

Aiken City Council MinutesREGULAR MEETINGApril 10, 2006

Present: Mayor Cavanaugh, Councilmembers Clyburn, Price, Smith, Sprawls, Vaughters, and Wells.

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Richard Pearce, Larry Morris, Anita Lilly, Pete Frommer, Ed Evans, Sara Ridout, Tony Baughman of the Aiken Standard, Betsy Gilliland of the Augusta Chronicle and about 70 citizens.

Mayor Cavanaugh called the meeting to order at 7:02 P.M. Mr. LeDuc led in prayer, which was followed by the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that the agenda be approved as submitted.

MINUTES

The minutes of the joint work session with the Planning Commission of March 22, 2006 and work session and regular meeting of March 27, 2006, were considered for approval. Councilwoman Clyburn moved that the minutes be approved as submitted. The motion was seconded by Councilman Sprawls and unanimously approved.

WORK SESSIONNewspaper RacksDowntownBoxesPublicationsMagazines

Mr. LeDuc stated that Council would be meeting in a special work session on Monday, April 17, 2006, at 6 P.M. to discuss the issue of newspaper boxes or racks in the downtown area.

ELECTION REPORTElection CommissionSpecial ElectionGem Lakes Sewer SystemMarch 28, 2006

Mayor Cavanaugh stated the Election Commission would make a report to Council on the results of the special election held on Tuesday, March 28, 2006, on the purchase of the Gem Lakes sewer system.

Mr. LeDuc stated that after each election the Chairman of the City of Aiken's Election Commission presents a report on the election to City Council. Richard Johnson, the chairman of the Commission, is prepared to report to Council on the Commission's findings and the results of the special election on the question of whether to purchase the Gem Lakes Sewer System.

After the submittal of the report from the Election Commission certifying the results of the referendum to purchase the Gem Lakes Sewer System, Council will need to vote on acceptance of the report.

Richard Johnson, Chairman of the Election Commission, gave City Council the results of the special election to purchase the Gem Lakes Sewer System.

On Tuesday, March 28, 2006, the City of Aiken conducted a special election. The purpose of the election was to determine if the City of Aiken should purchase the sewer system currently owned and operated by United Utility Companies, Inc. of Illinois, for the benefit of the residents of Gem Lakes Estates. The residents of Gem Lakes Estates will repay the city through a monthly surcharge of \$21-\$23.

The results of the election are as follows:

With 489 votes cast:

In favor of the referendum	460 votes
Opposed to the referendum	29 votes

We hereby certify the passing of the referendum.

Respectfully submitted,
Municipal Election Commission

s/Richard Johnson, Jr., Chairman
s/ H. A. McClearen
s/Keith R. Wood

VOTES TABULATED BY PRECINCTS

		<u>Votes</u>
Precinct	1	30
Precinct	2	7
Precinct	3	4
Precinct	4	2
Precinct	5	11
Precinct	6	19
Precinct	13	0
Precinct	16	0
Precinct	20	13
Precinct	22	0
Precinct	35	4
Precinct	46	5
Precinct	47	9
Precinct	52	13
Precinct	53	28
Precinct	60	291
Precinct	66	9
Precinct	69	8
Precinct	70	15
Precinct	72	2
Absentee		19

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council accept the report of the Election Commission on the results of the election of March 28, 2006 for the purchase of the Gem Lake sewer system.

BOARDS AND COMMISSIONSAppointmentsSanders, BerniceAccommodations Tax Committee

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

Mr. LeDuc stated Council has 6 pending appointments to boards and committees of the city and 1 appointment is presented for Council's consideration.

Councilwoman Price has recommended that Bernice Sanders be reappointed to the Accommodations Tax Committee representing an at-large category, with the term to expire March 25, 2008.

Councilwoman Price moved, seconded by Councilman Wells, and unanimously approved, that Council reappoint Bernice Sanders to the Accommodations Tax Committee representing an at-large category with the term to expire March 25, 2008.

Councilman Wells stated that he would like to recommend that Council reappoint James McNair, Jr. to the Accommodations Tax Committee with the appointment to be on the next agenda.

REZONING – ORDINANCE 04102006Marion Street SE 142TREO Holdings, LLCTPN 121-06-10-006

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to rezone property on Marion Street from General Business to Residential Single-Family RS-8.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY
TREO HOLDINGS, LLC FROM GENERAL BUSINESS (GB) TO RESIDENTIAL
SINGLE-FAMILY (RS-8).

Mr. LeDuc stated the applicant TREO Holdings, LLC is requesting to rezone a 0.199 acre lot located at 142 Marion Street SE in order to develop a single family home. Last year when City Council approved the Old Aiken Master Plan, it was based on properties in this area becoming low density residential. The property meets the conditions and the intent of City Council and the master plan.

He stated the Planning Commission unanimously approved this rezoning on Marion Street from General Business to Single Family RS-6. However, at the last Council meeting after reviewing the request and looking at the size of the lots, Council asked that the rezoning be changed from RS-6 to RS-8 since the property met all the requirements of the RS-8 zone. Council approved this ordinance on first reading at the March 27, 2006, meeting.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council approve on second and final reading an ordinance to rezone property at 142 Marion Street SE from General Business to Single Family Residential RS-8.

REZONING – ORDINANCE 04102006ADupont StreetTeague StreetSecond Baptist ChurchTPN 120-14-15-002TPN 00-154.0-01-006 (old)

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to rezone property south of Dupont Street and East of Teague Street.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY LOCATED ON THE SOUTH SIDE OF DUPONT DRIVE FROM RESIDENTIAL SINGLE-FAMILY (RS-10) TO RESIDENTIAL SINGLE-FAMILY (RS-8).

Mr. LeDuc stated the applicant and owner, Second Baptist Church, would like to rezone property south of Dupont Street and east of Teague Street, consisting of 39.41 acres, from RS-10 to RS-8. Assuming 25% of the site would be used for infrastructure and wetlands, a maximum of 143 dwelling units could be built on the property versus 114 units which are proposed for the 40 acres. The property is suitable for residential development, and the applicant is requesting smaller lots for the type of homes they would like to develop. Second Baptist Church intends to build these single family homes using tax credit incentives from the State of South Carolina. Their goal is to provide good quality homes that are affordable to low and moderate income individuals. At some point Second Baptist Church intends to relocate their church to this property.

The Planning Commission voted 5 to 1 to recommend the rezoning of this property from RS-10 to RS-8.

Council approved this ordinance on first reading at the March 27, 2006, meeting.

The public hearing was held.

Ms. Rosanne Cooper, 712 Brucewood Street, stated if the city wants to build up the Northside, why would this property be rezoned for smaller lots than what is already in the area. She stated the majority of the houses on Teague Street, Brucewood, Hill and Davis Terrace are zoned properly for the neighborhood with larger lots. She also asked if the water problems in the area have been studied by the applicant. She stated she felt this development would increase the amount of traffic that is already on Teague Street going to Aiken High School and the city shops.

Mr. LeDuc stated the area has flooded in the past, bringing water from the by-pass, York Street, and Laurens Street. He stated the previous owner built a detention pond in that area. He stated that he and Mr. Morris, Public Works Director, had talked about this issue, and that if the owners of the property deeded the property to the city, then the city would take over the stormwater detention area. He stated it would be similar to the Carolina Bay, which has a pump that controls the water. He stated this area is more of a holding area than a drainage going to a receiving stream. He stated the city feels comfortable that the storm drainage can be handled properly in that area.

Councilwoman Vaughters asked how the stormwater project would be funded.

Mr. LeDuc stated that since it is a regional pond and collects water from a much larger area than the 39 acres which is proposed to be developed, if the area needs to have further development for stormwater the city would be using funds from the stormwater budget.

Mr. Harvey Ramseur, 7 Whitmarsh Drive, stated he is Director of the Second Baptist Community Development Corporation, which will start development of the land in question. He stated the first phase will focus on 9 acres off of Dupont Drive, and the preliminary plan shows 6 cul-de-sacs with about 6 houses and a row of houses off of

Teague Street. He stated there will be about 40 houses in the first phase. He stated they do not anticipate over saturating the area with houses. He stated they know there is a serious drainage problem in the area. He said they do not anticipate exceeding 114 houses in the area. He stated this project is a tax credit package. He stated the project will be initiated through the State Department of Housing and Community Development. He stated they are now in the first tier application process. He stated if they are successful with Phase 1, they will move on to Phase 2 and Phase 3 at some point. He stated they will look for investors that are interested in investing in low to moderate income housing for tax credits. He stated this is how the project will be funded. He stated they are asking for RS-8 zoning, as this zoning will better meet the needs for the proposed housing.

Councilman Smith asked Mr. Ramseur if he would have a problem limiting the maximum number of housing units to 114 on the 40 acres.

Mr. Ramseur stated he would have no problem with limiting the units to 114 at this point. He stated they do not intend to build more than 114 houses, but hope to have some open space and playgrounds and want to beautify the area. He stated with the projected 40 houses they are going to build, they are looking at off-street parking for two cars for each family and construction of a community building with facilities for children. He stated they do not want to over saturate the land with houses.

Mr. Gary Smith, City Attorney, stated that in the past Council has approved rezonings based on the applicant voluntarily building less houses on the property than what would be allowed.

Councilwoman Vaughters asked why Planned Residential was not considered.

Mr. Ramseur stated timing was a problem. He stated they had about two weeks for phase 1 and could not provide a full plan for the total development of the area in two weeks. He said they do plan to have green space in the area. He pointed out the property south of Phase 1 is owned by Second Baptist Church and consists of about 30 acres and is the property on which the church intends to build a family life center and eventually a new sanctuary. They will also use some of the existing 40 acres for a school or some other community related facilities.

Mr. LeDuc stated if the city owns the detention pond, the city will do some beautification to make the pond more of an amenity, similar to what was done at Hopelands. He said a walking trail could be placed around the pond.

In response to a question of why RS-8 zoning rather than RS-10, Mr. Ramseur stated it was an investment issue. He said in order to attract investors to the property they had to maximize the number of units to be built on the property in order to encourage investors. He said they felt they could not do it with RS-10 zoning. He said the first phase includes 9 acres. He said to encourage investors they had to build more houses on the property than RS-10 zoning would allow.

Councilman Wells asked the size of the single family homes to be built, and Mr. Ramseur stated the houses would be 1,200 square feet.

Councilwoman Clyburn asked if there would be garages or carports for parking off street. Mr. Ramseur stated there would just be a pad.

In response to questions Mr. Ramseur continued to discuss the proposed development. He stated there would be access and egress off Teague Street. At a point on Dupont, there would be two entrances, one just beyond the existing houses, and just to the York Street side of Dupont there would be a third entrance. He stated the style of the houses would be similar to those on Dupont. He stated the houses would be more like the houses the city is building in Toole Hill, and there would be a choice of 8 designs.

Mr. LeDuc stated regarding the traffic that during the morning hours from about 7:30 to 8:00 a.m., there is a problem with traffic on Teague and Dupont as the students and parents drive to Aiken High School, as well as in the afternoon about 3 to 3:30 p.m. He

said otherwise there are no problems on Teague or Dupont Streets as far as the amount of traffic. He said with the proposed three entrances to the new development, there would probably be an increase of 300 to 400 cars per day on Teague and 500 to 600 on Dupont daily. He said this should not cause a problem except during the school hours.

Councilwoman Price stated she would like for the developer to consider an attached carport and storage area. She pointed out when the houses were built in Toole Hill it was recognized that the families did not have a place to store lawnmowers, bicycles, etc. She pointed out this would add to the value of the houses.

Mr. Ramseur stated they could consider that once they get past Phase 1, tier 1 and whatever additional amenities they would like to have.

Mr. LeDuc pointed out that in the Toole Hill area the city had put attached sheds on the back of the houses and gave them an area for storage.

Council continued to discuss the proposed project and current housing in the area. It was pointed out that the current houses in the Brucewood area are about 1,500 to 1,600 square feet and are mostly brick. Mr. Ramseur stated the proposed housing would include brick fronting with hardiplank and brick on the side of each of the houses. He said the houses would be a combination of brick and hardiplank.

Councilwoman Clyburn stated she felt the developer should seriously consider carports and garages. She pointed out that the homes in Asheton Oaks included carports and garages and she felt this was something that most people want these days.

Mr. Ramseur stated he was stating that the developers would consider carports, storage and other amenities to the homes to accommodate residents' needs as they move beyond Phase 1 of the process. He said he expected buildout for the homes to be about two years from the time of approval of the project by the State Department of Housing and Community Development.

Ms. Roseanne Cooper asked about the process and if Council gives approval if the developer could start building the houses. She asked that Council consider the size of the proposed housing in the area. She felt that 1,200 square feet is a small house for a family.

Councilwoman Price stated the type of homes to be built in the area is needed in the community. Also, she felt that the Second Baptist community will build something that the city can be proud of and will not harm the present neighborhood. She pointed out the proposed church and green space will be an area to be proud of. She pointed out again that she would like to see the carports and storage added to the homes and landscaping.

Councilwoman Clyburn moved, seconded by Councilman Wells, that Council amend the proposed ordinance to include the stipulation that the development of the 40 acres on Dupont and Teague Street limit the maximum number of houses to be built on the property to 114 houses and that the ordinance be approved on second and final reading rezoning the property south of Dupont Street and east of Teague Street from RS-10 to RS-8.

Councilman Smith pointed out that the limit of 114 houses would be very close to the number of units that could have been built under the RS-10 zoning. He said this would be keeping the total usage of the land to the same density that could have been done under RS-10 zoning.

Mr. Gary Smith, City Attorney, stated the condition the developer would have to satisfy would be to submit a site plan to the Planning Department with no more than 114 lots and the site plan would be recorded at the RMC Office.

Councilwoman Vaughters stated having only 114 lots was very important to her and pointed out Ms. Cooper's statement about the city trying to improve the northside why would the city rezone for smaller lots. She pointed out the development is close to a big

school, and it is important what the development looks like. She said she would have liked for the development to be Planned Residential so Council could see some drawings of how the area will look. It was pointed out that the city could not require carports under the Zoning Ordinance.

Mr. Ramseur stated he was going to try to get carports or some storage for the houses.

Mayor Cavanaugh called for a vote on the motion to approve the ordinance as amended. The motion was approved by a vote of 6 in favor and 1 opposed. Councilwoman Vaughters opposed the motion.

PURCHASE OF PROPERTY – ORDINANCE 04102006B

York Street

Richland Avenue

Loan

Green Space

Open Space

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to authorize the borrowing of funds for the purchase of property at the intersection of York Street and Richland Avenue.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING BORROWING FROM THE CITY OF AIKEN'S
GENERAL FUND SPECIAL HOLDING ACCOUNT AS OUTLINED IN THIS
ORDINANCE FOR THE PURPOSE OF FUNDING THE PURCHASE OF PROPERTY
LOCATED AT THE NORTHEAST CORNER OF THE INTERSECTION OF YORK
STREET AND RICHLAND AVENUE.

Mr. LeDuc stated last January, City Council authorized staff to expend up to \$240,000 to purchase the lot at the corner of Richland Avenue and York Street. According to our City Attorney, Gary Smith, and our Finance Director, Anita Lilly, we did not authorize borrowing of the money for this project. The proposed ordinance allows the city to borrow \$240,000 to be paid back using capital project sales tax funds once they are available over the next couple of years. Council has discussed using funds from the \$1 million set aside for green space and open space to purchase the lot at York and Richland. Mr. LeDuc stated he had received a rendering of the proposed development of the lot. The drawing shows some parking on the property with landscaping and a fountain. He passed the drawing around for Council to review. He said he was intending to bring this back to Council at the next meeting for formal approval of the site plan.

The public hearing was held.

Mr. Dacre Stoker, 331 Kershaw Street SE, stated he was a member of the Hitchcock Foundation Board, and Executive Director of the Aiken County Open Land Trust. He said he was thrilled when he first heard of \$1 million being set aside for open space, as this part of the country is losing open space very rapidly. He said this area is the third fastest growing area in the country. He was concerned about this because the area's open space is what makes it wonderful. He pointed out the \$63 million equestrian business requires open space. He said he felt the \$1 million could be better used for more open space than the small .3 acre lot at York and Richland. He pointed out when someone wants to put acreage in a conservation easement there is about \$5,000 to \$10,000 costs associated with that, including legal fees, appraisals, serving fees, etc. He felt possibly some of the \$1 million could help pay some of the costs involved in donating some land. He felt the proposed Green Space Committee should have an opportunity to take a full inventory of what is needed before spending any of the \$1 million. He was concerned that \$240,000 of the Green Space money would be expended before the committee has a chance to study the matter and prioritize needs. He said the lot at Richland and York may be a very important lot to have, but perhaps the money should come from Parks, Recreation & Tourism, not from Green Space. He asked that Council carefully consider the spending of the Green Space money to try to get more acres for the money.

Mayor Cavanaugh pointed out the amount the city would pay for the lot is \$240,000 as this is the amount Council approved, and that a private group has raised \$35,000 for the balance of the cost of the lot.

Councilmembers Vaughters and Smith asked questions regarding the cost of the lot.

Mr. Michael Anaclerio stated the cost of the lot was always \$275,000, as this was the price the owner had set. He said he was hoping to raise a large donation from anonymous donors to make the cost lower for the city. He said he had raised \$35,000 from individuals. He said the large donation did not come through. The cost to the city is \$240,000 with \$35,000 raised by private donations. He stated initially he was told that they would not have to pay a real estate commission, but the landowner stated he wanted a real estate commission and it could not be a donation. He said this, of course, increased the price. He stated the realtor was Ronny Bolton, and he was given his normal commission for the transaction.

Councilwoman Vaughters pointed out Councilman Sprawls is a business associate of Mr. Bolton and asked if it was appropriate for him to vote on the matter.

Councilman Sprawls pointed out he was not a business associate of Mr. Bolton when this deal was transacted.

Mayor Cavanaugh stated Council approved \$240,000 for the purchase of the lot, and if the cost was more it was up to the group to raise the additional money. He said at this time the question is borrowing from the General Fund the \$240,000 for the purchase of the lot until the 1 cent sales tax money is received.

Councilwoman Vaughters stated she felt when Council is presented a certain set of figures she expected those figures to be the cost unless someone comes back to Council asking for a change. She stated she would like to know about any change, such as the charge for a brokerage fee. She stated Council is responsible for taxpayers money, and she wanted to know when prices change. She pointed out she never supported the purchase of the property because she felt it was too much for .3 acre. She stated even if she does not support it, she felt she had the right to expect the proposal to be the one voted on. She was concerned about the precedent set for the cost of downtown property.

Mr. Anaclerio pointed out to Councilwoman Vaughters that Council had approved \$240,000 and that was all he was asking the city to pay. The price did not increase for the city; he raised the additional money needed. It was pointed out the property was purchased for \$275,000 and has been turned over to the City of Aiken.

Mr. Gary Smith pointed out the ordinance for the purchase of the property authorized the Mayor to sign the contract and closing documents for the property. He pointed out Council had already approved the purchase of the property and the question at this meeting is only to approve the loan from the General Fund until the 1 cent sales tax is received.

Mayor Cavanaugh pointed out again that Council approved \$240,000 for the purchase of the lot. The question at this time is where the \$240,000 would come from until the 1 cent sales tax is received.

Councilman Smith stated he felt the transaction should be transparent. He said it had been stated that \$35,000 had been raised from private funds. He said he would like it certified to the city that the \$35,000 is from private funds, not from some fund in the Aiken Corporation.

Mr. Anaclerio stated the contributions were made to the Aiken Corporation at \$1,000 per person with the idea that this was a deductible contribution to a 501(c)3. Every person who gave a donation received a letter identifying that they made a contribution that could be tax deductible.

Council continued to discuss at length the cost of the lot and how the money was raised.

Ms. Jane Page Thompson stated there may be a question about the donation being tax deductible when it is made to a tax deductible corporation and it is partnered with money that is gaining interest.

Ms. Rosa Lee Fox, 616 Colleton Avenue SE, asked several questions about the purchase of the lot at Richland and York for \$240,000. She was concerned about the city paying so much for the .3 acre lot.

Mayor Cavanaugh pointed out that the general feeling of Council was that this lot is a very important piece of property, as the location is at a major entrance to the city. It is in an historical area, with the Battle of Aiken having been fought just across the street. It was felt the city wanted to beautify the area and make it a beautiful area, rather than having a commercial business on the property. He said this was an opportunity to get the lot as green space. He pointed out the price was high, but he also pointed out the price of land in the downtown area had also increased and other properties in the downtown were being sold for large amounts. He said he felt the lot was a valuable purchase because of the location and being an entrance to the city.

Councilwoman Price pointed out there had been misinformation about the property. She said the rumor was that the property would be owned by the African American Culture Center, but that is not true. She said it was rumored to be a parking lot, but the role was always to be green space. She pointed out the lot is a prime piece of property in the center of town. She pointed out a business could have located there, but she felt it would be better for green space. She pointed out the design plan showed the lot to be a beautiful spot. She also pointed out that in the past the City had purchased the old Parker Paint & Body Shop which is now condos and a city parking lot. It was pointed out this had made a tremendous improvement in the downtown area.

Mr. Harry Shealy, 704 South Boundary, stated he was pleased to have \$1 million for green space. He said, however, he was surprised when he heard that \$240,000 was already spent from the funds before the committee was organized to look into how best to spend the money. He said he would like very much to serve on the Green Space Committee. He said if the issue tonight is to approve the expenditure of \$240,000 from the Green Space money, he would like to ask Council to reconsider and spend the funds from the General Fund or some other funds. He said there are many other issues dealing with open space and creating greenways around the city that he would like to see occur, and \$1 million is not much considering the purchase of property. He said he would like to see the money used to buy larger areas than .3 of an acre for \$240,000.

Mr. Gary Smith, City Attorney, stated the ordinance approved by Council stated that the money for the purchase of the lot for \$240,000 would come from the 1 cent sales tax money and from money designated for green space. He said the purpose of the proposed ordinance is to authorize the city to borrow these funds from the General Fund Holding Funds until the 1 cent sales tax money is received. He said to change the purchase to some other fund, Council would have to amend the previous ordinance adopted by Council.

Mr. Steve Homoki, 190 Mockernut Circle, pointed out Council had already passed an ordinance to purchase the property. He stated if the city really wanted the property why not consider eminent domain and claim the property. He said the assessed value of the property was \$62,000, and \$240,000 is four times the assessed value of the property. He felt this is not good management of taxpayers' money. He also pointed out donations made to a 501(c)3 have to be made with no strings attached, and there may be problems with IRS. He suggested that Council defer making a decision on the borrowing of the money from the General Fund and revisit the original ordinance for the purchase of the property. He said he felt Council should consider eminent domain for the property.

Mr. Anaclerio stated when donations were solicited he said the intent was that the donations were to purchase the property with no other strings. He said Aiken

Corporation is a 501(c)3 organization and the funds were considered as a tax deductible donation for the purpose of buying the property at York and Richland.

Mr. Martin Buckley, Two Notch Road, stated he felt the purchase price for the lot was too much. He pointed out at this rate the \$1 million would not purchase much green space. He pointed out this is taxpayer money and should be spent wisely.

Councilwoman Price stated she has listened to the comments and does not take them lightly in terms of concern about the taxpayers' funds. She pointed out Council had discussed this property for about two years, and there had been a lot of erroneous information about the property and its proposed use. She felt the lot is a prime piece of property that will be developed with something if not purchased by the city.

Councilwoman Price moved, seconded by Councilman Wells, that Council pass on second and final reading the ordinance approving the borrowing of \$240,000 from the General Fund Holding Funds for the purchase of the lot at the intersection of York Street and Richland Avenue until funds are received from the 1 cent Capital Sales Tax.

Councilman Sprawls stated he would abstain from voting on this matter, but would state for the record that he was not associated with the Bolton Real Estate Agency when Council started talking about purchasing this property.

Councilwoman Clyburn stated she was concerned about some of the comments made. She pointed out larger parcels of property probably could be purchased cheaper elsewhere. She stated this parcel, however, may be the most expensive purchased. She stated she was concerned about setting up a Green Space Committee and Council would have already spent \$240,000 of the \$1 million designated for green space. She wondered if the City Manager could look at possibly having the funds come out of the General Fund rather than the 1 cent sales tax. She asked if Council could amend the ordinance to designate where the money would come from.

Mr. LeDuc stated he could look to see if there was money that could be used from the General Fund rather than the 1 cent sales tax. He said at this time he does not know, but would have to look at the funds. He said Council could always modify a previous ordinance. He said when the ordinance was approved for the \$240,000 for the purchase of the property, it was designated that funds would be used from the Open Space/Green Space 1 cent sales tax. He said Council could amend that ordinance. He pointed out in 2004 the York Street property sold for \$175,000 and then about 6 months later it sold for \$210,000. He said he was not sure about the comment of \$62,000 value of the property. He said when Council started talking about buying the property it was suggested to use the Open Space/Green Space funds. He said he felt the proposed drawing for the property would be more open space. He said Council could use whatever funds they wished for the purchase of the property, but the previous ordinance would need to be amended. He said if Council would like he could set aside some funds in the budget for green space/open space as a line item.

Councilwoman Vaughters stated as far as misinformation, she had been told that the lot was about one-half acre and it is .3 acre. She was also told there was no appraisal, but she understands there has been an appraisal. Mr. LeDuc pointed out the city had not had an appraisal done on the property. Mayor Cavanaugh pointed out he thought the comment on the size was an estimate, as no one knew at that time.

Councilman Smith made the comment that the proposed drawing for the property looked like a nice plan, but he was concerned why this could not have been presented earlier.

Mr. Anaclerio stated earlier there was no thought on what the lot would look like, but the thought was only that it be used as upscale green space/open space. He said it had taken a while to get the drawing and also present the plan to various groups. He said he plans to come to Council with a formal presentation on the plan for the lot at the next meeting.

Councilwoman Clyburn stated she liked the idea of putting a line item in the budget for green space/open space in the budget each year.

Mr. Gary Smith stated the motion proposed is to pass the ordinance as presented to Council. He said Mr. LeDuc has stated that if Council wishes they can come back later and address where the money comes from.

Councilwoman Price stated she would like to amend her motion to include that the matter be brought back to Council to consider whether the money will all come from the General Fund, and the \$240,000 not be spent from the 1 cent sales tax. The amendment was seconded by Councilman Wells. The motion as amended was approved by a vote of 4 in favor and 2 opposed. Councilmembers Smith and Vaughters opposed the motion. Councilman Sprawls did not vote on the matter.

ABANDON RIGHT-OF-WAY – ORDINANCE 04102006C

Right of Way

Carmike Cinemas, Inc.

Laurens Centre, LLC

Laurens Street

TPN 30-044.0-03-007

TPN 121-21-02-010

Easement

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to abandon the right-of-way off Laurens Street for an easement obtained from Carmike Cinemas, Inc.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ABANDON ITS RIGHT, TITLE AND INTEREST IN INGRESS AND EGRESS EASEMENTS AND RIGHTS OF WAY ADJACENT TO TAX PARCEL NUMBER 30-044.0-03-007 AND RECONVEY IT TO LAURENS CENTRE, LLC.

Mr. LeDuc stated in June of 1999, the City of Aiken obtained an easement from Carmike Cinemas, Inc. In the agreement, 3d states that the City, upon thirty days notice, can cancel this easement agreement with no harm to the provider. We have received a letter from the developers of the Laurens Centre, LLC project, where four retail units and eight residential units will be constructed. They will need a small portion of this easement for the back of this building. Their intention is to provide enclosed parking for the residents and some additional parking for employees at those shops from the rear. A copy of the original agreement with Carmike and the exhibits showing the original easement were given to Council as information.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Smith and unanimously approved, that Council approve on second and final reading an ordinance to abandon the ingress and egress easements and right-of-way granted by Carmike Cinemas off Laurens Street and to reconvey it to Laurens Centre, LLC.

TATTOO FACILITIES - ORDINANCE

Amendment

Zoning Ordinance

Tattoo Parlor

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to amend the Zoning Ordinance regarding tattoo facilities.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING ORDINANCE REGARDING TATTOO FACILITIES.

Mr. LeDuc stated the State of South Carolina, a couple of years ago, passed a law allowing tattoo facilities in the state. The law asked DHEC to provide regulations for these facilities. DHEC has prepared these regulations, and they have been adopted by the state legislature.

Mr. LeDuc stated there has been some controversy in interpreting the law as to whether Council needs to set up a zone for tattoo facilities. He said the city's attorneys, Gary Smith, City Attorney, and Richard Pearce, City Solicitor, both believe that if a zone is not set up for tattoo facilities, an applicant would have the ability to go before the Board of Zoning Appeals asking for an exception. If the applicant did not like the recommendation of BZA, the next course would be to go to court on the matter. He said it is felt an applicant could possibly be successful through the court of law and be able to put a tattoo facility in more than one location. He said if Council passes an ordinance restricting where tattoo facilities could be located, Council would be setting up a particular area of the city with certain regulations that Council feels would be appropriate, instead of possibly letting the court tell the city what should happen.

Mr. LeDuc stated City Council had reviewed various zoning proposals concerning tattoo facilities in the City of Aiken. One area had been in Industrial zones, and Council did not approve that. Another area considered was General Business, the downtown area, and Light Industrial area. At the last meeting, Council indicated that they did not want to locate these facilities in Industrial Zones. Instead Council discussed locating them in a General Business zone located on major roadways with a traffic volume of more than 25,000 motor vehicles per day, and they also could not be located on any lot or parcel along this major thoroughfare within 1,000 feet of a church, school or playground. Another criteria is that the property would need to have at least 100 feet of frontage along the major roadway, so it could not have a small driveway to locate behind some other property. He said there are also regulations by DHEC, and DHEC would also have to give approval. The only current major thoroughfare with a traffic volume of more than 25,000 motor vehicles per day is Whiskey Road from Pine Log to the mall. A map showing the areas inside the city that are beyond 1,000 feet of a school, church, or playground along a major roadway with 25,000 vehicles per day was given to Council as information. He said this proposal is very similar to the ordinance approved by the City of North Augusta. He pointed out there are more locations along Whiskey Road that could be used for tattoo facilities, but the areas are outside the city limits. The map only shows about 6 locations inside the city that could be used for the tattoo facilities.

For City Council consideration, this is second reading and public hearing of an ordinance to allow tattoo facilities along major thoroughfares with vehicular traffic of 25,000 vehicles or more per day and zoned General Business.

Mayor Cavanaugh stated he would like to ask the City Attorney several questions. He asked if there had been court cases yet concerning the issue as to whether there should be zoning for the facilities, or if the city does not have to have zoning for the facilities, and if there is not a zone they are not allowed.

Mr. Gary Smith, City Attorney, stated the statute was passed two years ago and part of the statute was that the tattoo parlors would not be allowed until DHEC established regulations to govern the facilities. He said DHEC has just now approved regulations for tattoo facilities, and the regulations have been approved by the legislature. He said no law suit has been filed yet that he is aware of. He said some facilities have been opened in South Carolina.

Mayor Cavanaugh pointed out that Aiken County had decided they did not need to zone any areas in the County for tattoo facilities.

Mr. Smith stated there are two ways to interpret the statute. He pointed out that he and Richard Pearce had interpreted the statute to state that tattoo facilities are a legal use in the State of South Carolina, and if the city or county fails to zone for those types of uses you do so at your risk, because South Carolina has said it is a legally permissible use in this state. He said he and Mr. Pearce believe the city is not allowed to discriminate against a lawful use as determined by the state. He said he understands Aiken County

has interpreted the law that unless the city or county actually zones for the tattoo facilities, DHEC would not issue a permit, as the law states that in order to get a permit from DHEC the applicant must present a copy of the ordinance from the city or county to show that the facility is allowed.

Councilman Smith stated the ordinance states: "That the applicant must provide to the department a certified copy of an ordinance passed by the local governing body where the business will be located which authorizes the tattoo of persons within its jurisdiction." He said it sounds very clear to him, and he understands why the County has interpreted the law as they have. He said it states that unless the local government authorizes the facilities then according to the state law they cannot do business in the city or county.

Mr. Gary Smith then pointed out there was a state law a few years ago that the local governments could choose whether or not video poker would be allowed in their county or not. He said the State Supreme Court said that referendum was unconstitutional because that would be saying it was okay to have a certain use in one particular county in South Carolina, but it was illegal to have that same use in another county in South Carolina. He said that statute states it is okay not to have a particular use in their city that the state legislature has otherwise said is a legal use. He said he can see the Supreme Court saying that particular provision of the statute is unconstitutional. He said there are catchalls in an ordinance for items that do not fit in a particular category. He said the theory is that if the city does not have something in the ordinance, that a judge or someone may decide you don't have it in the Zoning Ordinance so they will allow it somewhere and it may not be where City Council would like it to be. He felt if Council does not designate some area, there is a risk that DHEC will not issue a permit based on the statute read by Councilman Smith. He said, however, if that is proven to be wrong he is concerned that the City may have to pay the person's legal fees and expenses to challenge the city's decision not to have an ordinance. He said he and Mr. Pearce try to be careful and give Council their best conservative opinion on what to do.

Councilwoman Vaughters stated she felt DHEC intentionally wrote the regulations that way.

Mayor Cavanaugh stated he was considering not approving anything at this time and taking a chance to see what happens.

The public hearing was held.

Ms. Jane Page Thompson, 240 Knox Avenue, asked if there was a way to overlay a district where the price per square foot of commercial space would be elevated that a tattoo facility would not be economical feasible in that specific area.

Mr. Gary Smith stated when Council decides on a zone there has to be a reasonable opportunity for a business to actually be located in the zone. He said he did not feel that only one spot could be designated for a facility, as this would not be providing a reasonable opportunity.

Ms. Zee Homoki, 190 Mockernut Circle, asked several questions regarding the proposed ordinance allowing tattoo facilities along a major roadway with 25,000 motor vehicles per day. She stated she appreciated the fact that the proposed ordinance would limit the tattoo facilities a certain distance from schools, churches and parks. She pointed out Whiskey Road already has a lot of traffic, and another business would bring more traffic. She stated the southside already has a lot of businesses, so she asked that Council consider another area of town for the tattoo facilities that would take business to other areas of town instead of the southside. She pointed out everyone wants their neighborhood to be given the same consideration. She said she felt U.S. 1 might be a good location if we want the facilities so they can be seen and covered by police. She said if it is felt that the facilities may bring in undesirable characters, the facilities need to be in the open so they can be policed easily and they need to be as far as possible from all neighborhoods. She asked that Council consider the matter carefully. She said she agreed with the attorney that everyone has the right to have a business, but she did not

feel that families in Woodside want a tattoo facility just outside their neighborhood either.

Ms. Mary Ellen Krippner, 144 Crane Court, stated she lives in Woodside. She pointed out that the locations designated on the map for tattoo facilities are very close to South Aiken High School and that concerns her. She pointed out the school children would be constantly going back and forth in front of these facilities, and she was concerned about the type people who may be going in and out of those facilities.

Councilwoman Clyburn stated she lives on the northside and wants businesses on the northside, but she wanted to pick and choose the businesses she felt would be good for the area. She said she would not pick or choose a tattoo facility. She said she also felt the city did not have to designate a zone from what was read from the law. She suggested that Council wait for someone to take the matter to the Supreme Court and let the court rule that a decision has to be made.

Mr. Gary Smith, City Attorney, stated the point he was trying to make was that it is easier for the person that wants to locate a tattoo parlor to prevail in a lawsuit if the city does not give them any opportunity to have a business in the city limits. He pointed out this is the only legally authorized use in South Carolina that has the caveat that if the city does not pass an ordinance DHEC cannot issue a permit. He said it is hard for him to believe that the Supreme Court will not find that provision unconstitutional.

Mr. John Bradley, 332 Marlboro Street SE, stated he is Chairman of the School Board and he would point out that there are nearly 3,000 students within one-fourth mile of two of the proposed locations for the tattoo parlors. He pointed out with the tattoo facilities along Whiskey Road it would be free advertising as the students would see the facilities every time they went along the road. He said he would like to see the facilities located further away from the schools.

Councilman Smith moved, seconded by Mayor Cavanaugh and unanimously approved, that Council deny the ordinance on second reading regarding amending the Zoning Ordinance to allow tattoo facilities.

REZONING – ORDINANCE

Williamsburg Street

Colleton Avenue

Verenes, Richard

Jones, Douglas

TPN 121-10-08-005

TPN 121-10-08-006

Mayor Cavanaugh stated an ordinance had been prepared for first reading to rezone property at Williamsburg and Colleton from Light Industrial to Residential Single-Family RS-6.

Mr. Gary Smith, City Attorney, stated Councilman Sprawls had signed a Potential Conflict of Interest Statement stating that he is recusing himself from participating in the discussion and voting on this matter since he is involved in a real estate firm that could make a commission from this project. Councilman Sprawls left the Council Room at 9:17 P.M.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY CONSISTING OF 1.59 ACRES OF LAND, OWNED BY RICHARD VERENES FROM LIGHT INDUSTRIAL (LI) TO RESIDENTIAL SINGLE-FAMILY (RS-6)

Mr. LeDuc stated the applicant, Doug Jones, is requesting the rezoning of a 1.59 acre lot located at the northeast corner of Williamsburg Street and Colleton Avenue. He would like to develop the lot with 8 detached single family homes. The site was previously occupied by vacant warehouses which were recently torn down by the owner and had

previously been used by a beverage company. He said the building was vacant for many years and used for storage. He said the city had talked to Mr. Verenes several years ago about some building code violations and asked about getting the building torn down. Mr. Verenes contemplated that for some time and recently decided to tear the building down. He pointed out the area is currently zoned Light Industrial and a number of businesses could locate in a Light Industrial Zone.

Last year City Council debated at length what type of zoning they desired in the current Light Industrial Zone section of old Aiken. This particular area is in the east Aiken area. The citizens asked that this area be Single Family RS-15 or Single Family Stables RSS. It was Council's desire to change the zoning from Light Industrial to Single Family Low Density Residential throughout this area which would be RS-6 or above. Because of the railroad tracks and the surrounding property Council felt that low density was appropriate for this area. The applicant is requesting an RS-6 zone, but due to the fact that the 1.59 acre site does not meet the four acre limit for Planned Residential, they do not need to provide design plans for the project. Five of the lots exceed 8,000 square feet and the other three are 7,000 square feet plus. He stated the property to the north of this area is zoned General Business and Light Industrial; the area to the west is Residential Multi-Family; to the east is Light Industrial; southeast is RS-8, and the south and southwest is RS-15.

The Planning Commission voted 4 to 2 to recommend approval of the RS-6 zoning.

Mayor Cavanaugh stated he understood there were people in the audience that wanted to speak on the matter.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council suspend the rules and allow citizens to speak on first reading of the ordinance.

Mr. Doug Jones, 708 West Rollingwood, stated that he is asking for RS-6 zoning, but three of the lots are over 10,200 square feet; two are over 8,200 square feet; and three are over 7,200 square feet. He presented a drawing of what he envisions the housing to be on this property. He stated in this neighborhood there are huge lots and also small lots. He stated that Colleton Avenue from York Street to Charleston Street is a very diverse area. He said the properties range from stately mansions to low income apartments, from warehouses to paddocks and stables, from spacious cottages to small shotgun houses. He stated the lots vary in size from 100,000 square feet to 3,400 square feet on that street. He said the variety allows for a diversity of architectural styles as well as economic mixes of people who live in the area. He said he had given considerable thought to Mr. Verenes property. He stated their objective was to remove the warehouse, an eyesore in the area, and construct eight attractive dwellings. He said this development would allow for less traffic than what Mr. Verenes' former distribution center added to the neighborhood. He stated he hopes this will be a positive step in the City of Aiken. He discussed the setbacks on Colleton. He stated that setbacks make a dramatic difference on how homes look as far as being clustered. He stated what they envision are houses with a small footprint so they will have a decent setback. He stated they anticipate eight beautiful homes that will increase the property value of the neighborhood. He stated there will be restrictions and covenants on the property.

Mayor Cavanaugh stated the pictures of proposed homes were nice, but he wondered what kind of control Mr. Jones has over what goes on the property.

Mr. Jones stated he would not be building on the property, but would be offering the property for development. He said they will have architectural control, as far as the façade. He stated there will be no driveways beside the homes. There will be two-car garages in the back, and an alley in the back that runs from Marlboro to Williamsburg. He stated the setbacks and height of the homes are determined by regulations that City Council has already set. He stated they plan to have homes that have a 25-foot footprint that will allow for gardens on the side, and, if they get a variance from City Council, then they could build their homes on the setback line and have larger gardens, since they are attractive with gardens. Mr. Jones stated the restrictions and covenants had not been

developed at this time. In response to questions, Mr. Jones stated the price of the homes would be about \$400,000. All the lots would be 60 feet wide.

Councilwoman Vaughters stated she had a problem with RS-6 zoning and the small lots. She stated this is not a good precedent to set. She stated to zone this as dense as it can be bothers her. She stated she sat in on the Old Aiken Master Plan meetings, and the people on that committee did not have that in mind when they set the zoning. She stated in looking at the property it seemed if there was one less lot, the property could be zoned RS-10 or RS-8.

Mayor Cavanaugh pointed out this RS-6 is different from most RS-6 submittals. Usually the RS-6 would all be 6,000 square foot lots. He pointed out these lots vary in size from 7,000 to 10,000 square feet. He said, however, the next request for RS-6 may have all the lots 6,000 square feet. He said if that was the case for this property he would have a problem with the RS-6 zoning for this area.

Mayor Cavanaugh stated he would like to thank Mr. Dick Verenes for what he has done in removing the warehouse. He pointed out citizens in the area had complained about the old warehouse and the condition of the building.

Mr. Dick Verenes stated he would like to thank the Mayor and Mr. LeDuc for the help they had given him. Mr. Verenes gave a brief history of the building. He stated the property had been in his family for three generations. He stated the city had talked to him about bringing the building up to code. He said he could have done that, but then the property would be rented as a business. He said he felt the proposed use is the best use for the property. He stated he would like to bring to the attention of the citizens that when the warehouse was a working building, there was much more traffic than what there will be as RS-6 zoning and 8 houses. In response to a question, Mr. Verenes stated he paid \$70,000 to have the building removed. He said he could have brought the building up to code for less than \$70,000.

Ms. Rosa Lee Fox, 616 Colleton Avenue SE, stated that Colleton Avenue comes through the heart of the historic register district. She stated there are six houses in that area that are listed as historic sites. She stated there is a constant struggle to keep the area looking historical and as old Aiken is supposed to look. She stated people spend a lot of money restoring the old houses because they want to invest in Aiken. She stated there is some RS-15 zoning in the area, but there are no RS-6 zones in the city, except for three which are out on the perimeter of the city. She stated she had done a survey, and that between York Street and the far side of Berkeley, and between South Boundary and Park Avenue, there are 241 houses on 84 city block faces. She said this averages 2.87 houses per city block face. She said the proposed RS-6 is considerably higher in density than what exists in the area. She stated she felt the property should be zoned RS-15. Ms. Fox stated she was concerned about the uses which are allowed in the RS-6 zone and reviewed those for Council. She said there was no need for 1.59 acres to be zoned RS-6, but felt the zoning should be RS-15.

Mr. Rhett Sinclair stated the first house he purchased was across the street from the warehouse that was torn down. He said he lived on the corner of Colleton and Williamsburg Street. He said there is a lot of inconsistency in the area. He said there are some beautiful homes further down Colleton, but the area he was in did not look like the safest neighborhood. He pointed out that beyond the warehouse property, looking at both sides of the street, everything else is dilapidated and is an eyesore. He pointed out that across the railroad tracks is even worse. He said his feeling is that if the city wants to improve the area, promote growth, increase safety and security, and decrease traffic he felt this is an excellent place for Council to consider to help promote the start. He felt this could be a spur to help promote growth in the area, especially if there are some covenants involved to assure an appearance as the drawings presented.

Mr. John Bradley, 333 Marlboro Street SE, stated he lives diagonally across from the property proposed to be rezoned and developed. He said he had been a resident of downtown Aiken for about 40 years. He said he does appreciate the removal of the warehouse eyesore that has occupied the property for a number of years. He said he felt

even if RS-6 zoning is approved that it would be an improvement over what was there. He said there are some unsightly buildings around this property, and that is some of his concern. He pointed out there are three other properties contiguous to this property that are for sale. He said if Council zones this property RS-6 they would be setting a precedent, and he was concerned about a lot of density packed into a small area. He said that does not represent what this area is about. He said the purpose of zoning is to protect people from things not in their best interest concerning their property and not to help people make money. He said he felt the issue was how much money we would allow the developer to make. He pointed out the lots would only be 60 feet on Colleton Avenue. He said that would dictate the housing allowed on the property. He pointed out the housing would be like the ones being constructed on Park Avenue. He said this is a way to pack a house on a small lot. He said he did not feel that these houses represent old Aiken. He said he would at least like to see RS-8 zoning, but preferably RS-10 zoning. He pointed out there are small lots on Colleton, but there are small houses on the lots. The proposal would put large, tall houses on small lots.

Ms. Jane Page Thompson, 240 Knox Avenue, stated she had requested a moratorium on building permits because so many townhouses are being built in Aiken. She reviewed the housing existing in the area and the size of the lots. She stated she felt RS-10 zoning would be appropriate for the neighborhood. She said she and a previous client had determined that four units would be appropriate and in keeping with the neighborhood. She said they realized profitability was not there at four units and walked away from the project. She said at six units profitability is there. She asked that Council consider changing the zoning to RS-10 and allow six units.

Ms. Joann Peace, 248 Marion Street SE, stated she owns the horse property across the road on Williamsburg Street. She stated she would like to see the property zoned RS-10 or RS-15, which she feels is more in keeping with the area. She pointed out most of the higher density is across the railroad tracks. She pointed out that houses that are on smaller lots are small houses. She felt RS-6 would be setting a precedent for zoning in the area. She said she could divide her property and make several lots, but she felt Aiken wants her property to remain horse property.

Ms. Gail McLain, 225 South Boundary SE, stated since there seems to be no architectural control on the property, perhaps the historic district could be expanded another block and the property could be in the historic district and the Design Review Board would have architectural control over the property. She stated she supports the RS-10 zoning.

Mr. Bill Herbruck, 418 Colleton Avenue SE, stated he was not aware of the traffic which Mr. Verenes mentioned when the property was an active warehouse. He pointed out the property has basically been vacant the entire time he has been in Aiken. He said he did not agree that the project would reduce traffic, but would add to the traffic and even more so with the RS-6 zone and especially if more of the area were to be rezoned to RS-6. He pointed out he served on the southeast section of the Old Aiken Master Plan. He said they suggested that areas that do not have houses should be horse family properties and should be RSS zoning. He said he understands the recommended zoning was changed to low density. He said he did not feel that high rise buildings are appropriate for the area. He said the proposal would not be an eyesore, but he had suggested that there only be four houses on the property rather than eight. He felt RS-15 zoning would be vastly superior to RS-6 zoning. He said he was opposed to the RS-6 zoning.

Mr. Ed Giobbe, 541 Grace Avenue, asked if it was the duty of the Planning Commission and City Council to maximize developer profits, or is it the responsibility of both the Planning Commission and City Council to accede to the wishes of the neighbors that live in this vicinity and the residents of Aiken to determine the quality of their life and how they wish to live.

Ms. Diana Crowley, 1202 South Boundary SE, pointed out she understood the drawing being passed around was just a rendering, and also that Mr. Jones would not be developing the property, but would be selling the lots. She questioned how Mr. Jones could suggest a rendering when he will not be controlling the property. She also was very concerned about RS-6 zoning and pointed out there is no RS-6 zoning in the area.

She asked why choose RS-6 zoning when the applicant has the ability to have lots of 10,000 square feet. She pointed out the rendering depicts three story buildings. She pointed out even the biggest estate in the area is not three story, and the multi-family buildings in the area are single story. She emphasized that besides low density, Council should consider design. She pointed out the Old Aiken Master plan emphasizes character. She said the proposed housing would not be in keeping with the character of the area. She presented a petition signed by over 30 people who were opposed the RS-6 rezoning but could not attend the meeting. She pointed out many of the people are interested in the continued use of Old Aiken for horse related activities. She pointed out that three story buildings would change the design element of the area. She stated there are no economic problems in Old Aiken, as houses are selling for over \$300,000. She pointed out there is a good and growing revenue base. She questioned rezoning to RS-6. She pointed out one of the things emphasized in the Old Aiken Master Plan is to protect the character of Old Aiken. She felt there should be a maximum house size on lots and asked that Council consider revisiting the Zoning Ordinance.

Mr. Doug Jones stated he had a petition from 88 citizens and property owners in favor of the rezoning who could not be present at this meeting. He pointed out the purchase of the property is contingent upon getting eight lots on the property.

There was a question regarding the number of lots there could be under the various zones. Mr. LeDuc pointed out that under RS-10 there could be six lots, RS-8 there could be seven lots, and under RS-6 there could be eight lots, based on the square footage. He stated if one of the lots was eliminated on Colleton and made all the lots 70 foot frontage, there would be 8,000 square foot lots and above. He pointed out if Council approves RS-6 zoning and does not limit the number of lots, they could have eleven lots on this property. He said if Council wants to approve RS-6 zoning they should limit the maximum lots to eight. If the zoning is approved as RS-8 it should be with a maximum of seven lots. RS-10 zoning should have a maximum of six lots.

Council then discussed the request for rezoning.

Mayor Cavanaugh moved, seconded by Councilman Wells, that Council amend the ordinance and rezone the property at the northeast corner of Williamsburg and Colleton from Light Industrial to Residential Single Family RS-8 with a maximum of seven lots, and that second reading and public hearing be set for the next regular meeting of Council.

Councilwoman Vaughters stated in many towns people want to live in a certain area so they can look at beautiful things. She stated she felt one of the reasons this lot is so neat is because it looks across the parkway at Ms. Peace's paddocks. She said she wanted to be sure that Council does not rezone property so that all will be looking at each other's RS-6 three story condos and not looking at the beautiful things that really make Aiken a unique place. She felt the proposal was good, but she would prefer that the zoning be RS-10.

Councilwoman Clyburn stated as she rode around the area she noticed that some of the vacant lots are small, and probably at one time there were small houses on the lots. She pointed out it had been mentioned that the city should possibly have maximum and minimum house sizes for certain size lots. She said she felt that a 2,000 square foot house on a .16 acre lot would be overwhelming for her. She said perhaps there should be some guidance for house size to help maintain the character of the neighborhood. She said she felt RS-8 is a much better proposal for the property than RS-6.

Councilman Wells pointed out because the large warehouse was on the property, there are very few trees on the property. He said he felt no trees would actually discourage someone from building one or two large dwellings and not have any trees. He said he likes the RS-8 as opposed to RS-6 zoning for the property.

Councilwoman Price stated she was not going to vote for RS-6 zoning, but the RS-8 zone does present a compromise. She pointed out proposed housing at about \$400,000 each adds value to the neighborhood. She felt the dwellings would ultimately enhance the neighborhood.

Councilman Smith asked what kind of frontage a RS-8 zone would give for the lots.

Mr. LeDuc stated if Council approves RS-8 zoning and did not limit the number of lots, with 69,000 square feet there could be eight lots. He said because the zoning would not be Planned Residential Council could not dictate the layout of the land. He asked the City Attorney if Council could state there could be five lots on Colleton Avenue with a minimum frontage of 70 feet and three lots on Williamsburg Street with the lots being 8,000 square feet or above.

Mr. Gary Smith stated the condition would be that the developer present a plat to the Planning Department which shows the lot layout suggested by Mr. LeDuc. He said Council could put that level of detail on the approval.

Mr. LeDuc stated if the zoning was Planned Residential then Council could have whatever detail they desire including the design of the homes. He pointed out that later on the agenda Council will be considering the Planning Commission Action Agenda and Council may wish to reconsider the items on the Action Agenda and consider making Planned Residential a priority and consider smaller areas for Planned Residential.

Councilwoman Vaughters stated she wanted to make another point in favor of RS-10 zoning. She pointed out Council cannot put design controls on the development, so she wanted to make the lots as large as possible. She felt the lots would be more valuable if people know what will be placed on the lots.

Councilman Smith stated he has a dilemma, as he knows they are trying to do something for the area that needs to be improved. He said, however, because there could be no design review standards, he was not confident that covenants might work for the area. He said he felt if the area is to be rezoned it should be RS-10.

Mayor Cavanaugh called for a vote on the motion to amend the ordinance and rezone the property at the northeast corner of Williamsburg and Colleton from Light Industrial to Residential Single Family RS-8 with a maximum of seven lots, and that second reading and public hearing be set for the next regular meeting of Council. The motion was approved by a vote of 4 in favor and 2 opposed. In favor were Mayor Cavanaugh and Councilmembers Clyburn, Price and Wells. Opposed were Councilmembers Smith and Vaughters. Councilman Sprawls did not participate in the voting because of a possible conflict of interest.

At this point Councilman Sprawls returned to the Council Room.

GEM LAKES SEWER SYSTEM PURCHASE – ORDINANCE

United Utilities, Inc.

Sewer System

Gem Lakes

Mayor Cavanaugh stated an ordinance had been prepared for first reading to authorize funding for purchase of the Gem Lakes Sewer System.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO LEND UP TO \$900,000 TO PROVIDE FINANCING TO FUND THE ACQUISITION OF THE GEM LAKES SEWER SYSTEM FROM UNITED UTILITIES, INC. AND PERFORM CERTAIN SYSTEM REPAIRS.

Mr. LeDuc stated that last November City Council approved the purchase of the Gem Lakes sewer system from United Utilities, Inc. for \$800,000. On Tuesday, March 28, 2006, a city-wide referendum was held and the voters approved the purchase of this system.

The proposed ordinance authorizes the City to enter into a loan agreement using the City's General Fund for a loan in the amount of up to \$900,000. We will begin billing the customers for sewer on May 1, 2006, and will continue billing them on a monthly basis for up to fifteen years. The first billing will be for \$23 and this amount will change yearly on May 1, based on the South Carolina Local Government Investment Pool interest rate. Every May 1 thereafter the bill will be adjusted according to the current year's interest rate. The bill to customers in Gem Lakes will also have a sewer charge based on the amount of water used during the winter quarter period. Based on a second reading and public hearing on April 24, 2006, the City should be able to transact this purchase some time during the last week in April.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council pass on first reading an ordinance to authorize the city to loan up to \$900,000 to provide financing to acquire the Gem Lakes sewer system from Utilities, Inc. and that second reading and public hearing be held at the next regularly scheduled meeting.

ABANDON SEWER EASEMENT – ORDINANCE

Portofino Subdivision

Aiken Mall

Resolution

Easement

Sewer Easement

TCA, LLC

Mayor Cavanaugh stated an ordinance had been prepared for first reading to abandon a sewer easement located in Portofino Subdivision behind the Aiken Mall.

Mr. LeDuc stated this item involves acquiring a sewer easement and abandoning another sewer easement and involves an ordinance and a resolution.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO ABANDON A PORTION OF AN EASEMENT AND RECONVEY IT TO LANDOWNER TCA, LLC.

Mr. LeDuc stated that behind the Aiken Mall and along Spencer Drive a recent subdivision named Portofino was developed. The sewer line easement that was originally designed needs to be abandoned and a new sewer line easement accepted to complete the home sites.

City Council will need to approve a resolution authorizing the acceptance of the deed of easement for the new sewer line and also pass an ordinance on first reading to abandon the current sewer line easement. By accepting the new sewer line easement, the City will be able to establish the rights to serve sewer to the entire subdivision. The old and new portions of the sewer line easements are crosshatched differently on the plat given to Council to identify these changes.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council pass on first reading an ordinance to abandon the former sewer easement located in Portofino Subdivision behind the Aiken Mall and that second reading and public hearing be held at the next regularly scheduled meeting.

Mr. LeDuc stated Council also needs to approve the resolution authorizing the acceptance of the new sewer line easement.

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF EASEMENT OVER PORTOFINO SUBDIVISION, PHASE II, TAX PARCEL NUMBER 123-05-02-001 (FORMERLY 00-158.0-01-009) FOR CONSTRUCTION, MAINTENANCE AND OPERATION OF A NEW SEWER LINE AND OTHER UTILITIES.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the resolution to accept a sewer line easement located in Portofino Subdivision behind the Aiken Mall.

SALE OF PROPERTY – ORDINANCE

Fairfield Street NE 334

Patel, Ketan

TPN 120-18-32-017

TPN 30-068.0-09-012 (Old)

Austin, Laura Blocker

Mayor Cavanaugh stated an ordinance had been prepared for first reading approving the sale of property on Fairfield Street.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING THE SALE AND CONVEYANCE OF THE PROPERTY OWNED BY THE CITY OF AIKEN LOCATED AT 334 FAIRFIELD STREET IN AIKEN, SOUTH CAROLINA, KNOWN AS THE LAURA BLOCKER AUSTIN HOUSE, TAX PARCEL NUMBER 120-18-32-017 [formerly 30-068.0-09-012].

Mr. LeDuc stated that last year the City of Aiken posted the property at 334 Fairfield Street NE for sale as per City Council's direction. We thought that Council had already authorized the sale of this property, but recently found out otherwise. The highest bidder for this narrow lot on Fairfield Street was Ketan Patel. A condition on the sale of this lot requires him to build a single family house within one year from the sale of the property to him. We will be working with him to try and use one of the various designs that we are currently using in either the Asheton Oaks or the Toole Hill neighborhoods. We acquired this lot at the time of the purchase of the property at York and Barnwell, where the yellow house is currently located.

Councilwoman Price stated she would like for the house to have a carport or an attached storage facility to have a place to store some items such as a lawn mower or bicycles. She felt this would add to the value of the house and certainly make the yard more attractive. Council then discussed whether there would be room for a carport on the side or the back of the house, since the lot is very narrow. It was felt that the houses sell better when there is a carport or storage area.

Councilman Wells expressed concern about a requirement for a carport and storage facility and the cost added to the cost of the house. He was concerned that the requirement for a carport or storage facility may take funds away from the construction of the body of the house. He said if Council makes that stipulation there would be a requirement for a carport or storage facility but no requirement regarding the body of the house. He was concerned about the added expense for the requirement for a carport or storage area. He said it would be his desire that the house have a carport or storage area, but he did not want it taken away from the main house.

Mayor Cavanaugh stated in the future such a requirement should be included in the bid process.

Councilwoman Clyburn pointed out that most of the houses on Fairfield Street do not have paved driveways. She pointed out perhaps money could be saved by not putting a paved driveway, since this is a very narrow lot, and just have a grass driveway with crushrun. She pointed out that would handle drainage better than a paved driveway. She pointed out if there will not be a carport she did not see the reason for a paved driveway.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council amend the ordinance to sell the lot on Fairfield Street for \$12,000 to Ketan Patel to require a carport on the side or in the back of the house to be built on the lot or a 50 square foot minimum attached storage facility and that the ordinance be

passed on first reading and that second reading and public hearing be set for the next regularly scheduled meeting.

RESOLUTION – PURCHASE PROPERTY

Edgewood
Toole Hill
Northside Revitalization
Sundy
Saluda
Pinecrest
Morgan
Ligon
Thomas, Willie James
TPN 104-16-26-001
McCormick Street NW 410
Trowell, Crey
TPN 104-16-15-001
Hampton Avenue NW 636
Weaver, George L.
TPN 120-18-16-004
Sumter Street NE
James, Thornton L.
James, Rosemary
TPN 120-18-17-001
Sumter Street NE
Fox, Daniel E. Estate
TPN 120-18-06-004
Saluda Street NE
TPN 120-18-06-003
Saluda Street NE
Fob, Bertha M. Estate
TPN 120-18-06-002
Saluda Street
Freeland, Judy C.
TPN 120-18-06-005
Sundy Drive NE
Johnson, Lue Central
Carter, Mable Davis
TPN 104-16-29-005
Morgan Street NW
Ligon Avenue NW

Mayor Cavanaugh stated a resolution had been prepared approving purchase of property in the Edgewood and Toole Hill neighborhoods.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE PURCHASE OF CERTAIN REAL ESTATE
 LOCATED IN THE CITY OF AIKEN

Mr. LeDuc stated that as part of our Northside Revitalization effort City Council has authorized staff to begin purchase of property for the renewal of the Toole Hill/Pinecrest area and the Edgewood neighborhood.

Mr. LeDuc stated he would like Council's approval to purchase six vacant lots in the Edgewood neighborhood. The lots owned by the Fox estate range in size from 5,100 square feet to 7,900 square feet and are priced from \$3,500 to \$4,000. They are located on the north side of Sundy at Saluda. The 6,300 square foot lot owned by James is at the southeast corner of Sumter and Bamberg and will cost \$10,000. The lot owned by the Weavers is 9,050 square feet at a cost of \$13,000.

We are also requesting Council to approve the purchase of three lots in the Toole Hill/Pinecrest area. The 6,400 square foot lot at 410 McCormick has a house on it which will be removed and the cost is \$17,000. At 636 Hampton the vacant 12,000 square foot lot could possibly be subdivided into two lots and will cost \$15,000. The third, 14,600 square foot lot at the southwest corner of Morgan and Ligon can accommodate two homes and will cost \$12,000.

For City Council consideration, this is approval to purchase six vacant lots in the Edgewood area for a total price of \$37,500 and three properties in the Toole Hill area for \$44,000.

Councilwoman Vaughters stated she felt the lot on McCormick was high, as the house on it is in bad shape and will have to be torn down.

Mr. LeDuc pointed out since the lot has a house on it, the cost is more. He pointed out the house is in bad shape and will have to be torn down. He stated the house is an eyesore in the area. The city is building some houses across the street from this property. He said it would really be getting a nuisance out of the area.

Council continued to discuss the purchase of the properties and the city's plans for the areas in the future and efforts to improve the areas.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council approve a resolution authorizing the purchase of nine properties in the Edgewood and Toole Hill neighborhoods.

PLANNING COMMISSION

Action Agenda

Fiscal Year 2006-07

Mayor Cavanaugh stated Council needed to consider approval of the Planning Commission Action Agenda for 2006-07.

Mr. LeDuc stated Council met last month with the Planning Commission to develop an Action Agenda for the upcoming year. Based on the meeting the recommended Action Agenda for next year is as follows:

- 1) Comprehensive Plan for Area North of Aiken to I-20 (Task Force)
- 2) Attached Housing (in progress)
- 3) ** Review and Modify the Planned Residential Zone to a Minimum of One Acre or Below. (Added by Council)
- 4) Access Management Ordinance (draft ready for Commission review)
- 5) Public Notice for Text Amendments to the Zoning Ordinance and Land Development Regulations
- 6) Amendments to the Land Development Regulations regarding maintenance guarantees
- 7) Require all wiring to be underground (not just service lines to buildings)
- 8) Residential Parking in the Downtown Area (Randy Wilson)
- 9) Creation of Institutional zoning category
- 10) Evaluation of Limited Professional (LP) Zone
- 11) Inoperable vehicles at commercial locations (Task Force)
- 12) Design standards for buildings along major roads (Task Force)
- 13) Open Space/Green Space Plan (Task Force)
- 14) Underground Wiring (Task Force)

The Planning Commission has done a good job this past year in completing work on several projects. We have sent a letter to Aiken County asking them to respond by June 1, 2006, on whether or not they will participate in the North Aiken Comprehensive Plan.

We feel that several items on the new Action Agenda can be completed this next year through the continued cooperation of the Planning Commission and City Council.

Mr. LeDuc stated one item that Council may want to address specifically is Planned Residential. He said Council may want to amend the list by including that item near the top of the list because it is a big issue, and there are more residential developments that will be coming to Council in the near future. He said more individuals have come to staff concerning properties in and around the downtown area that would fit in a Planned Residential concept. He said Council may specifically want the number of acres in a Planned Residential to be considered.

Councilwoman Vaughters asked about design guidelines for single family residential in the downtown area and residential parking in the downtown. She pointed out residential use is invading the downtown, and she is concerned about residential versus commercial in the downtown area.

Mr. LeDuc stated the Planning Commission can change the Zoning Ordinance to give them authority over single family homes in the DB area. He said, however, the actual guidelines would not go before the Planning Commission. He said the Zoning Ordinance would have to be amended to give permission to the Design Review Board to have review over single family homes in the Downtown Business zone. He pointed out the Design Review Board does not have guidelines yet to review single family residential in the DB zone, so if they had authority they would not have the guidelines to follow. He pointed out Randy Wilson should have design guidelines to the city about mid-May, and then the Design Review Board will need to review them. He said it is not a simple matter since the DB zone includes a large area. Mr. LeDuc stated the city is working with an individual from Atlanta that has worked with many communities throughout the Southeast and is a parking expert. He said he will look at off street parking and parking in the downtown area.

Ms. Jane Page Thompson, 240 Knox Avenue, stated residential in the downtown is something that she is very interested in and wants Council to address and the Planned Residential very quickly. She pointed out she is a real estate agent and sees developers and their proposed projects before the City does. She said she had seen the Fauburg project several months ago. She stated they would be townhouses, and she was concerned about Aiken not being Aiken any more. She urged Council to consider 10,000 square feet when looking at the Planned Residential zone. She pointed out she sees what will be coming to Council and if the area is one acre a lot of things will not be covered.

Councilman Smith asked about impact fees and road improvements that need to be made. He said he felt the city needed to consider these matters.

Mr. LeDuc pointed out there needs to be caution with impact fees. He pointed out there needs to be a joint committee with the County. He pointed out if the city has an impact fee and the County does not, then the developments will be just outside the city. He pointed out a need to work with the County. He pointed out most of the roads where there is a problem are in the County. Mr. LeDuc pointed out our Traffic Consultant is redoing the traffic counts inside the city limits to determine the level of service of the roads. He is also looking at the city's Traffic Management Ordinance and some possible changes. He is also looking at what the impact fee would be based on the known projects. The report should be completed in about three to four months.

After much discussion, it was the general consensus of Council to add the study of Planned Residential regulations in the DB and the size of PR as number 3 on the Action Agenda.

Councilwoman Price moved, seconded by Councilman Smith and unanimously approved, that Council approve the Action Agenda for the Planning Commission for fiscal year 2006-07 with the addition of "modification of the Planned Residential Zone and size of the zone" as item number 3 to be considered by the Planning Commission.

RESOLUTION – WAVELAND, MISSISSIPPI

Wetzel, Jack
Mississippi
Hurricane

Mayor Cavanaugh stated a resolution had been prepared regarding the Aiken and Waveland partnership.

Mr. LeDuc stated a few weeks ago City Council decided to support Waveland, Mississippi, and since March 26, 2006, two utility crews from the city have been working in Waveland. The City of Waveland did not require individuals from Public Safety at this time, as their primary need concerned the repair of their water system.

On Wednesday, April 19, 2006, at 5 P.M. our community will be holding a rally for Waveland on the back patio of the Municipal Building. Dignitaries from Waveland, along with the Mayor, Jack Wetzel, and city employees who recently worked in this community will be asking our entire community to become involved in adopting Waveland during their time of need. This will be a short rally, and we hope that all our City Councilmembers can attend.

Mayor Cavanaugh asked Council to sign a proposed resolution for the partnership of Aiken and Waveland.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved that Council adopt the resolution in support of Waveland, Mississippi.

EXECUTIVE SESSION

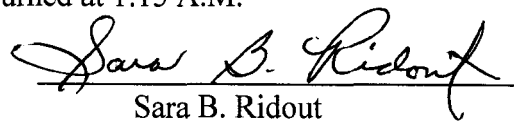
Personnel Matter
Judge
Assistant Judge
Municipal Court

Mayor Cavanaugh stated Council needed to go into executive to discuss the two judge positions.

Councilman Sprawls moved, seconded by Councilwoman Vaughters and unanimously approved, that Council go into executive session to discuss the two Municipal Court judge positions. Council went into executive session at 11:36 P.M. After discussion Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that the executive session end. The executive session ended at 1:15 A.M.

ADJOURNMENT

There being no further business, the meeting adjourned at 1:15 A.M.


Sara B. Ridout
City Clerk