure for permits, etc.

Mr. Pearce stated Habitat would have a subdivision plat which could be approved by the Planning Department if it meets all the regulations. Once that is approved and recorded, Habitat could apply for building permits.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve on second reading and public hearing an ordinance to convey land owned by the City of Aiken at the corner of Hampton Avenue and McCormick Street to Habitat for Humanity. The motion was unanimously approved.

RESOLUTION 09102012D

612 Kershaw Street NE

William A. Jackson

Donation

TPN 120-18-14-006

Mayor Cavanaugh stated a resolution had been prepared for consideration to accept a deed for property at 612 Kershaw Street NE.

Mr. Pearce read the title of the resolution

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPERTY LOCATED AT 612 KERSHAW STREET.

Mr. Pearce stated the property at 612 Kershaw Street NE came to our attention through our Property Maintenance Code Official Phil Noah. This property was falling into disrepair and becoming a nuisance property and unsafe. As part of our continuing efforts to raze property that does not meet property maintenance code requirements, we have had the opportunity to work with William A. Jackson. His inheritance of this property has proven to be a burden to Mr. Jackson, as he has no financial means to maintain the property. Mr. Jackson is interested in donating this property to the City so that it can be cleaned up. Our City Attorney has worked with staff and other attorneys in his office to effect a transfer of the property. By the time we inspect the property and perform a demolition, the value of the property will cover those costs. The cost of clean up will virtually equal the value it will have once the existing, hazardous structure on the lot is removed. As part of this conveyance, a Probate Court proceeding will need to be done. These expenses, coupled with the clean up expense, will equal any property value.

For Council consideration is approval of a Resolution to accept a deed to 612 Kershaw Street NE so we can proceed with its cleanup.

Councilwoman Price asked the value of the property. Mr. Pearce responded the value was minimal, and the price was under \$10,000. He said by the time we demolish the building, haul everything off, and abate the asbestos it will be about even.

Councilwoman Price asked if the person would get a tax letter for the property. It was stated we would issue a tax letter if they want one. Councilman Ebner stated Mr. Jackson would have to apply to both the City and the County for a tax letter for the property. Mr. Smith stated he thought perhaps Mr. Jackson does not have a tax liability.

Councilman Homoki asked what the City would do with the property. Mr. Pearce responded that the property could potentially be part of the Northside Revitalization Program, or possibly Habitat would be interested in the lot.

Councilman Ebner stated there are three lots in the area, and another structure is close to the condition of the property at 612 Kershaw Street NE. The structure has been boarded up for at least seven years.

Councilman Wells moved, seconded by Councilwoman Diggs that Council authorize the acceptance of property located at 612 Kershaw Street NE from Mr. Willaim A. Jackson and proceed with the Probate Court proceeding and the clean up of the property. The motion was unanimously approved.

#### RESOLUTION 09102012E

Deed of Dedication  
Sidewood Development  
Reserve at Hollow Creek  
Woodside Plantation  
Water Lines  
Storm Sewer Lines  
Sanitary Sewer Lines  
Easements  
Pine Glen

Mayor Cavanaugh stated a resolution had been prepared for acceptance of a deed of dedication from Sidewood Development LLC and Reserve at Hollow Creek LLC.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF A DEED OF DEDICATION FROM SIDEWOOD DEVELOPMENT, LLC AND RESERVE AT HOLLOW CREEK, LLC.

Mr. Pearce stated the principals of Sidewood Development, LLC and Reserve at Hollow Creek, LLC have requested acceptance of the water lines, storm sewer lines, sanitary sewer lines, and related apparatus, and easements for Woodside Plantation Phase 4, Section 7, known as Pine Glen.

Engineering and Utilities Department Director Larry Morris, as well as our City Attorney, has reviewed this proposed deed. In addition, Larry has informed us that his staff has inspected these systems and found no deficiencies. As part of this deed, signatures from Sidewood Development LLC, and Hollow Creek LLC have been obtained so that all stakeholders with an interest in this development are aware of, and approve, this deed of dedication for these utilities, apparatus, and easements. The deed includes sanitary sewer lines, water lines, and storm sewer lines for Pinyon Pine Loop. For each of those there are non-exclusive perpetual easements, other equipment and other items included in the conveyance. Mr. Pearce pointed out that the water lines in this section are the PEX-A water lines which are the new regulation stipulation as to the water line that needs to be installed.

For City Council consideration is approval of a Resolution for acceptance of a Deed of Dedication for stormwater, sanitary sewer, and water utility lines, along with all related apparatus for Woodside Plantation, Phase 4, Section 7, also known as Pine Glen.

Councilman Ebner stated he has some questions for Mr. Morris. He pointed out this request is unique. We have the proper legal work, which is the first time in his seven years in dealing with Woodside on the transfer of documents. He said he appreciates the right legal work being included. He said he had requested the Engineer of Record documentation for the roads, and he had read the documentation. He asked if the documentation was in the files. Mr. Morris responded that he had reviewed the documentation today. It is all in the file, in addition to having camera work on all the sewer and the pressure testing on the water.

Councilman Ebner stated he had noticed on the road that it appears to be very close to the specifications for sewer manhole levelness, etc. He said he appreciates that we are beginning to do that across the city. He asked Mr. Morris if he felt the roads were in good shape. Mr. Morris responded that from what he had seen in the reports, which were done by Graves, all the compaction reports were included and all passed. He felt we should be in good shape with the road.

Mr. Ebner stated it had been noted that he had to dig out a lot and replace a lot of soil. He said there had been a lot of discussion on the stormwater lines. He wondered if those tied into lines that are under city jurisdiction all the way to the outside and into Horse Creek. He wondered how the stormwater is handled once it leaves the street.

Mr. Morris stated he was not personally familiar with all the offsite stormwater. He said they had been working with Woodside for the past year and a half and inspecting all of their stormwater lines. He said they are satisfied with what they are doing there. These stormwater lines were certified by the Engineer of Record, so there is no problem recommending them.

Councilman Ebner stated the other thing of interest is that there were some easements along the power line right of way. He pointed out there is one for City property on both sides of the power line. He asked if that was the horse trail that the City was taking over from the developer that the City is to build and maintain, or if that was a different easement.

Mr. Morris stated he was not sure. He did know that the City has the horse trail property that was granted to the City several years ago. He said he had worked with Mr. Karten and met with him on site. He said staff will be looking at budgeting for engineering and construction money next year for a horse trail in that area.

Councilman Ebner stated he was interested as to why the City would want to take over the developer's job of constructing the horse trails. He said evidently a prior City

Council felt that was the thing to do. He said he wanted to be sure we don't have one on top of the other and that we are doing everything right.

Mr. Morris stated there has to be some survey work done out there. He felt it would be premature for him to speak about a horse trail without getting survey work. He said the City has the property that comes from the Village and goes by the driving range which is the horse trail property that was donated to the City several years ago. The idea from the developer was to tie in all the way to Anderson Pond Road. Without a survey to know that all that property has been donated, he said he could not speak that the City could build the trail yet.

Councilman Ebner stated he felt it would be good to do the survey, as this area is beginning to be developed, and there is some external property that adjoins the power right of way. He felt the survey should be done and brought up to date as they develop the area on both sides, including the Woodside property and the private owners outside the city.

Mr. Pearce stated staff could budget for the survey. He asked if Councilman Ebner was looking for a comprehensive plan connecting the dots between the different sections.

Councilman Ebner stated we need to connect the dots and be sure the dots are the geodetic dots. He felt this should be done as soon as possible, as he thought they will be doing the next development soon. Also, he felt one of the landowners was looking to sell towards Silver Bluff. He said we need to be sure all that land is in the right corner. He asked if this could be done this budget year, and then budget for the horse trails in next year's budget.

Mr. Morris pointed out the survey work would be in excess of \$20,000. He said he did not have that amount budgeted in the present budget. He said to do the survey this year he would have to ask the City Manager about a special appropriation.

Mr. Pearce pointed out the item before Council is to accept the water, sewer and stormwater utilities.

Councilman Ebner stated he realized that, but this was the first time the legal work has really all been together, and they had a closing attorney do it rather than an attorney-in-fact, which has been a problem. He said he would make a note to be sure we get funds for the survey work in next year's budget.

Councilman Dewar asked Mr. Morris if he had the letter from the Engineer of Record for the roads, and all the utilities, including water and sewer.

Mr. Morris responded that he did have the files and had personally reviewed the files today and also checked the DVD with the camera work on the sewers. He stated Sidewood Development worked very well with them. Because of the age of the approval of this particular section of Woodside, they could have used the older style piping that the City has had so much trouble with, but at the City's request they proceeded without cost to the City and put the new PEX-A pipe in. He pointed out this pipe is approximately three times the cost of the regular pipe.

Councilwoman Diggs moved, seconded by Councilman Homoki, that Council approve the resolution to accept the deed of dedication for stormwater, sanitary sewer, and water utility lines in Pine Glen in Woodside Plantation, Phase 4, Section 7. The motion was unanimously approved.

ZONING ORDINANCE – ORDINANCEAmendmentIndoor Shooting RangesSpecial ExceptionCommercial Districts

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Zoning Ordinance regarding indoor shooting ranges to require special exception approval in the commercial districts.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING INDOOR SHOOTING RANGES.

Mr. Pearce pointed out the important exhibit for this item is the Use Table which shows the Indoor Firing Range category and making sure in all the commercial districts, including Light Manufacturing, Light Industrial, Downtown Business, Planned Commercial, General Business, and Office, that a proposed firing range would have to go before the Board of Zoning Appeals and the Board would have to be shown that all the criteria had been met before giving Special Exception approval. It would have to be at a public hearing, with the citizens involved and having the right to attend.

Mr. Pearce stated as part of our review of our City Code and its provisions governing discharging firearms and other weapons within the City limits, we have one more issue to address. He pointed out the existing ordinance does not specifically list Indoor Firing Ranges in the Use Table so the use fell under Other Retail Sales or Services. In some of the districts an indoor firing range would have been permitted by right, and there would not have been the requirement for a public hearing before the Board of Zoning Appeals. With revisions to the City Code, the Zoning Ordinance will also have to be updated. In particular, while it currently permits shooting ranges via our Special Exception approval process by application to the Board of Zoning Appeals, other zoning districts would allow these shooting ranges by right and without any approvals or review. Planning Director Ed Evans has provided additional information in his memo regarding the matter.

City staff strongly believes these proposed operations benefit from a review process to ensure the safety of surrounding property owners as well as compliance with our City Noise Ordinance. A proposed ordinance was prepared for Council's review. Mr. Pearce asked that Council review the proposed ordinance on first reading and refer it to the Planning Commission for their review and comment. They have this item on their September 11, 2012, agenda in anticipation of Council referring the item to the Planning Commission. This will be a public hearing. He said staff strongly believes in having the Special Exception approval. It would mean that anyone who wants to have an indoor firing range in any of the commercial zones is being treated exactly the same, which is to get a Special Exception approval to make sure the proposed business would comply with the City Noise Ordinance and safety concerns and other applicable regulations. After review by the Planning Commission, we will bring this item back to Council with their recommendations on second reading.

For Council consideration on first reading is an ordinance to amend the Zoning Ordinance regarding indoor shooting ranges, and referral of this matter for review and a recommendation by the Planning Commission in time for Council review on Second Reading on September 24, 2012, in the event this measure passes on first reading.

Councilwoman Price stated according to Mr. Pearce the matter would be referred to the Planning Commission at their meeting on Tuesday, September 11, 2012. She wondered if there was sufficient time for those who want to attend to be notified that the meeting is tomorrow night.

Mr. Pearce stated the agenda item had been advertised as being on the Planning Commission agenda for September 11, 2012.

Councilman Wells pointed out this would be first reading for City Council and there would be a second reading and public hearing meeting before City Council that the citizens could attend. Councilman Wells pointed out his concerns regarding the matter. He pointed out that prior to trying to make these changes a shooting range would have fallen into the Other Retail Sales and Services category, which would be permitted by right. He stated if someone wanted to open a firing range, and they are allowed in the Other Retail Sales category because Indoor Firing Ranges are not listed in the Use Table, he wondered if the City would have had to let them open it, or say that the City has an ordinance that says an Indoor Firing Range is not allowed in the City of Aiken.

City Attorney, Gary Smith, stated potentially that would create a question mark. A shooting range is a legally allowed use provided all the requirements the state law imposes on shooting ranges, noise ordinance, etc. are met. If there is not a legally allowed use listed in the Use Table, the Planning Director is put in the position of receiving a request for a legally allowed use. If the specific use is not listed in the Use Table, the Planning Director has to go to the "catch all" category. The "catch all" category allows uses in many categories by right. If the city denies a legally allowed use because it is not specifically listed, and you don't want to put it into the "catch all" category, then you are inviting a law suit from the developer that the City probably will not win because you would be denying a legally allowed use.

Mr. Pearce pointed out when there was the interest, review, and comments in August at first reading on the proposed ordinance, it was realized that we need to look at the Zoning Ordinance and treat everyone the same. With the public having concern about this particular business in their area, having the Special Exception designation has the public hearing specifically for an application on that use at that location. That involves the public in the discussion and gives them the right to attend the hearing and share their concerns and comments with the Board of Zoning Appeals.

Councilwoman Price asked what is the difference with a shooting range and the term legally "allowed use" and tattoo parlors, which are not allowed in the city.

Mr. Smith stated when that was being considered there was a provision in state law that gave an out. In order for a tattoo parlor to go to DHEC and get a permit to legally operate they had to bring an ordinance from the City that said a tattoo parlor was legally allowed. He pointed out that the City along with the County interpreted that to mean that if Council did not pass an ordinance, they could not take the ordinance to DHEC to get a permit. DHEC was interpreting that statute to allow the city to do that. That is why the city did not pass an ordinance to allow a tattoo parlor.

Councilman Ebner pointed out that in this particular case the applicant has an option on the property and it is zoned LI. In this case the applicant would have had to go to the BZA because of the zoning of the property. However, if you look at the Other Retail Sales category, the applicant could have picked a "P" area, which would have been a problem as an Indoor Firing Range would have been allowed by right. He pointed out in the case which is pending the applicant had to go to BZA because of the zoning of the property. He said he wanted to be sure the individual applying for an indoor firing range was not being penalized, as he had to go to the BZA whether Council adopts the proposed ordinance or not, because the proposed indoor firing range would be in an LI zone. However, he could have gone to other zones in the city by right.

Mr. Pearce stated that matter is what staff looked at very seriously after the August meeting and realized with the public interest on these kinds of applications, to make it fair for the business activity in the City of Aiken, that it receive the same scope of review.

Councilwoman Price stated she understood that, but she would think the Department of Justice would have an interest in the concerns that there was a landfill in the community. We are cleaning up the landfill area where all the trash from the city was placed for many, many years, and now the community is faced with a firing range, knowing the level of violence in the African-American community. She said that was her concern.

She said she realized the matter is who wants to buy the property and the property needs to be sold.

Councilman Dewar stated he realizes there is a lot of emotion when we start talking about building a firing range. He said, however, he felt we need to recognize the fact that while there is a violent crime increase in our country, there is a response to it. The response has been for many citizens buying weapons, learning properly how to use them, and even going so far as to get a concealed weapons permit to carry the weapons. He said a firing range built properly by law would be a very safe facility. He said he had been to the firing range in Augusta, and he could not hear any weapon sounds in the parking lot. He said he understands there is an emotion attached to it and that nobody wants to live next door to a firing range. He said that would have to be sorted out and would be sorted out by the Board of Zoning Appeals. He said there are a lot of people in the City of Aiken that have weapons that should not have to go to Augusta to an indoor range or an outdoor range to use their weapons. He said he would support the motion to approve the ordinance on first reading. He said he realizes there will be a lot of deliberation at the Planning Commission meeting and the BZA meeting. He said this particular plan at the proposed site might not work out, but he felt the city needed to enable the building of an indoor firing range within the City of Aiken.

Councilwoman Price stated she agreed with those comments, but her point is that when Council was discussing the Fresh Market coming to Aiken and the developer wanted to put a gas station in front of the Fresh Market, Council was concerned about the community and property values. She said she was concerned about the property value in this area of the community as well.

Councilman Homoki stated he felt the memo from the Planning Director should be incorporated into the verbiage of the ordinance because eventually the intent would be lost. He felt the ordinance should state exactly what is by right and what is by exception and whether it is a concept plan submission. He wondered how the chart shows by Special Exception.

Mr. Pearce stated the chart does state what is allowed by Special Exception. He said the proposed ordinance would create a specific line item for indoor firing ranges, so that it has to go for a public hearing before the location can be approved for an indoor firing range.

Councilman Wells pointed out if Council does not approve the ordinance, an indoor firing range would fall under the Other Retail Sales or Services category and then permitted in the various zones listed.

Councilman Ebner pointed out that for the particular piece of property being considered for an indoor firing range the applicant has to go to the BZA whether Council passes the proposed ordinance or not. Adopting the proposed ordinance would be protecting the future.

Councilman Wells moved, seconded by Mayor Cavanaugh, that Council pass on first reading an ordinance to amend the Zoning Ordinance regarding indoor shooting ranges and refer the matter for review and a recommendation by the Planning Commission at their September 11, 2012, meeting. The motion was approved by a vote of 5 in favor and 2 opposed. Opposing the motion were Councilmembers Price and Diggs.

#### ACTION AGENDA

##### Planning Commission FY 2012-13

Mayor Cavanaugh stated Council needed to consider approval of Action items for the Planning Commission for FY 2012-13.

Mr. Pearce stated City Council met on Monday, July 16, 2012, with our Planning Commission. The purpose of this meeting was to jointly develop an Action Agenda for

the upcoming fiscal year. Based on this meeting, the Planning Commission and City Council agreed on eight items. We believe that several of the items developed in the new Action Agenda can be completed this year with the continued cooperation of the Planning Commission and City Council.

One item needs to be added as a result of Council's August 13, 2012 meeting: Open Space Element Proposed Draft Review and Revisions.

For City Council consideration, this is approval of the Action Agenda for the Planning Commission for fiscal year 2012-2013, as amended to include the Open Space Element revisions.

#### FY 2013 Action Agenda

1. Northside Transportation Study.
2. Open Space Element Proposed Draft Review and Revisions.
3. Possible amendments to the Zoning Ordinance regarding definition of "dwelling unit."
4. Possible amendments to the Zoning Ordinance regarding determination of the length of a building in  
the Planned Residential zone.
5. Possible amendments to the Zoning Ordinance regarding the depth of untouched buffers required for  
commercial and multifamily residential projects.
6. Review the Policy on Provision of City Services to Unincorporated Areas.
7. Review the Land Development Regulations.
8. Possible study of the area bounded by Richland Avenue, York Street, Hampton Avenue, and  
Beaufort Street.
9. Possible amendments to the Zoning Ordinance regarding tree preservation and landscaping:
  - Do not allow the area for easements for overhead utility lines to be included in the required planting strip depth to avoid problems with pruning of trees.
  - Allow the Planning Director to allow more than 10 parking spaces in a row in order to preserve a valuable tree.

Councilman Ebner moved, seconded by Mayor Cavanaugh, that Council approve the amended Action Agenda for the Planning Commission for fiscal year 2012-2013. The motion was unanimously approved.

#### AGREEMENT

FAA

Airport

Glide Slope

Mayor Cavanaugh stated Council needed to consider approval of an agreement to assign ownership and maintenance of the glide slope at the Aiken Municipal Airport to the Federal Aviation Administration.

Mr. Pearce stated as we have previously reported to City Council, the Instrument Landing System--including the Glide Slope element--has been completed, is fully functional, and has completed inspection by the Federal Aviation Administration.

Part of the grant agreement we had with the FAA is the assignment of the maintenance responsibilities to the FAA for this important equipment. With FAA performing maintenance on it, we realize potential, significant savings by not having to maintain it ourselves.

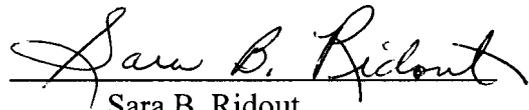
For Council consideration is approval of a transfer agreement to assign ownership and maintenance of the Glide Slope equipment installation at the Aiken Municipal Airport to

the Federal Aviation Administration in accordance with our original grant agreement. Since the equipment is installed on city property, it requires approval of the agreement by City Council.

Councilman Homoki moved, seconded by Councilman Dewar, that Council approve the transfer agreement assigning ownership and maintenance of the Glide Slope equipment at the Aiken Municipal Airport to the Federal Aviation Administration in accordance with the original grant agreement with the FAA. The motion was unanimously approved.

ADJOURNMENT

There being no further business, the meeting adjourned at 8:39 p.m.

  
Sara B. Ridout  
City Clerk