

Aiken City Council Minutes

May 14, 2001

Present: Mayor Cavanaugh, Councilmembers Anaclerio, Cuning, Price, and Sprawls.

Absent: Councilmembers Clyburn and Radford

Others Present: Roger LeDuc, Bill Huggins, Gary Smith, Larry Morris, Glenn Parker, Ed Evans, Richard Pearce, Anita Lilly, Ron Shelley, Sara Ridout, Adam Burton from the Aiken Standard, Margaret O'Shea from the Augusta Chronicle and about 40 citizens.

Mayor Cavanaugh called the meeting to order at 7:45 P.M. Mr. LeDuc led in prayer, which was followed by the pledge of allegiance to the flag. The minutes of the regular meeting of April 23, 2001, were considered for approval. Councilwoman Price moved that the minutes be approved as written. The motion was seconded by Councilman Cuning and unanimously approved.

BOARDS AND COMMISSIONSAppointmentsPlanning CommissionReynolds, BillBuilding Code Appeals CommitteeBlack, Steve

Mayor Cavanaugh stated Council needed to consider two appointments to the various boards and committees of the city.

Mr. LeDuc stated there are four pending appointments to boards and committees of the city. Two appointments are presented for Council's consideration.

Mayor Cavanaugh has recommended appointment of Bill Reynolds, who lives at 505 Colleton Avenue SE, to the Planning Commission to fill the unexpired term of Rachel d'Entremont who has resigned. If appointed the term would expire December 1, 2002.

Councilman Sprawls has recommended reappointment of Steve Black to the Building Code Appeals Committee with the term to expire May 12, 2003.

Councilman Cuning moved, seconded by Councilman Sprawls and unanimously approved, that Bill Reynolds be appointed to the Planning Commission to fill the unexpired term of Rachel d'Entremont with the term to expire December 1, 2002, and Steve Black reappointed to the Building Code Appeals Committee with the term to expire May 12, 2003.

ANNEXATION - ORDINANCE 05142001Cushman Drive 809Cushman Drive 811Lloyd, FreddieLloyd, ViolaLloyd, ThomasTPN 30-025.0-05-003TPN 30-025.0-05-007TPN 30-025.0-05-015SC 19 North

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex .93 acres on Cushman Drive.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF THREE (3) LOTS AND .93 ACRES OF LAND, MORE OR LESS, OWNED BY SEVERAL OWNERS AND LOCATED ON CUSHMAN DRIVE AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-6).

Mr. LeDuc stated the Lloyd's own property on Cushman Drive which they would like to annex into the city. This property consists of three parcels totaling .796 acres in the area of 809 and 811 Cushman Drive. The Lloyds were part of the annexation effort, which the city approved in the spring of 2000. However, they withdrew their request prior to the second reading of the annexation ordinance. The total acreage for annexation is .93 , which includes the right of way of Cushman Drive in front of these three lots.

The city is now constructing a sewer line on Cushman Drive and based on its availability they would now like to annex the property into the city. The proposed zoning for this property is RS-6, which is compatible with the neighborhood surrounding them.

The Planning Commission unanimously recommended approval of the annexation at their April 10, 2001, meeting.

Councilman Cunning moved, seconded by Councilman Anaclerio and unanimously approved, that the ordinance be amended to include the right of way in front of 809 and 811 Cushman Drive, making a total annexation of .93 acres.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Anaclerio and unanimously approved, that Council approve on second and final reading an ordinance to annex three parcels of property at 809 and 811 Cushman Drive and the street right of way in front of these lots to be zoned RS-6 Single Family Residential with the ordinance to become effective immediately.

REZONING – ORDINANCE

Chesterfield Street N. 226
Victor, William and Elizabeth
Barnwell Avenue
Edgefield Avenue

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to rezone property at 226 Chesterfield Street N.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE KNOWN AS 226 CHESTERFIELD STREET N FROM RESIDENTIAL MULTIFAMILY HIGH-DENSITY (RMH) TO LIMITED PROFESSIONAL (LP).

Mr. LeDuc stated that Elizabeth and William Victor are requesting the rezoning of a .183 acre parcel from Residential Multi-Family High Density (RMH) to Limited Professional (LP). The parcel has a single family residential home on it and is located at 226 Chesterfield Street N. Surrounding this piece of property on the west are professional offices, to the east single family homes and homes converted into apartments, to the north single family homes, and to the south a parking lot and office building which formerly contained the Social Security offices.

The property is on Chesterfield Street between Barnwell and Edgefield and backs up to properties on York Street. This neighborhood has had several changes in the past, but to the north it still contains single family houses, while those areas to the west and east have undergone some change.

The Victors would like to have the property rezoned Professional so an office can be placed on the property.

The Planning Commission at their April 10, 2001, meeting voted unanimously to approve the rezoning of this property on Chesterfield Street to Limited Professional (LP).

The public hearing was held.

Ms. Willa West Shelby, Chesterfield Street, and Ms. Thelma Johnson, who owns property on the 400 block of Chesterfield Street, spoke in opposition to the rezoning as they felt it would be detrimental to the residential area, and they did not want businesses in the area.

Mr. Andy Dyer, 44 Longwood Drive, spoke in opposition to the rezoning. He said it was Council's responsibility to protect the collective interests of the city, to make smart, thoughtful decisions, to try to promote careful growth. He said the decisions should not be for individuals, but for the city as a whole. He pointed out the Victors bought residential property and they knew this when they bought the property. He said the Victors are now asking the city to compromise the city's principles so they can be accommodated in the sale of their house. He felt it was improper for the Victors to ask the city to do that because it is for their own financial gain, the city's loss and loss for the residents of the city. He felt the request would be spot zoning. He felt that other people would be requesting rezoning also. He said if rezoning is to be done it needs to be done in a planned method and involve all the residents who will be affected by the decision and needs to be a part of the overall vision for the downtown area. He said it might be that the downtown needs more Limited Professional zoning and more points for small businesses downtown. He urged Council to deny the request for rezoning until such time as Council has had adequate time to take a look at the entire block and how the area will fit into the scheme for the future of the downtown area. He pointed out Council did not have the consensus of the community to rezone the property.

Councilman Cuning pointed out the 20,000 square foot office building next to residences in the block. Mr. Dyer said he felt it was a tragedy to have that building there, and it was not a good decision at that time.

Ms. Retha Carter, 300 block of Chesterfield Street N., also spoke in opposition to the rezoning as well as Mary Ann Jones of 327 Chesterfield Street. Ms. Jones was concerned about knowing about property that is proposed to be rezoned. It was pointed out that the property is posted for the Planning Commission hearings and this property was posted, but there is no requirement for posting the property for the hearing before Council.

Councilwoman Price pointed out the question is how do you maintain the integrity of the neighborhood. She asked how do they know about proposed changes in the neighborhood.

Mr. William Victor, owner of 226 Chesterfield Street N., pointed out he was not talking about rezoning all of Chesterfield Street, only one residence. He pointed out that Mr. Dyer had made some comments about spot zoning. He pointed out Gary Smith, City Attorney, had pointed out in the work session that the area across the street is Limited Professional so the lot at 226 Chesterfield would not be the only lot zoned Limited Professional. Mr. Victor stated his request is consistent with the existing plan for old Aiken. He said old Aiken's plan calls for a mixed use in this area with residents with limited professional uses. He said Limited Professional zoning does not preclude someone from living there. He pointed out the prospective buyers wanted to set up a three person, possibly four person legal secretary office. He said his request does not refute any of the goals in the Comprehensive Plan for Old Aiken. He said when he bought the house he planned to live there, but after working on the house for about 6 months he determined that the neighborhood would not be good for his dogs with the amount of traffic and foot traffic in the area. He said they stopped working on the house and put it on the market as a residence, but did not sell the house. He said they then decided to consider Limited Professional for the area, and they had someone who was interested in the property. He pointed out there are 12 vacant lots in this block, and he did not feel he was taking away a residence from this neighborhood. He pointed out there had been denials for rezoning in the area, but those requests were for uses other than Limited Professional.

Councilwoman Price pointed out that Mr. Victor had made a financial investment in that home. She pointed out that the people who live in the area don't have the options that Mr. Victor has in making an investment. She said the option was not there to determine where they live. She pointed out that some of the options that Mr. Victor has some of the other people do not have.

Councilman Cunning stated he understood the concerns of the people in the 300 and 400 block of Chesterfield Street, but he wondered if anyone at 252 or 230 who were opposed to the rezoning.

Councilman Cunning moved, seconded by Councilman Sprawls, that the rezoning request for Limited Professional zoning at 226 Chesterfield Street N. be approved.

Councilwoman Price stated she was concerned about the citizens in the neighborhood and their concern to save the integrity of their neighborhood. She stated she could not support the request for rezoning to Limited Professional.

Mayor Cavanaugh stated he felt there was a bigger issue than individuals. He felt this was an issue that would affect the city and the old downtown Aiken for years to come. He said he felt this was a major decision and it would affect the area. He pointed out there was already another letter requesting rezoning of additional property in the area. He said this area has historically been residential. He said the Comprehensive Plan of 1989 calls for residential in the area. The Comprehensive Plan of 1997 calls for residential. The city's Strategic Plan calls for efforts to get more people living in the downtown old Aiken area. He said there had been recommendations that City Council undertake a special review of the old Aiken district to determine what it should be. He said in April Council asked the Planning Commission to begin a review of the 1997 Comprehensive Plan to see what changes are necessary and the purpose is to look at the whole city again. He questioned why the city would go against the Comprehensive Plan for the area as the city is trying to get more people to live downtown. He said he does not approve of the rezoning which may be contrary to the Comprehensive Plan, and the recommendation of the Planning Department. He said he was concerned not only about rezoning this one lot, but the other requests for rezoning which will be coming to Council. He said the decision would set the trend for Chesterfield Street and York Street as well. He felt rezoning would be changing the environment of the community. He said he was opposed to the rezoning.

Councilman Anaclerio stated he had found the discussion on both sides interesting. He pointed out Mr. Victor had bought a house in a residential area and found out it did not suit his purpose. He could not sell it as residential so he is asking the city to change the zoning to Professional so he can sell it. He pointed out the area is a residential area. He said he felt Mr. Victor was asking the city to help him regain some financial benefit so he was opposed to the rezoning.

Councilman Cunning stated if he felt changing the rezoning at 226 Chesterfield would negatively affect the 300 and 400 blocks of Chesterfield Street he would not be in favor of the rezoning. He said he was in favor of keeping the 300 and 400 blocks as residential and hoped to get 12 homes built in the area so it upgrades the neighborhood. He said his concern was that in 1970 a 20,000 square foot office building was put in the 200 block, and he felt this is when the character of this block was changed. He felt there was a difference between the 200 and the 300 and 400 blocks of Chesterfield Street. He said he felt that professional zoning could co-exist in a positive way with residential. He said he felt this would help the overall neighborhood because it will upgrade. He said he supports the rezoning.

Councilman Sprawls stated he had looked at the area. He pointed out there are offices on the west side of the 200 block of Chesterfield Street. He said he did not feel that the one proposed business would change the integrity of the 200 block. He said the city is trying to get people to live downtown, but the city is also trying to keep small businesses downtown. He said he was in favor of the rezoning.

Councilwoman Price pointed out that 40 years ago Richland Avenue West was residential, but now most of it is business because rezoning was allowed in each block.

Mayor Cavanaugh called for a vote on the motion to approve the rezoning of 226 Chesterfield Street N. to Limited Professional. Those in favor of the motion were Councilmembers Cuning and Sprawls. Opposed to the motion were Mayor Cavanaugh and Councilmembers Anaclerio and Price. The motion did not pass.

ZONING ORDINANCE – ORDINANCE 05142001A

Horse District Tack Shops

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance allowing tack shops in the Horse District.

This item was on the agenda for the March 12, 2001, meeting, but Bruce McGhee, owner of the Aiken Mile Track had requested that the matter be removed from the agenda, and at that time Council removed the item from the agenda. Mr. McGhee had originally asked for several amendments to the Zoning Ordinance to allow various activities at McGhees Mile Track.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 3.1.6 OF THE ZONING ORDINANCE.

Mr. LeDuc stated last fall Mr. Bruce McGhee, owner of McGhee's Mile Track came to the city and asked for several possible amendments to the Zoning Ordinance. The Planning Director, Ed Evans, looked at the request and gave permission by right for a laundry facility and health club/spa at the track to be used by residents of the track but not by the general public. The other items were referred to City Council and Council decided not to move forward on the items.

Mr. LeDuc stated the Planning Commission did recommend approval of allowing a tack shop to be at McGhee's Mile Track plus four other zones by right.

The public hearing was held and no one spoke.

Councilman Anaclerio moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to allow a tack shop in the Horse District zone under special exception and by right in four other zones with the ordinance to become effective immediately.

TAX INCREMENT FINANCING – ORDINANCE

Amendment TIF Payment Schedule

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Tax Increment Financing Repayment Schedule.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE REPAYMENT SCHEDULE FOR ALL PHASES OF THE TAX INCREMENT FINANCING DISTRICT TO THE CITY OF AIKEN GENERAL FUND WHICH WAS ESTABLISHED FOR THE PURPOSE OF COMPLETING VARIOUS PROJECTS LOCATED WITHIN THE CITY OF AIKEN'S TAX INCREMENT FINANCING DISTRICT.

Mr. LeDuc stated in 1995 the city established a Tax Increment Financing District in and around the downtown area. This allowed the city to borrow up to \$1.5 million that would then be repaid starting in Fiscal Year 2001 with the final payment in year 2009. The first payment was made this year. Looking at the second year's payment it was felt that it

would be better to wait a year and use some of the loan left to do some other improvements such as the repavement of Newberry Street and some other arborways. A number of new construction projects have started and will be occupied this year, however we will not begin to receive taxes from these projects until the following year. These projects include the Westinghouse building, Peoples Bank, town homes off of Newberry Street, two houses built at Highland Park and Park Avenue, renovations at the BellSouth building, and other miscellaneous projects throughout the downtown area. From these projects alone we should be receiving an additional \$150,000 yearly. Also, reassessment by Aiken County will add additional revenue, which will help repay these funds beginning this year. As of this date, however, we have no knowledge as to how much this additional increase from the assessment will be.

For these two reasons we would like to extend until next year the repayment schedule which, by this ordinance, would modify repayment of these funds beginning September 30, 2002, and concluding on September 30, 2009. Revenues from any other improvements which are made within the district during this time frame would also be added to this fund to help us repay the money that we borrowed. With the new taxable properties coming on line later this year and the reassessment we will have a much better idea as to what funding should be available for next year's budget. For these reasons we would like to skip the repayment next year and begin again the following year.

Councilman Anaclerio moved, seconded by Councilwoman Price and unanimously approved, that Council pass on first reading an ordinance to amend the repayment schedule for the TIF (Tax Increment Financing) district to begin one year later than initially anticipated and that second reading and public hearing be set for the next regularly scheduled meeting of Council.

CITY CODE - ORDINANCE

Revised
Adopted

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to adopt the new, updated Aiken City Code.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ADOPTING AND ENACTING A NEW CODE OF ORDINANCES OF THE CITY OF AIKEN, SOUTH CAROLINA; ESTABLISHING THIS NEW CODE; PROVIDING FOR THE REPEAL OF CERTAIN ORDINANCES NOT INCLUDED WITHIN THE NEW CODE, EXCEPT AS EXPRESSLY PROVIDED IN THIS ORDINANCE; PROVIDING FOR THE MANNER OF AMENDING THIS CODE; AND PROVIDING WHEN THIS ORDINANCE SHALL BECOME EFFECTIVE.

Mr. LeDuc stated over the last year, the City has been working to reformat the Aiken City Code Book. It has now been enlarged to an 8 ½ x 11 format and has tabs of the various sections of the Code. In addition to the reformatting, we have made several corrections to the Code including correction of certain procedures, typographical errors, and inclusion of ordinances adopted since the last revision in 1980. Sara Ridout, Gary Smith, and Richard Pearce have worked very hard on this, and I believe you will find the new Code book to be much easier to use. We are asking City Council to adopt the new formatted Code book for the City of Aiken.

Mr. Gary Smith pointed out there was one thing that had changed that Council may want to consider. He said he and Richard Pearce had worked to try to make the procedure for running City Council meetings a little less confusing and little more efficient. He urged Council to look at the part of the Code which deals with the administration of Council meetings and the time members can speak during the meetings. He said similar rules had been adopted by municipalities throughout the state.

Council pointed out they did not have a copy of the proposed changes and stated they would like to delay adoption of the Code until they can have time to read the new section.

Councilwoman Price moved that since Council had not had time to read the changes in the Code that adoption of the Code be continued until the next meeting of Council. The motion was seconded by Councilman Cuning and unanimously approved.

SAVANNAH RIVER SITE

Resolution

Funding

Mayor Cavanaugh stated Council needed to consider adoption of a resolution in support of the Savannah River Site.

Mr. LeDuc stated that in fiscal year 2002 budget the Department of Energy at the Savannah River Site has a reduced funding level of \$159 million. This severely impacts the proposed level of the Site's Environmental Management Programs and will affect many commitments that have been made to the Site and surrounding community over the last several years.

Since 1990 the SRS budget has been reduced by over 25% from \$2.02 billion to \$1.5 billion in 1999. This year's budget, if approved, will result in an additional 2,000 jobs lost in our community and will violate the element of trust on behalf of the Department of Energy in working with our community concerning the safety, health, and environment. It will also affect the removal and vitrification of the high level liquid waste from underground storage tanks and will have an effect on the commitments made by DOE to stabilize the disposal of high level waste. We are also concerned that the funds for construction of the plutonium storage facilities have been deleted and that funding for the shipment of solid waste to off site repositories is no longer available.

Mr. LeDuc stated Council might have read in the paper that Congress has approved the budget and the money was reinstated. Mr. LeDuc stated he and Councilmember Price had gone to Washington and talked to the various Congressmen that were there. The first round has been reinstated, but there are several more rounds to go. A lot of changes can still be made before the final adoption of the budget. He said it is still very important to let our Congress members know and the community that the city does support SRS.

Councilman Cuning moved, seconded by Councilman Anaclerio and unanimously approved, that Council approve the resolution supporting SRS and to continue the funding levels as committed by DOE in the past. Councilwoman Price did not participate in the discussion or vote because of her employment at SRS.

BIDS

York Street

Sewer

Kinsel Industries

Public Works Department

Mayor Cavanaugh stated Council needed to consider the bids for repair of a sewer line on York Street from South Boundary to Colleton Avenue.

Mr. LeDuc stated the City of Aiken received two bids on April 10, 2001 to repair a damaged sewer line on York Street from South Boundary Avenue to Colleton Avenue. This repair project is considered necessary by the Public Works Department, because the sewer had collapsed and was causing damage to homes in the area due to sewer backups. We feel it is necessary to proceed with this project even though it was not budgeted for this fiscal year. The recommendation is that we proceed in lieu of other scheduled projects due to the fairly urgent nature of this issue.

The two bids, which were received, were from Environmental Pipeline Inspections with a bid of \$124,809, and Kinsel Industries with a bid of \$76,049. The staff recommends that the city accept the low bid from Kinsel Industries to proceed. It is necessary for Council to approve this request in order to move forward, because under Section 2-338 of the Aiken City Code, Council must approve a contract in excess of \$25,000 for purchases not included specifically as budgeted items in the current fiscal year budget.

Councilman Cuning moved, seconded by Councilman Sprawls and unanimously approved, that Council approve the bid of Kinsel Industries in the amount of \$76,049 to repair the York Street sewer damage from South Boundary Avenue to Colleton Avenue as recommended by the staff.

ADDITIONS TO AGENDA

Glenn Arbor Apartments
Lincoln Avenue
Bi-Lo Shopping Center
York Street
Rutland Drive

Mayor Cavanaugh stated Council needed to consider adding two items to the agenda. One item is approval of the Glen Arbor Apartments for tax credit purposes. The second item is first reading of an ordinance to approve a development agreement for the Bi-Lo Shopping Center on York Street at Rutland Drive.

Councilman Anaclerio moved, seconded by Mayor Cavanaugh that the two items be added to the agenda.

GLEN ARBOR APARTMENTS

Lincoln Avenue
SC 19 North
Laurens Street
SC Tax Credits

Mayor Cavanaugh stated Council needed to consider supporting a proposed development called Glen Arbor Apartments at Lincoln Avenue and Laurens Street.

Mr. LeDuc stated on April 24, 2000, City Council discussed a potential senior citizen apartment complex called Glen Arbor to be located at Lincoln and Laurens. The developer, Pendergrant, LLC out of Raleigh, N.C., was unable to get the tax credit approval for the senior center, but has now received first phase approval for an apartment complex for all ages at the same location. The entrance would be off Lincoln Avenue and the apartment complex would consist of 56 units in two-story buildings and an office building. The total cost of this taxable project is approximately \$3.5 million with each unit costing about \$62,500. They are now requesting from the South Carolina State Housing Finance and Development Authority tax credits for these units. These units would have a rent of approximately \$388 or more per month. This is the same company that is currently developing Trotter's Run Apartments on Trail Ridge Road. They would like a letter from City Council stating that either the city has no comments on the proposed development or they have no objections to the proposed development or the local government supports the proposed development. Each one of these responses would give them points towards their tax credit with the highest point total being a support letter from the city. The majority of the individuals that would be renting these units would probably be in the moderate income level. Our major concern is to make sure that these units do not become a problem like Cushman Arms Apartments, which is just south of this proposed development. With the proper landscaping and maintenance guarantee by this company, we feel that this could be a good development.

Mr. LeDuc pointed out the property is already zoned multi-family for apartments and apartments could be built on the property without approval of Council. He said the only reason this project is coming before Council is that the developer wants to get tax credits from the S.C. State Housing Finance Department and needs a letter of support from Council.

Mr. Eugene McKie, 615 Lincoln Avenue, spoke in opposition to the apartments. He said this area was a quiet area, and he was concerned about apartments in the area causing more traffic and possible problems at apartments. He presented a petition to Council from residents of the area asking that the area be rezoned to Single Family Residential. He was concerned about the apartments affecting the value of the homes in the area.

Several members of Council pointed out that the proposed apartment project is not inexpensive and will have very strict rules for maintenance and for residents of the apartments. It was pointed out that the developer has to maintain strict rules to keep their tax credits. It was pointed out that the area has been zoned for apartments for at least 15 years. It was pointed out that Councilman Cunning had visited the apartments, which the developer had built in Lancaster, and he was very impressed with the apartments.

Mr. Tom Ulrich, of Pendergrant LLC out of Raleigh, NC and Lancaster, SC, stated the property has been zoned multi-family for at least 15 years. He said they were not asking for rezoning of the property, but were just asking for Council's support so the developer may receive tax credits to build a good quality affordable housing development. There are no Section 8 or government subsidies involved. He said they maintain strict rules for their apartments, and he certainly did not want their apartments to be like Cushman Arms Apartments. He pointed out his development will have on site representation which will take care of the laundry and picking up trash. Loud noises are not allowed.

Councilwoman Price stated one of the concerns expressed was that the apartments would be renters and not homeowners. She stated residents in the area wanted to get the property rezoned so single family residences could be constructed. Councilwoman Price stated she was concerned about apartments and pointed out there are two examples of low income housing in the neighborhood—Pacer's Run and Cushman Arms. She said this is the history that she has to look at.

Mayor Cavanaugh stated he felt the complex would be different from Cushman Arms. He said there would be an agreement to do certain things at the apartments. He said the developer had agreed to have a resident representative on site. Also, if there is a disturbance at the apartments and the police have to come the tenant is evicted for one occurrence. He said the developer screens the tenants. Mayor Cavanaugh stated a letter of support had been received from the City Manager of Lancaster in support of the apartments, which had been built there.

Councilman Anaclerio pointed out that the city has the right to write to the S.C. State Finance Department if the standards committed to are not met and maintained and the developer will be penalized financially.

Mr. Tom Ulrich stated the developer wanted to accommodate every issue. He said the developer will have an on-site representative and the landscaping will be maintained.

Mr. McKie stated even though things looked well for the apartment complex, the residents of the area were still opposed to it.

Councilman Cunning stated he had gone to Lancaster to look at the apartment complex to see the quality of the housing. He said it was very good quality. He pointed out the tax credits allow the developer to build a quality development because of the credit.

Councilwoman Price stated it all sounds good and there are probably good intentions, but she was concerned about the development.

Mayor Cavanaugh pointed out the developer has agreed to sign a written agreement for the various items agreed to by the developer.

Councilman Anaclerio moved, seconded by Councilman Cunning, that Council approve a letter of support for tax credits for the proposed apartment project at Lincoln and Laurens Street. The motion was approved by a vote of 4 in favor with Councilwoman Price opposing the motion.

DEVELOPMENT AGREEMENT - ORDINANCE

Bi-Lo Shopping Center
York Street
Rutland Drive

Mayor Cavanaugh stated Council needed to consider first reading of an ordinance to approve a developers agreement for Bi-Lo on York Street.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE FOR THE APPROVAL OF THE BI-LO SHOPPING CENTER
PROJECT DEVELOPMENT AGREEMENT.

Mr. LeDuc stated for the past year the city has been working with the developers of the Bi-Lo Shopping Center at Rutland and York Street. The next consideration is approval of a developers agreement which gives the rules for the city providing water and sewer for the project. Mr. LeDuc stated one of the requirements of this agreement is that the developer provide a public access road easement to the City of Aiken to property north of the project. This easement shall be no closer than 591 feet west of the property line. He said this is 591 feet from York Street going back so the driveway entrance would not fall in front of the building which would be an easy cut through for residents in the area. He said the developer will accept the deed for the detention pond that the city currently owns and will take the stormwater and include that in their detention pond along with the piping that is necessary. He said the property has 4 outparcels.

Mr. Gary Smith pointed out he represents the developers who are purchasing this property so he will not participate in the discussions on this item. He left the Council Room.

Councilman Cunning moved, seconded by Councilwoman Price and unanimously approved, that Council approve on first reading an ordinance to approve the developers agreement for the Bi-Lo Shopping Center on York Street.

GARY ALLEN

Court
Water

Mr. Gary Allen appeared before Council stating he was having some problems with the City of Aiken. He said he was trying to get water at a place on Richland Avenue and the city had refused to turn the water on.

Mr. LeDuc stated the Finance Department had asked Mr. Allen for proof that the property was his and to give a tax parcel number. He said the Finance Department wanted to make sure that Mr. Allen owned the property or had permission from someone to use the property. Mr. LeDuc stated the City needed a letter from the owner stating Mr. Allen had permission to use the property.

Mr. Allen also complained about City Court and the Judge. He said the Judge is treating poor people bad. He said when a person goes to court and asks for a jury trial the Judge doubles the ticket and makes a bond of \$400 or puts one in the jail or cancels the request for a jury trial. He pointed out the Judge had sentenced some people to 6 months in jail. He said something needs to be done about the situation in Aiken.

Mr. Richard Pearce, City Solicitor, stated the S.C. State Legislature had amended the driving under suspension law. He said there is a movement to transfer more General Sessions cases to Magistrates and Municipal Courts. The first step in the process has been to expand Municipal Court jurisdiction in driving under suspension cases for up to six months. It is the only criminal charge that the Municipal Court has the power to sentence up to six months and it is for repeated offenses of driving under suspension. When a person is convicted of driving under suspense third offense or more there is a minimum prison sentence of 90 days. The Judge has no say if someone is convicted of driving under suspense third offense or more. The Judge has to sentence the defendant to

at least 90 days because the state statute specifically provides that no portion of the minimum sentence can be suspended. The Judge does have the power to sentence someone up to 6 months in prison.

Mr. Pearce stated he had worked with the city judges and he could assure Council that both Municipal Judges give every consideration to every defendant who ever appears before them.

Mr. Allen continued to discuss the court, the procedures and the court cost stating poor people are the only ones suffering. He said Council needs to check this out.

Mr. Pearce pointed out the Municipal Court, with the exception of the driving under suspension cases, has the capability of sentencing someone up to 30 days in prison or requiring them to pay a fine of up to \$500 and this is set by state statute and also by city ordinance. Court costs are levied by the State of South Carolina. The city has no say in court costs. The Judge has no control over court costs, that is set by the State Legislature.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:45 P.M.



Sara B. Ridout
City Clerk