

Aiken City Council Minutes

June 9, 2008

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

Others Present: Roger LeDuc, Gary Smith, Sara Ridout, and about 10 citizens.

Mayor Cavanaugh called the meeting to order at 6:45 P.M. in the main hall of City Hall. Mayor Cavanaugh stated since a storm had caused a power outage and several trees were down and since it was not known how long the power would remain off, he was suggesting that the Council meeting be cancelled for the evening and that it be rescheduled for June 16, 2008.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council reschedule the meeting for Monday, June 16, 2008.

Aiken City Council Minutes

June 16, 2008

WORK SESSION

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

Others Present: Roger LeDuc, Gary Smith, Ed Evans, Richard Pearce, Sara Ridout, April Bailey of the Aiken Standard, Michelle Guffey of the Augusta Chronicle and about 20 citizens.

Mayor Cavanaugh called the meeting to order at 6:34 P.M. and stated the purpose of the meeting was to discuss Downtown Business District issues with residential uses in the district and zero lot line setbacks.

DOWNTOWN BUSINESS DISTRICT

Residential Uses

Setbacks

Zero Lot Lines

Lot Lines

Mr. LeDuc stated this work session was scheduled after some citizens raised concerns about residential properties being built with zero lot line setbacks. He said this matter had been discussed on several occasions. The last time Council discussed the matter the general consensus was to keep things basically the same, except for looking at parking spaces and some considerations for incentives for open space. The City had a request from a citizen who lives at Arbor Terrace off Newberry Street who had concerns because the homes have no setbacks and if another residential unit or commercial business were constructed adjacent they would have no light or air exposure at the back of their buildings. While our current ordinances and guidelines permit this activity, Council may desire additional comments from the public on this issue. We have notified ADDA, the citizens who have presented these concerns to us, and others with residential properties in the Downtown Business District about this scheduled work session.

In a memo from Ed Evans, he suggests that if Council would like to prevent a new building from being too close to an existing building, they may want to add the following paragraph to page 25 of the Old Aiken Design Guidelines: "Adequate separation shall be maintained between any proposed building and the wall of an existing building which has a window, door, or similar opening so a reasonable amount of light and air is maintained for the existing building."

This and other comments you receive at the work session that you deem to be appropriate can be forwarded to the Design Review Board for their consideration.

Mr. LeDuc stated since the Design Review Board has oversight over the entire Downtown Business area, they in turn will be looking at any new construction or any major expansions, and therefore Council could easily give them language similar to what is suggested, asking them to take this into consideration and to take the appropriate action as far as separation between buildings. Staff considered possibly looking at the DB on a block by block basis, and this became almost impossible; thus the recommendation that the issue be considered by the DB and let them make the final decision. This way a public hearing could be held and comments could be made. It would not just be the design of the building, but also the setbacks and side yards between the various buildings that would be considered.

Our DRB currently uses the existing DB Design Guidelines when reviewing projects proposed for Aiken's Downtown. With their past experience implementing guidelines for these Downtown proposed projects, DRB can give careful consideration to downtown residential setbacks, off street parking, incentives for landscaping, and recommend any additional language for the Downtown Design Manual that will address the issues identified as pressing.

Mr. Arthur Gregory, of Newberry Place, stated he was concerned about zero setback lines, as he considers this a potential problem. He said this is an issue of general concern to the Downtown District, but is also an issue of particular concern for those who live in Newberry Place, as the units are already built to the rear property line. He pointed out the residents of Newberry Place did not participate in the decision to build the units to the property line nor the architectural design of the units to have patios built to the rear property line, as well as walls with 6 foot tall windows both on the first and second stories, built to the rear property line and without a fire wall. He said this is a great concern to those in the units. He said he had assumed when he bought his property that there was a setback. He pointed out that if the adjacent property is built to the property line, the essence is that three of their four sides would be sealed off. There would be aesthetic impairment for the units, but more importantly some public safety concerns because there would be no egress in the case of a fire and no fire lane. Mr. Gregory pointed out Article II Residential Design Standards, Section 4.2.3 entitled Minimum Building Separations which states "there must be at least 15 feet between one story structures and at least 20 feet between two-story or taller structures and any other structure. The Building Official may reduce this required separation when no public safety concerns exist." He said the basis for this separation is public safety concerns. He said his point is why the public safety concerns would be less in the case of two buildings built side by side touching each other, because they are built on two lots. He said the same rationale he had read should apply with the same force and effect to two buildings, even if they are on separate lots. He urged Council to give the concern some consideration and grant some measure of protection whether it is a buffer or a fire lane.

Ms. Jane Page Thompson, 240 Knox Avenue, stated she agreed with Mr. Gregory. She pointed out Charleston has from 3 feet to as much 75 feet between buildings. She suggested that Aiken needs an Aiken solution to an Aiken problem. She said the character of Aiken is determined by the diversity of setbacks on the streets. She said she liked the fact that the Design Review Board may have some oversight of this issue. Her concern is that there had been some concerns in the past as to whether the DRB could look at certain issues. She suggested that perhaps instead of making a definitive figure that Council give DRB a broad brush within the law to allow them to vary the setback depending on building to building and parcel to parcel. However, when a part of any commercial lot is being used for residential, a setback should be required for safety reasons and then the parking issue could be factored into that setback. She urged Council to give DRB the required legal backing to let them effectively consider the issues and to decide what the setback should be. She did feel that there should be a minimum of at least 3 feet just for fire reasons, but 7 1/2 feet seems to be a good minimum, but she would prefer 20 feet.

Councilwoman Vaughters stated she had some concerns about too great of a required minimum. She gave an example in another city of a unit being built to the property line which made a much better situation. She felt it would be good to have flexibility because situations differ depending on the individual situation. She asked Ms. Thompson how she felt about the suggested paragraph to be added to the Old Aiken Design Guidelines. Ms. Thompson expressed concern as to whether DRB can have that final authority or whether the authority can be challenged.

After discussion Councilwoman Price suggested that “and for public safety concerns” be added to the suggested wording for the Design Review Board.

Ms. Frances Holloway, 202 Arbor Way, stated she agreed with the comments made by Mr. Gregory.

Mr. LeDuc stated the goal in the downtown area and throughout the 16 block area involves the situation where there could be commercial or residential development. If it is commercial the minimum probably should be zero. If the development is to be residential, and the units are close together, there will probably be a requirement for a sprinkler system in each unit, or fire resistant material, or brick. The section Mr. Gregory was quoting was for areas zoned single-family. In single-family zones units have to be 10 feet apart, but the building official could allow them to be 7 1/2 feet and public safety normally would be involved. He pointed out the entire DB area is not just residential, but is really commercial, but residential is allowed.

Councilwoman Vaughters stated she felt the guidelines would be good and the DRB can look at unique situations and have flexibility to consider each situation.

Mr. LeDuc stated if Council is okay with the proposed language, the matter will go to the Design Review Board for discussion and a recommendation to Council. He said the suggested language would give the DRB some formal guidelines as to what Council would like. The suggestion would give the DRB the flexibility to look at the situations on a case by case basis. He said he felt this would be a good review because presently there is no review or recourse if someone wants to build to the property line, since it is allowed by right in the downtown area and there would not even be a public hearing. To give the authority to the DRB means building to the property line would not be a right but would be reviewed by DRB, and a public hearing would be held. Presently there is no opportunity for public input.

Councilwoman Price suggested that Council recommend to the Design Review Board that the suggested paragraph be considered for inclusion in the Old Aiken Design Guidelines with the addition of the wording “and for public safety concerns.” The members of Council agreed to the suggestion.

Mr. LeDuc stated there are some other issues that Council will need to consider at another time such as parking and possible incentives for open space.

Aiken City Council Minutes

REGULAR MEETING

June 16, 2008

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

Others Present: Roger LeDuc, Gary Smith, Richard Pearce, Anita Lilly, Pete Frommer, Glenn Parker, Ed Evans, Larry Morris, Sara Ridout, April Bailey of the Aiken Standard, Michelle Guffey of the Augusta Chronicle and about 30 citizens.

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Councilman Dewar 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. Councilwoman Vaughters stated she would like to have some discussion on the business license issue regarding rental housing. Councilwoman Clyburn stated she should like to have some discussion regarding a letter which was submitted by a resident of Crosland Park regarding issues in Crosland Park. Councilwoman Clyburn moved, seconded by Councilman Dewar and unanimously approved, that the agenda be approved as amended.

MINUTES

The minutes of the regular meeting of May 12, 2008, and the worksession of May 20, 2008, on a proposed smoking ban, were considered for approval.

Mr. Johnny Johnson, 316 Pine Drive, questioned the minutes of May 20, 2008, regarding the proposed smoking ban. He said he had understood there was discussion about having a meeting with North Augusta and Aiken County, and they were to be furnished a copy of Aiken's proposed ordinance, but he did not see that in the minutes. He questioned why the proposed smoking ban ordinance was on this agenda as he had thought there would be a meeting with North Augusta and Aiken County before the item would be placed on the agenda for action by City Council.

Mr. LeDuc responded that he had met with the North Augusta Manager and the Aiken County Administrator, had given them a copy of Aiken's proposed ordinance, and discussed the proposed ordinance with them.

Councilman Wells stated he had been in discussion with Mr. LeDuc regarding a meeting to be held with Aiken County representatives and North Augusta. He pointed out Councilwoman Vaughters attended the North Augusta meeting when they discussed the issue. North Augusta is proposing a very strict ordinance, not allowing smoking anywhere. He said their city is different from Aiken with very few bars and restaurants with an outside venue. He said it would be difficult to come to a consensus with them as he did not feel that Aiken's ordinance should be as strict as North Augusta's proposal. He said there had been a lot of discussion between the governing bodies. Aiken County will probably revisit their current ordinance and possibly make it similar to Aiken's.

Councilman Wells moved that the minutes of May 12 and May 20, 2008, be approved as written. The motion was seconded by Mayor Cavanaugh and unanimously approved.

BOARDS AND COMMISSIONS

Appointments

Victor, Susan

McNair, James

Accommodations Tax Committee

Mayor Cavanaugh stated Council needed to consider an appointment to the boards and commissions of the city.

Mr. LeDuc stated Council has 10 pending appointments to boards and committees of the city and 1 appointment is presented for Council's consideration.

Councilman Wells has recommended appointment of Susan Victor to the Accommodations Tax Committee to replace James McNair, Jr. If appointed Ms. Victor's term would expire March 25, 2010. Ms. Victor would be filling an at-large position on the Accommodations Tax Committee.

Councilman Wells moved, seconded by Councilman Smith and unanimously approved, that Council approve the appointment of Susan Victor to the Accommodations Tax Committee to replace James McNair, Jr. with the term to expire March 25, 2010.

Councilman Dewar stated at one time Council had talked about revisiting how members of the Aiken Housing Authority are appointed and asked about the status.

Mr. LeDuc stated he plans to have a worksession on appointment of boards and commission members in the next month or so. Presently Housing Authority appointments are for 5 years with only 5 appointments for City Council. There have been discussions with the Housing Authority about the possibility of 7 members with 4 year terms. At that time staff will also bring the matter regarding appointments to other boards and commissions concerning possible 2 or 4 year terms and adjusting the appointments to fit with the Councilmembers' terms.

Councilwoman Clyburn stated she would like to recommend the appointment of Todd Lista to the Accommodations Tax Committee to fill the position of Wendy Bryce who has resigned. She pointed out Mr. Lista is a photographer.

Councilwoman Price stated she would like to recommend the reappointment of Andrew Bouknight to the Building Code Appeals Committee. She also pointed out that Mr. John Gladden had resigned from the Environmental Committee.

Mayor Cavanaugh stated he would like to recommend the reappointment of Hank Moormann to the Building Code Appeals Committee.

BUILDING CODES – ORDINANCE 06162008

International Building Code 2006

International Fire Code 2006

International Fuel Gas Code 2006

International Plumbing Code 2006

International Mechanical Code 2006

International Energy Conservation Code

International Property Maintenance Code 2006

Demo 200 Program

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Code to adopt the 2006 editions of the various International Building Codes.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO AMEND SECTION 10-2 OF THE AIKEN CITY CODE TO INCORPORATE THE 2006 EDITIONS OF THE INTERNATIONAL BUILDING CODE, WITH MODIFICATIONS; INTERNATIONAL FIRE CODE, WITH MODIFICATIONS; INTERNATIONAL FUEL GAS CODE, WITH MODIFICATIONS; INTERNATIONAL PLUMBING CODE; INTERNATIONAL MECHANICAL CODE; INTERNATIONAL ENERGY CONSERVATION CODE; AND THE INTERNATIONAL PROPERTY MAINTENANCE CODE TOGETHER WITH NEW SECTION 10-3 CONCERNING VOLUNTARY DEMOLITION OF CERTAIN HOMES UNDER THE "DEMO-200" PROGRAM; AND TO AMEND APPROPRIATE SECTIONS OF THE AIKEN CITY CODE BY ADDING A PROVISION DEALING WITH CONFLICTING REGULATIONS.

Mr. LeDuc stated that in 2006 City Council adopted the 2003 International Building and Property Codes, which are used throughout the state for all new buildings and improvements. The State office has informed us that we need to adopt the 2006 Building Codes as the basis for our inspections. This is the code that is currently being used by all other entities throughout the state and Aiken County and has been amended since Council approved the 2003 International Building and Property Maintenance Code. He pointed out the ordinance had been amended for this reading. The previous ordinance also included the International Residential Code with modifications. The General Assembly did not include the Residential Code in the bill so the City will stay with the 2003 Residential Code until such time as the General Assembly approves the residential code. He said the state is requiring the local jurisdictions to adopt the 2006 versions of the building codes by July 1, 2008, except for the residential code.

While adopting the 2006 version we are also renumbering our Demo 2000 Program as Section 10-3 and adding under 10-3 a section providing a provision dealing with conflicting regulations.

For City Council consideration, this is second reading and public hearing of an ordinance adopting the 2006 International Building and Property Codes and renumbering Section 10-3 and adding a provision dealing with conflicting regulations.

The public hearing was held and no one spoke.

Councilman Smith moved, seconded by Councilman Wells and unanimously approved, that Council approve on second and final reading an ordinance adopting the 2006 International Building and Property Codes.

WATER AND SEWER RATES – ORDINANCE 06162008A

Water Rates

Sewer Rates

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to change the water and sewer rates.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ESTABLISHING NEW CHARGES FOR WATER AND SEWER SERVICE.

Mr. LeDuc stated since 1997, our yearly water and sewer expenses have increased an average of 5.7% while our revenues have increased at only a 2.7% rate. This imbalance has led to a shortage in manpower and thus not meeting the schedule with maintenance and infrastructure improvements. When comparing the City of Aiken's water and sewer rates with other major cities in the state and those within our area, Aiken's rates are 49% below the state average.

Over the last few years, there has been a major increase of over 10% for electricity and 15% for chemicals. Aiken County Public Service Authority (PSA) which treats the city's sewage, has also increased their rates by over 15% this past year, a \$300,000 increase in this year's budget, and over 30% over the last 4 years. For these reasons, we are recommending a 5% increase in water and sewer rates with other possible rate increases over the next few years. This would add \$1.65 per month to the average customer's monthly bill, still leaving us with the second lowest average water and sewer rate in South Carolina. At the last meeting Council asked if some adjustments could be made in the proposed water rate increase to have a tiered system where the lowest water users would not have an increase in their bill. If Council would like the rate to increase with the amount of water usage, this can be done as shown in the information given to Council as a proposed tiered system. With this rate structure, those using less than 500 cubic feet per month would have no water rate increase. Those using over 500 cubic feet would pay an increase which would result in an approximate 5% increase for the City of Aiken. For those using 500 cu. ft. to 1000 cu.ft. there would be a 6% increase; from 1000 cu.ft/ to 2500 a 7% increase, with anything over 2500 an increase of 8%. Council has two options, one being a 5% across the board rate increase for water and sewer or a tiered system for water as suggested. Under both scenarios the sewer rate would increase 5%.

City Council approved this ordinance on first reading at the May 12, 2008, meeting. For City Council consideration this is second reading and public hearing of an ordinance to increase water and sewer rates by 5% overall effective with the July 1, 2008 billing.

The public hearing was held.

Council discussed and reviewed both the straight 5% increase in water and sewer rates and a proposed tiered system where the lowest water uses (those below 500 cu.ft.) would not have an increase in their water rate. It was pointed out that with the 5% across the board increase there would be an increase of \$1.65 per month to the average customer's

monthly bill. It was pointed out the average customer uses at least 800 cu.ft. of water. With the tiered system there would be a savings for customers who use less than 500 cu.ft. versus the 5% increase.

Councilwoman Clyburn stated she felt there were two reasons for looking at a tiered system. One reason was the ability of some of the citizens to be able to pay the increase. The other reason was to reward those people who are trying to conserve. She pointed out there are many ways to conserve the use of water. She felt if Council wanted to emphasize conserving water the tiered system would be good.

Councilman Dewar pointed out the present system is a tiered system with the more water one uses the more they pay and the less they use the less they pay. He said he felt the concern was that some people may be significantly affected with a 5% increase. He pointed out, however, according to the charts it seems there would only be about a 20 to 25 cents difference in the two proposed rate systems for those in the lowest category.

Mr. LeDuc stated there was not as much savings in the tiered system for the lowest water user as he had thought there might be. However, with the tiered system there is no cost increase based on the meter size. He pointed out water is paid based on the meter size and a volume charge. Sewer is based on availability and then a volume charge.

Ms. Patricia Causey, 1125 Alderman, stated she felt the tiered system was best. She pointed out there are a lot of people who are on fixed incomes, such as herself, and each increase affects their budget greatly.

Councilwoman Clyburn stated she felt there were other people who share Ms. Causey's concern about the small increase. She said it seems like a small increase, but to them it matters. She felt the tiered system does serve a purpose in not having everyone pay a 5% increase. She said she prefers the tiered system with no increase for those below 500 cu. ft.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to increase the water rates and sewer rates under the proposed tiered system.

GARBAGE RATES – ORDINANCE 06162008B

Garbage Rates

Commercial Garbage Rates

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance regarding an increase in the commercial garbage rates.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING CHAPTER 32 OF THE AIKEN CITY CODE REGARDING COMMERCIAL GARBAGE SERVICE.

Mr. LeDuc stated over the last several years, our commercial garbage rates have not kept up with the rise in cost, especially with rate increases at the landfill and major fuel increases. To achieve the full cost of recovery, we recommended last year spreading the increased cost for commercial over a three year period or an increase of approximately 33% each year. Last year Council approved the necessary increase, and we are now recommending the second of the three part increase this year. Last year, we changed our billing format to a trip charge and tipping fee, which is the cost we pay to deliver any landfill garbage at the Three Rivers Landfill. This year staff is recommending an increase of \$1.76 per trip, for a total increase in revenue of approximately \$65,000. He pointed out the basic increase in expenses is the fuel cost. He said we are trying to get people to try to save by not being picked up so many times a week, such as getting two dumpsters which can be picked up at the same time. Although we anticipate fuel prices to increase next year, we should be able to achieve full cost recovery for commercial garbage the following year.

For City Council consideration, this is second reading and public hearing of an ordinance amending Chapter 32 of the Aiken City Code regarding commercial garbage service fees.

The public hearing was held and no one spoke.

Councilwoman Price stated she was concerned about the issue of increases in water and sewer fees and also the garbage service. She said she did not like increasing fees, knowing how some people are struggling with choices such as food, medical costs, gas, education, etc. to make ends meet. She said she had suggested collecting garbage every other week to save on expenses, but it was pointed out that would cause other problems, such as health concerns. She said everyone is struggling with the increase in fuel. She pointed out the many, many trips that the garbage trucks have to make in collecting the garbage and then taking it to the landfill. She stated the increases really concern her, but unless someone can think of other ideas to save she did not know how the cost could be offset.

Councilman Dewar pointed out this increase for garbage service is for commercial service and not for residential service. He said in looking at the recommendation he was concerned that the proposed increase would not be enough to absorb the significant increase in cost for fuel. He suggested that the fee should be increased to cover more of the cost for fuel. He pointed out the city must consume a lot of fuel in the Public Safety, Public Works and other departments. He suggested the city needs to look at any ways to save on fuel cost. He said he would like for the commercial garbage fee to pay for the fuel that will be used to provide that service this year. If fuel cost goes down then the increase will not have to be so much next year.

Mr. LeDuc pointed out there would have to be another increase in the fee next year to cover the cost and the fuel cost would have to be considered at that time. He pointed out some current budget figures for expenditures for fuel, and the city will have a loss in the amount of about 30% for fuel cost, resulting in an expenditure of about \$200,000 over budget for fuel.

Council then discussed ways the city could possibly try to save fuel. Mr. LeDuc said the departments are considering ways for possible cost savings for fuel. They will be trying several projects to save fuel. He said he was not sure the city or the citizens would be happy with picking up garbage every other week. He said, however, the city could make less trips to pick up recycling, by picking it up every other week. That could also be done with trash pickup. He said it is very expensive to operate the big trucks to pick up the garbage, recycling and trash. Councilman Dewar suggested next year Council may want to consider whether to get out of the commercial garbage pickup service.

Councilwoman Clyburn pointed out there are other companies that provide commercial garbage pick up. This is like an optional service that the city provides. She felt the city should not take a loss to provide the service. The city should decide whether to let the service pay for itself or get out of the business since it is an optional service. She said there are customers who prefer the city to provide this service, but the service should pay for itself. She felt Council should decide whether to increase the fee more so the service will pay for itself at this meeting so the Finance Department can get the increase on the bills going out July 1, 2008. She pointed out this increase does not affect homeowners, but affects commercial garbage customers.

Mr. LeDuc pointed out there will have to be another increase next year. He said he knows at this time that there will be a shortfall in revenue for the commercial service to pay for itself. He suggested if Council wants to make the service more closely pay for itself, they could increase the rate to \$2 per trip rather than the \$1.76 suggested earlier. He said it would be better if Council makes a decision on the rate at this meeting. If during the year the expense continues to increase tremendously, Council can increase the fee during the year. The increase to \$2 per trip would increase the total amount from about \$65,000 to about \$85,000 for the year.

Mayor Cavanaugh pointed out the reason the city was still in the commercial garbage pickup service is that it was felt the city could do a better job.

Councilman Dewar asked if the city could study the suggestion of pickup of recycling every other week in order to save fuel expenses.

Mr. LeDuc stated staff would look at recycling and trash pickup. He said one consideration is that any cutback be communicated to the citizens in the proper way so they don't feel like their services are being cut back.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council amend the proposed ordinance and pass on second and final reading an ordinance amending Chapter 32 of the City Code increasing the commercial garbage service fees to \$2 per trip rather the \$1.76 suggested by staff.

Mayor Cavanaugh said that on comments regarding trying to save and do things environmentally to conserve, there are things which can be done and there are web sites and information that can be studied to try to conserve. He said the key phrase is sustainable communities, green cities, etc.

Councilman Dewar pointed out the Environment Committee is doing a good job in working on ways to conserve.

MILLAGE RATE – ORDINANCE 06162008C

Budget Millage Rate

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to set the millage rate for fiscal year 2008-2009.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO PROVIDE FOR THE LEVY OF TAXES FOR ORDINARY CITY PURPOSES AND FOR CAPITAL DEVELOPMENT PURPOSES IN THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, SET THE MILLAGE THEREFOR AT SIXTY-SIX (66) MILLS AND TO PROVIDE FOR THE EXPENDITURES THEREOF.

Mr. LeDuc stated every year City Council adopts a budget for the following year and also a separate ordinance that establishes the millage rate to meet the budget needs. This past year the millage rate changed from 71 mills to 66 mills. By lowering the millage rate to 66 mills, the city will have experienced 20 consecutive fiscal years without a millage rate increase. Over this twenty year period, we have actually reduced the millage rate on five separate occasions from 120 mills to the current 66 mills or 45%. This is in spite of recent revenue losses from telecommunications and vehicle taxes amounting to well over \$1 million every year. We are happy we have been able to control raising taxes for twenty years, and we contribute our success to Council's careful stewardship of these funds.

Mr. LeDuc stated Council does have choices. If they don't want to raise water and sewer rates, garbage rates, etc. the millage rate could be increased. He said, however, Council had chosen to make certain services pay for themselves rather than increase taxes. This has allowed the city to reduce the millage rate. Aiken has one of the lowest millage rates in the state and the lowest in Aiken County.

For City Council consideration, this is second reading and public hearing of an ordinance setting the millage rate for the year 2008-2009 at 66 mills.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance setting the millage rate for the year 2008-2009 at 66 mills, and that the ordinance become effective July 1, 2008.

BUDGET – ORDINANCE 06162008DBudget 2008-2009

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to adopt a budget for fiscal year 2008-2009.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ADOPTING A BUDGET PROPOSED BY THE CITY MANAGER, CONTAINING ESTIMATES OF PROPOSED REVENUES AND EXPENDITURES BY THE CITY OF AIKEN FOR THE FISCAL YEAR BEGINNING JULY 1, 2008, AND ENDING JUNE 30, 2009, AND DECLARING THAT THE SAME SHALL CONSTITUTE THE BUDGET OF THE CITY OF AIKEN FOR SUCH FISCAL YEAR.

Mr. LeDuc stated each year City Council adopts a budget for the City of Aiken representing the policies and goals for the City's upcoming year. We have prepared, and are recommending, a budget for fiscal year 2008-2009 for City Council's acceptance which we feel meets the goals which Council has established.

At the budget review session on April 29, 2008, Council had the opportunity to review the budget in detail. As in years past, the budget has been developed based on the needs and services to serve our citizens, plus the goals that Council adopted from the Horizons session. In the budget, we are recommending water and sewer and commercial garbage rate increases. This is to help the city meet one of the goals, which is full cost recovery for services rendered. We are currently 49% below the state average for water and sewer rates, and we are experiencing a \$130,000 loss in our commercial garbage operation. The major new expenses in this year's budget include funding for our Northside Transportation Study, twenty more Public Safety vehicle computers, development of a traffic model for the Aiken community, a new playground at Governor Aiken Park, and a dog park. The Rye Patch renovation work will continue with the development of offices upstairs. We will also fund plans for the new Municipal Building, continued funding of the façade grant program, spay/neuter, library, Best Friend Express, ADDA, Character Education, Northside revitalization, Senior Tax Write-Off, post retiree health benefits, succession management, and the completion of the PRT master plan.

In the budget we are recommending seven new employees, five of which will work for Public Safety, and four part-time employees plus one part-time employee becoming full-time. Some of our major expenditures include over \$300,000 in planning and traffic studies, and \$270,000 for Public Safety computers. This is our last year to help fund the African-American Cultural Arts Center and Railroad Depot from Accommodations Tax Funds. Our utilities budget includes funding for a new well, one million gallon storage tank, and \$310,000 in waste water improvements. We are increasing our contribution to the Public Service Authority by a minimum of \$300,000 this year. We intend to move forward with several water and sewer rehabilitation projects, including the replacement of the water mains on Whiskey Road and Marlboro Street and sewer main replacements in Hitchcock Woods, Crosland Park, and Pendleton Street. From the One Cent Sales Tax the city will be constructing the new Public Safety Substation #5 and funding two fire trucks, the construction of a new Public Safety training building, storm drainage work in Hitchcock Woods, the Pawnee/Neilson Connector, a Citizens Park walking trail, and street resurfacing. These projects should help develop and energize Aiken with several new activities supporting our quality of life.

For City Council consideration, this is second reading and public hearing of an ordinance to approve the budget of the City of Aiken for Fiscal Year 2008-2009.

The public hearing was held and no one spoke.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on second and final reading an ordinance to approve the budget for fiscal year 2008-2009.

ANNEXATION – ORDINANCE

Morgan Street 461
City of Aiken
TPN 104-16-19-003

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex City of Aiken property at 461 Morgan Street consisting of 0.29 acres and to zone it Residential Single Family RS-6.

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 0.29 ACRES OF LAND, MORE OR LESS, OWNED BY THE CITY OF AIKEN, AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-6).

Mr. Leduc stated our Northside Redevelopment Initiative continues with construction of housing on lots including property at 461 Morgan Street. Research of this property after it was purchased showed 0.29 acres to be outside the Aiken city limits. The total size of this parcel is 0.79 acres. Therefore, our Neighborhood Services Division has initiated an effort to bring this remaining property within our city limits.

The Planning Commission reviewed this request and unanimously recommended this annexation.

For City Council consideration this is first reading of an ordinance to annex 0.29 acres at 461 Morgan Street to be zoned Residential Single-Family (RS-6). Upon City Council consideration a second reading and public hearing will be held.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved that Council pass on first reading an ordinance to annex 0.29 acres at 461 Morgan Street to be zoned Residential Single Family (RS-6),

ZONING – ORDINANCE

Morgan Street 461
City of Aiken
TPN 104-16-19-003

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to rezone City of Aiken property at 461 Morgan Street consisting of 0.50 acres from General Business to Residential Single-Family RS-6.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY THE CITY OF AIKEN FROM GENERAL BUSINESS (GB) TO RESIDENTIAL SINGLE-FAMILY (RS-6).

Mr. LeDuc stated as we continue with our Northside Redevelopment Initiative, the need for rezoning certain properties has become apparent. This situation is true for the property we acquired at 461 Morgan Street.

Currently, it is zoned General Business (GB). As we have done with other properties in this area, we want to proceed with residential construction on this parcel. Rezoning it to Residential Single-Family RS-6 is appropriate.

Our Neighborhood Services Division filed an application with our Planning Department seeking this rezoning approval by our Planning Commission. At their May 13 meeting the Planning Commission voted unanimously to recommend approval of this rezoning request.

For City Council consideration this is first reading of an ordinance to rezone the property at 461 Morgan Street from General Business (GB) to Residential Single-Family (RS-6). Upon City Council consideration a second reading and public hearing will be held.

Councilwoman Price pointed out that this piece of property is a critical corner in looking at the other improvements made on Morgan Street. She said improvements here will add to the appearance of the corridor.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on first reading an ordinance to rezone the property at 461 Morgan Street from General Business (GB) to Residential Single-Family (RS-6) and that second reading and public hearing be set for the next regular meeting of Council.

ANNEXATION – ORDINANCE

Mapes, Charles R.

Mapes, Nancy

Georgann Lane 2

TPN 106-12-27-004

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex property owned by Charles and Nancy Mapes at 2 Georgann Lane and zone it Residential Single Family RS-10.

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 0.37 ACRES OF LAND, OWNED BY CHARLES AND NANCY MAPES AND LOCATED AT 2 GEORGANN LANE AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. LeDuc stated Charles R. and Nancy Mapes have requested annexation of their 0.37 acres at 2 Georgann Lane. They have one single family dwelling on this property. It is located in a well-established residential neighborhood. Mr. and Mrs. Mapes seek the benefits of being city residents, including connecting to the city sewer system.

Their annexation request was submitted to the Planning Commission, which unanimously recommended approval of their request.

For City Council consideration this is first reading of an ordinance to annex 0.37 acres belonging to Charles and Nancy Mapes at 2 Georgann Lane. Upon City Council consideration, a second reading and public hearing will be held.

Councilman Smith moved, seconded by Councilman Wells and unanimously approved, that Council pass on first reading an ordinance to annex .37 acres belonging to Charles and Nancy Mapes at 2 Georgann Lane and that second reading and public hearing be set for the next meeting of Council.

SMOKING BAN – ORDINANCE

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend Chapter 22 of the City Code to impose an indoor smoking ban for certain public spaces.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING CHAPTER 22 OF THE CITY CODE OF AIKEN, SOUTH CAROLINA TO ADD NEW ARTICLE IV, SECTION 22-64, ET SEQ., REGARDING REGULATION OF SMOKING IN THE CITY LIMITS.

Mr. LeDuc stated after the special meeting on May 20, 2008, held by Council on a draft indoor smoking ban and consideration of comments made by the public and Council members, the proposed ordinance was revised.

We have provided Aiken County and the City of North Augusta with copies of our proposed ordinance for their review. They are considering an ordinance in line with the one adopted by the City of Greenville, which ours follows. Our basic exception to the Greenville ordinance is ours allows smoking in outdoor public areas. We used the Greenville ordinance as a model because that ordinance has already been approved through the court system as an ordinance that meets legal testing.

The changes in our proposed ordinance primarily allow smoking on the outside of restaurants. In our proposed ordinance we revised the definition of enclosed areas to exclude areas that are at least 50% exposed to the outdoors. Previously the ordinance said three sides had to be open, but this has been changed to two sides. Basically that would mean that any downtown restaurant would be able to allow smoking in the outdoor areas. Ceilings or roofs are not calculated as part of the 50% of unexposed space. The proposed ordinance is different from North Augusta's. North Augusta was given a copy of our proposed ordinance, and that was basically presented to their City Council. However, Council changed the ordinance as they reviewed and studied the ordinance. The Greenville ordinance and the North Augusta ordinance would not allow smoking at facilities such as Virginia Acres and Smith Hazel. The ordinance before Council tonight would allow smoking at outdoor facilities, such as Citizens Park in the parking lot areas, and at Virginia Acres and Smith Hazel. Aiken County is waiting for Aiken and North Augusta to adopt an ordinance before making changes to their ordinance. He pointed out if Council adopts an ordinance, changes could be made if it is found that something is not working well. He said the proposed ordinance is a basic model that says smoking is not allowed inside a building unless it is a private club that wants to allow smoking. It does allow hotels to designate rooms as smoking rooms if they are clearly marked.

For City Council consideration, this is first reading of an ordinance to ban smoking in certain indoor spaces. Upon City Council consideration, a second reading and public hearing will be held.

Mr. Sam Erb, 1556 Dibble Road, owner of the Bowery Restaurant, stated he had asked for uniformity in the Aiken, North Augusta and Aiken County ordinances at the May 20 worksession. He pointed out North Augusta had already had first reading on their ordinance, and it is stricter than this proposed ordinance. He said he agreed with a comment made by Councilman Wells earlier that Aiken and North Augusta are different. He said he felt the proposed ordinance is fair, but his concern was that if the ordinance is passed it will be stronger than Aiken County's ordinance. He urged Council to meet with Aiken County and try to have similar ordinances with the same penalties, etc. He said he did not want to drive business from restaurants in the City of Aiken to Aiken County where smoking may be allowed.

Mr. Johnny Johnson asked for clarification on the definition of open area. Mr. LeDuc pointed out the ordinance states at least 50% open to the outdoors, which would be two sides open, not including the roof or ceiling. Also, railings would not be counted in calculating the open space.

Mr. Don Swindler, 608 Douglas Drive, stated he was concerned that smoking would be allowed at the recreation areas in the parking lots or in the stands where people are watching games. He did not understand why that should be allowed. He said if he were there and someone starting smoking next to him, he would have to leave since he could not tolerate the smoke. He said this could also mean that if he walks at the Weeks Center someone beside him could be smoking. He said he disagrees with that part of the policy as that puts people with asthma and allergies in a bad situation. He said it would be better to have a designated area for smoking. He said he was not against people having the right to smoke, but there should be designated areas to protect those who do not smoke.

Mayor Cavanaugh stated his experience had been that he had not seen anyone smoke on the walking track at the Weeks Center or at Citizens Park in the stands. He said he felt it was very important to not have smoking in inside areas. He said, however, for outside areas it seems that people should have some right to smoke outside.

Councilman Dewar stated he wished the ordinance took care of smoking at athletic areas, but he did not feel Councilmembers were willing to go that far. He pointed out the ordinance could be changed later if that does become a problem.

Councilwoman Clyburn pointed out that the School Board has designated smoking areas at their athletic facilities. It was also pointed out businesses, schools, etc. can make their own designate smoking areas.

Councilwoman Clyburn stated she felt having designated smoking areas does have merit, and people know where they can go to smoke. She said if Council wanted to designate smoking areas for Citizens Park, it could be indicated so people would know where they could go to smoke and not sit in the stands.

Councilwoman Vaughters and Councilman Wells stated they had spent much time at Citizens Park recently and had not seen any smoking.

Ms. Jane Page Thompson, 240 Knox Avenue, stated she would like to see Council remove bars from the no smoking areas. She pointed out no smoking in a restaurant is okay, but she felt bars were different. She said in other cities people have found loop holes in the no smoking in bars. She pointed out revenue is important and felt the 1% sales tax might suffer from no smoking in bars. She felt the bar culture is growing, and she did not want to see Aiken lose the youthful vitality that Aiken has by eliminating smoking from the bar culture. She pointed out Columbia has a unique way of approaching the issue at the Five Points area. Because 50% of their revenue comes from alcohol sales in bars they allow smoking. This way restaurants don't have to lose revenue from bar income because there is a smoking ban. She said she had a lot of questions about the ban as a whole. She felt Aiken needs to avoid banning things unilaterally, but needs to look at alternative fines in other ways, possibly increasing air quality requirements in bars so if smoking is allowed in bars it does not affect the surrounding people. She felt people would find a way around the ban. She felt if smoking is banned because of health concerns, the next thing will be wireless internet service, cellular phone use, etc. eliminated such as in Santa Fe, New Mexico, because of the "cancer" causing dangers of wireless networks. She said give people a choice and let them smoke in bars if they wish and let the restaurants have a vehicle that would let them continue their revenue. She felt Council had rushed to create the proposed ordinance and did not create a task force to study the issue, such as had been done for the newspaper boxes, two hour parking downtown, etc. She said she would like for Council to remove bars from the list of restricted places.

Mayor Cavanaugh stated he did not feel Council had rushed at all on the matter, but had been talking about it for years. He said they had been waiting for the supreme court to see what they did with the Greenville ordinance. He said they did not want to waste the time and effort to write something that would not be permissible. He said now that the supreme court has ruled, the city has a guideline to go by for a proposed ordinance.

Ms. Jane Page Thompson stated she had heard that the Greenville ordinance was being appealed from the State Supreme Court to the U.S. Supreme Court. She said she has understood from someone else that the U.S. Supreme Court will eventually make a ruling on smoking bans, and it does not look positive. She said if the federal government acknowledges that smoking is a problem it would be illegal like marijuana or cocaine. She asked if smoking is that big of a health concern, then why is it not illegal.

Mayor Cavanaugh stated he felt smoking is a tremendous health concern and it affects other people around the smokers.

Ms. Thompson stated she felt the city should be fiscally responsible. She pointed out Aiken has a 1 cents sales tax and accommodations tax that is driven by the use of restaurants and bars. She felt a feasibility study should have been done to find out what kind of financial impact a smoking ban would have on our 1 cent sales tax. She said if the city were concerned about health, maybe Council should allow smoking in bars, but don't allow smoking on any city-owned property if the concern is health. She said she

had a sensitivity to smoke, but she also had a realistic understanding of what this may do to Aiken. She felt that if Council eliminates the night club culture, the restaurants and hotels that have bars are going to see a financial impact. She said she agrees with eliminating smoking in restaurants, but felt we should allow smoking in bars. She felt the smoking ban would financially affect the restaurants and bars.

Mayor Cavanaugh stated he felt the health concern far outweighs the monetary fact. He said people will learn where they can smoke. He felt the smoking ban was a very worthy cause and people will adapt to it.

Councilwoman Vaughters stated she did not feel Council had rushed the issue of a smoking ban. She was concerned about the citations in the proposed ordinance regarding studies as the reason for the ordinance being initiated. She said she had not read any of the citations. She said she had a problem with the statements for the citations when they had not read them.

Ms. Diane Wilson, with the S.C. African-American Tobacco Control Network, thanked Council for considering a smoking ban. She said a national group had done an analysis of the proposed ordinance and thought it was very strong and well written. She said they are also working with Aiken County and North Augusta to mirror or pattern their ordinances with Aiken's so the ordinances would be consistent for the area. She said she had worked with a lot of ordinances across South Carolina such as Charleston, Mt. Pleasant, Hilton Head, and other places, and there had been no economic impact and the cities are thriving. She pointed out Columbia is revisiting their ordinance and have included bars in the smoking ban. She said to not include bars in the ban is creating a subculture of workers who are not protected from smoking. She asked that Council be very cautious about exempting any place where workers would still be exposed to smoking.

Councilwoman Price stated at the worksession Council had talked about no smoking in the downtown area, like walking down the street. She said she felt that was too restrictive and that people have some rights. She asked at what point does a ban become too restrictive.

Ms. Wilson said in Charleston they had used the wording "a reasonable amount of space" so smoking does not go back into a building. She felt "reasonable" was a key word.

Ms. Pat Causey, 1125 Alderman Street, stated she felt people should be able to not smoke for the time they are in a bar. She pointed out 18 years ago Aiken did not have a night club culture. She said she had been diagnosed with chronic asthma, and it was not because she smoked but people around her smoked.

Mr. Sam Erb, 1556 Dibble Road, stated Columbia did revise their ordinance for no smoking in bars, but they worked with the County of Richland so there is consistency and the same ordinance for the area.

Councilwoman Clyburn stated she feels very strongly about the issue and wants to see a smoking ban adopted. She pointed out in order for a bar to get an alcohol license they must also serve food. She said there is no such thing as a bar that just sells alcohol. They all serve food. She said to exclude just bars where a person could just drink alcohol and smoke would not work in South Carolina because of the laws that they must also serve food.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council pass the smoking ban ordinance on first reading and that second reading be set for a later date.

Councilman Smith stated he felt the ordinance should not have second reading at the next meeting which would be June 23, as this was only seven days away. He wanted the County to have a little time to consider a similar ordinance to be consistent in the area.

Councilman Dewar stated he felt a certain time should be set as it may take the County some time to consider revisions to their ordinance.

Councilwoman Price suggested the second reading for the ordinance be set for July 14 which would be four weeks away.

Mr. LeDuc stated he felt to have second reading of the ordinance on June 23 would not give enough time for advertisement of the ordinance as this is a major issue. He said, however, he felt it would be good to set a date for second reading. He said he was not sure the County would have an ordinance just like Aiken's, but over a period of time Aiken, North Augusta, and the County may get closer together with the ordinances. He said if a date is not set and we wait on the County we may be waiting for several months.

Councilwoman Vaughters stated she was concerned about the citations in the ordinance and felt some documentation should be provided for Council's information, or else don't use the citations. She said she would vote to pass the ordinance on first reading because she wanted to discuss the issue again. She was very concerned about the enforcement of the ordinance and it being an activity of the City Manager's Office. She said she did not see the enforcement as a role of the City Manager. She said in her 6 years on Council she had had only one call about smoking. She said she was not saying smoking was good, as it is not. She was concerned when business people try to do the right thing, and she wanted to be sure the ordinance is not more stringent than needed in this community. She pointed out the most dangerous health issue in a bar is not smoking. She said she has some reservations about the ordinance and the need to ban smoking in a private office. She pointed out businesses have already done many things to make the community safer.

Councilwoman Price pointed out the campus of the Aiken Regional Medical Centers is posted as smoke free. She pointed out they did that without an ordinance.

Mayor Cavanaugh stated he felt Aiken has wonderful business people. He said, however, not all are smoke free. He said he was concerned about people who have a job and they have to work where smoking is allowed.

Councilman Wells stated he would like to echo statements of Councilwoman Vaughters. He said as a business person his store went non-smoking about 6 years ago due to some of the customers complaining about the contractors smoking in the store. He said many businesses have decided on their own to go smoke free. He said people do not have to go into a smoking environment to have a meal or drink, as people have a choice and can go to a place that is smoke free. His concern is individual rights. He said if a business owner chooses to smoke in his office that should be his right. He is concerned about taking away individual rights in their store.

Mr. LeDuc stated the citations in the ordinance came from the Greenville ordinance, and that is what was approved by the supreme court. He said he had not read all of those or looked at them in depth. They are in the ordinance because that was approved from a legal standpoint and was referenced in an approved ordinance. He pointed out the City Manager does not want to be the person to enforce the ordinance. However, if an establishment does not adhere to the ordinance it may become a code issue and might fall under the Building Inspector or Code Enforcement Inspector or it could be a business license issue. If it is an individual who refuses to stop smoking, then it might be a Public Safety issue. Depending on the issue will depend on who is sent to take care of the issue. Most of the ordinances say it is the City Manager who designates who should be the enforcement, depending on the issue.

Mayor Cavanaugh called for a vote on the motion to approve the ordinance on first reading and set the second reading and public hearing for July 14, 2008. The motion was unanimously approved.

WOODS EDGE SUBDIVISION – ORDINANCEHitchcock ParkwayBy-PassRubin, Michael D.Turn Lane

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to delete the condition requiring a turn lane on Hitchcock Parkway for Woods Edge Subdivision.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING A CONDITION ON THE ZONING OF REAL ESTATE OWNED BY MICHAEL D. RUBIN TO DELETE THE REQUIRED TURN LANE.

Mr. Leduc stated Michael D. Rubin has developed a residential subdivision on property formerly owned by Aiken Preparatory School on the Hitchcock Parkway. Originally a school was to be built on the property which would cause a lot of traffic into and out of the location. He said the school decided not to build on the property and it was sold to Michael Rubin and the zoning was changed to allow residential development. This subdivision has now been developed as five large lots.

Mr. Rubin has installed the infrastructure in this subdivision as requested by City Council. Mr. Rubin is requesting deletion of the condition that a right turn lane on Hitchcock Parkway be built due to a smaller number of large lots being developed which will not create a lot of traffic. He believes the right turn lane is not needed. It was pointed out there is a left turn lane into the property

For Council consideration this is an ordinance modifying Ordinance 07112005 so as to delete the requirement of a right turn lane on Hitchcock Parkway into this subdivision. Upon City Council consideration, a second reading and public hearing will be held.

Councilwoman Price moved, seconded by Councilman Wells and unanimously approved, that Council pass on first reading an ordinance deleting the requirement of a right turn lane on Hitchcock Parkway into the Woods Edge Subdivision and that second reading and public hearing be set for the next regular meeting.

RESIDENTIAL CARE FACILITYHighland Park Drive 1625Group Care HomeAssisted Living Facility

Mayor Cavanaugh stated the city had received a request for a proposed group care home at 1625 Highland Park Drive.

Mr. LeDuc stated Cindy Clark is proposing a group care home or assisted living facility for 8 to 10 people at 1625 Highland Park Drive. This facility is not yet licensed by South Carolina Department of Health and Environmental Control (DHEC) or any other licensing agency.

Under state laws, Council and the public can provide input regarding this proposed property use.

Mr. LeDuc stated Council has had requests in the past for facilities similar to this in residential neighborhoods. It becomes a contentious situation because of the nature of the facilities. Looking at Aiken's Zoning Ordinance, this type facility would not fit. However, looking at state regulations Code Section 6-29-770 exempts and allows within any area of a community "a home serving nine or fewer mentally or physically handicapped persons provided the home provides care on a twenty-four hour basis and is approved or licensed by a state agency." The licensing is on a state level. They do allow the local agencies to have a public hearing so comments can be made to them. He said in

considering the request Council can look at land use issues such as parking and traffic issues and how that affects the local area. He said at this time Council can have a public hearing on the request to hear comments to be given to DHEC so they can make a decision on the home.

For Council's comment is a petition for input regarding a proposed group care home or an assisted living facility at 1625 Highland Park Drive.

Mr. Gary Smith, City Attorney, stated it is important for Council to understand what is before them. He pointed out there are a number of requirements that the applicant has to meet before it can become a reality. He said most of the requirements are at the state level, not the local level. He said they must submit a formal application to DHEC. They set forth what type of mental or physically handicapped type persons they will serve. They have to satisfy the number of persons they will be serving which is no more than 9 under state regulations. They have to prove to DHEC that whatever housing environment they are going to provide satisfies all of DHEC's regulatory requirements. He said many of the concerns of the Mangiantes are concerns that are more appropriately addressed to the state authorities rather than local authorities. He said he felt Council had two options. One is not to object to the request. The second option is to object to the request. If Council does not object to the request, you are not saying it's okay. If Council objects to the request, you are not saying the facility can't happen. It would be taking the next step in the statute that says you object to this location, but now you set up a committee of three people, one being a Council representative, a representative of the entity that wants to open the group home, with those two people picking a third person. This group then finds another appropriate site in the city for a home. He said Council could not thwart the request by saying you object and that it is not appropriate. If that happens, the applicant then enjoys federal protection, whereby if Council objects without good non-discriminatory reasons the city would be open to a federal Section 19-83 discrimination law suit which has lots of penalties. He said Council can't say that because the people are not a family they cannot live in single-family residential area.

Mr. William Mangiante, 1745 Highland Park Drive, stated he lives two houses from the proposed facility. He said he and his wife did a significant amount of study of the type proposal and the regulations for such a facility. They have lived in their house for 18 years and enjoy the quiet nature of the residential neighborhood. He said they feel that the proposed facility is a business in the middle of a residential area. The feelings expressed in the briefing given to City Council is that the proposal is unacceptable from the standpoint of the character of the neighborhood. He said they feel it could seriously adversely affect property values in the neighborhood. They also feel the proposal violates the Aiken City Zoning Ordinance and is not trumped by the state regulations. He said the type facility proposed does not enjoy any special exceptions by state or DHEC regulations. He said DHEC requires that for the acceptance for the licensing of this type facility, which is referred to as a Community Residential Care Facility, they want the city to sign off that it meets the zoning and building requirements before they will license the facility. He said he felt the city should be able to deny the request based on the facts of the proposal and the regulations that apply to it. He said he feels the proposed facility does not enjoy any kind of regulatory protection in terms of zoning. The proposed facility is not what is considered to be a habilitation facility. He stated the facilities that were on Cardinal Court and Hayne Avenue were facilities for the care of mentally and physically handicapped individuals. They are considered to be interim care facilities. They have very stringent requirements which are more hospital-like in terms of the type building required and the qualifications of the medical personnel that work there. They do enjoy a zoning exception at the state level that trumps local zoning requirements. They are referred to in the Aiken Zoning Ordinance as a Type 1 group home. He said what is being proposed for Highland Park is called a Type 2 group home which coincides with the Community Residential Care Facility. A Type 2 group home by the Aiken Zoning Ordinance is prohibited from being located in a single-family residential area and is not protected in any way by the state. He said DHEC requires that the city sign off that all building and zoning regulations are met for this type facility before they can license. He said based on the facts, the proposal is not acceptable. The city's zoning ordinance does not allow the type facility proposed in a single-family neighborhood. DHEC claims no special treatment for this type facility with regard to zoning, etc. He said he felt this

type facility would be considered in the same realm as a nursing home such as Shadow Oaks. The other facilities on Hayne and Cardinal Court are for care of mentally and physically handicapped individuals on an interim basis. He said he did include in his briefing some additional information of the very high standards that Community Residential Care Facilities must meet. He pointed out the proposed facility is to be in a home that is about 2,000 sq. ft. and 50 years old. He said the building has to meet current building requirements including sprinkler protection for fire and other regulations. He said that the facility proposed does not have any special protection in terms of zoning by the state and is prohibited by Aiken's Zoning Ordinance.

Mr. Gary Smith, City Attorney, stated Ms. Clark's request does not go into the specifics of what type home she proposes. She would have to go to DHEC and get their approval that it is a home serving 9 or less mentally or physically handicapped persons and that the home provides care on a 24-hour basis and is approved or licensed by the state agency.

Mr. Mangiante stated in Ms. Clark's email to the city she specified she was applying for a Community Residential Care Facility (CRCF). He pointed out the state law does not cover the CRCF facilities. He said there are two different regulations, one that licenses the Community Residential Care Facilities. The other is the mentally and physically handicapped rehabilitation facilities. He said Ms. Clark is not applying for a mental rehabilitation facility, and those are the only facilities that enjoy special zoning protection.

There was discussion concerning what Ms. Clark is really proposing. Is it a Community Residential Care Facility or Assisted Living Facility, or a home for the physically or mentally handicapped? It had been pointed out it makes a difference as to what is proposed as to what regulations apply.

Councilwoman Vaughters expressed concern about the housing for the proposed facility being large enough to provide care for 8 to 10 people. She said without major changes she did not see how the property could be adapted to such a facility. She was concerned about parking, kitchen facilities, etc. She was concerned that Ms. Clark was not present to discuss her request and clarify some of the issues and concerns.

Mayor Cavanaugh suggested that the matter be tabled until someone representing the application could be present to answer questions. It was pointed out in her email it did not seem she was sure what guidelines she would have to follow or what kind of facility she was proposing. It was suggested that she needs to find out what she wants to do and what regulations apply.

Councilwoman Price moved, seconded by Councilman Smith, that the request be tabled since Ms. Clark is not present to clarify some questions regarding the type facility she proposes to open at 1625 Highland Park Drive.

Mr. Gary Smith, City Attorney, stated to dispel some of the confusion as to what is proposed, Ms. Clark could be asked to file her application with DHEC first and let it work its way through the process. He said part of the application with DHEC requires appearance before the city for consideration. He pointed out when an application is filed, the city would have 30 days to respond to her request.

Mr. Sam Erb, 1556 Dibble Road, said he is three houses from the house proposed for the facility. He said he had spoken with Mr. Dennis Gibbs, with the Bureau of Health Facility Licenses and Regulations. He asked about what kind of kitchen would be necessary for the CRCF and Mr. Gibbs responded that the facility would be under regulation 61-25. It is a graded activity, and they would have to meet kitchen standards such as for restaurants. He said the facility would have to have a commercial kitchen. Mr. Erb said he feels the facility would be a commercial business that does not belong in a single-family neighborhood.

Mr. Henry Krippner pointed out the Board of Zoning Appeals a few months ago rejected a request in the neighborhood for a child care facility. All the neighbors objected to the

child care facility. He felt it was ironic that they would come back and ask for such a facility next door to the one they opposed.

In response to a question by Councilwoman Vaughters, it was pointed out that Type 2 group homes are allowed in multi-family residential areas and commercial areas. Type 3 group homes are allowed in commercial areas only.

Councilwoman Vaughters stated she did not want to table the request. She said with the information that has been presented she has no problem denying the request.

Mr. Gary Smith, City Attorney, stated if the request is deemed to be a statutorily allowed exemption and is allowed in a residential neighborhood, if Council objects to the request and the three member committee is formed and the committee can't come up with a suitable alternate location, then the requesting party is allowed, with or without Council's approval or objection to possibly have the facility in the house originally requested. He said he felt it would be better to table the matter until further information is received.

Councilman Dewar stated it seems Council does not really know what Ms. Clark is asking for. He felt Council should not object, but take no action. He felt she has an obligation to tell Council what she wants to do. He said Council has an obligation to listen and decide what to do. He said he felt it would be fair to hear from her what she plans to do instead of guessing what she plans to do.

It was pointed out the reason to table is that Ms. Clark is not present and Council has questions as to what type facility she plans to open.

Mayor Cavanaugh called for the question to table the issue as Council needs more information on the request. The motion was approved by a vote of 5 in favor and 2 opposed. Opposing the motion was Councilmembers Vaughters and Wells.

It was pointed out that clarification of what Ms. Clark plans to operate will determine whether the matter comes back to Council or not. If it is something not allowed by the Zoning Ordinance then the matter will not come back to Council.

RESIDENTIAL CARE FACILITY

Terry, Ernest J.
Florence Street NW 344
Group Care Home
Veterans' Home Health Care Facility

Mayor Cavanaugh stated a request had been received from Ernest J. Terry, Sr. for a proposed group care home at 344 Florence Street NW.

Mr. LeDuc stated Ernest J. Terry, Sr. is proposing a group care home for a veterans' home health care facility at 344 Florence Street NW. This facility is not yet licensed by South Carolina Department of Health and Environmental Control (DHEC) or any other licensing agency. Mr. Terry and his wife will provide 24-hour supervision of veterans, including food and medication, for those veterans who will be able to physically care for themselves.

Under state laws and our Zoning Ordinance Council and the public can provide input regarding this proposed property use.

For Council's comment is a petition for input regarding a proposed veterans' home health care facility at 344 Florence Street NW, in Aiken.

Mr. Ernest J. Terry, Sr., 344 Florence Street NW, stated his proposal is to open a veterans' home. He stated he had checked with the Veterans Administration. One requirement is that he must come to the Planning Commission and City Council to see if regulations allow him to have such a facility on his property on Florence Street. He said there are many veterans who are displaced and have no place to stay. Mr. Terry said he had spent several thousand dollars repairing the house. He said he had checked with the

Planning Department, and his proposed facility is a Type 1 facility, which is allowed in his area. He said after approval from Council he must follow through on other steps of the process. He said he had been assured that he could pick the residents that he would have in the house. He said he had checked with his neighbors, and they have no objections.

Councilwoman Price asked how many residents would be in the home.

Mr. Terry responded that he presently has four beds in the house. He said in the future he plans to expand the house to house more veterans. He stated the house had three bedrooms, two baths, kitchen, living room and front and back porch. He said each bedroom is 10' x 12'.

Council continued to discuss the matter with Mr. Terry and had questions as to whether this might be very similar to the previous request, and whether it was a health care or assisted living facility. There were questions as to whether there might be a need for a commercial kitchen depending on the type facility to be operated and whether DHEC regulations would apply. It was suggested that Mr. Terry should check with DHEC to see what regulations might apply.

Mr. Gary Smith, City Attorney, stated what Mr. Terry is talking about operating does not meet the exception under the state statute.

It was pointed out Mr. Terry's letter is dated January 2, 2008. Mr. LeDuc pointed out the request was made. Then it was delayed several times. Mr. Terry has now stated he plans to pursue the project.

There were questions as to the extent of health care which might have to be provided by Mr. Terry. It was felt this request is similar to the previous request. It was pointed out there are licensing procedures for providing health care, and possibly the request would come under DHEC regulations.

Mr. Brian Doyle, 2115 Park Avenue, stated such a facility has been his business. He said the facility is called a Veterans' Assisted Home. He would be monitoring the people. There are no state regulations. He said he has such a facility in Denmark. Mr. Terry would be regulated by the VA. The VA would be inspecting the facilities. He stated DHEC regulations would not govern the facility. Mr. Terry would be responsible to get the veterans to the VA for health care. If the level of care goes beyond what Mr. Terry is supposed to provide the VA will move the person to either an intermediate or skilled care facility.

Mayor Cavanaugh stated it seems the question is zoning and if such a facility would fit in the present zoning.

Mr. Gary Smith, City Attorney, stated if the home would not qualify for the federal or state exception, the city's Zoning Ordinance must be met. If Mr. Terry has more unrelated people living in the home than allowed by the Zoning Ordinance, then he would not be allowed to have the facility in a single family residential zone. It would probably need to be a multi-family or other zone.

Mr. Pete Seaha, of the Planning Commission, pointed out that a Type I Group Home is permitted in single-family residential RS-10, RS-8, multi-family, etc. A Type II Group Home is only permitted in multi-family residential RML and RMH. Other Group living, which he feels is Mr. Terry's type home, is only allowed as a special exception. That could only be in RML and RMH zones.

Ms. Brendolyn Jenkins, 807 Dillon Avenue, stated Mr. Terry is proposing a group home in her community, and she would ask that Council receive this request the same way as the previous request. She stated the difference in Mr. Doyle's home is that in Denmark his home is in a commercial area. She pointed out four people non-related to Mr. Terry does not constitute a family. She pointed out that Mr. Terry says he lives in this house presently. She questions whether there would be appropriate square footage in the house

for Mr. Terry and his wife with four other adults in the home. She stated although the payment would come from the Veterans' Administration, his regulations would still come from SCDHEC.

Council continued to discuss the request. It was pointed out that a rezoning request goes to the Planning Commission first, not City Council. It was pointed out there was a question as to what type facility Mr. Terry plans to operate, which makes a difference as far as zoning and other regulations that apply. Through discussions on the request, Councilmembers stated it did not sound like the request would fit in the zoning in that area. It sounds as though the home would be for an assisted living facility for veterans who may need some partial care and would fit under the "other group home" category. Unless the Planning Commission would be willing to change the zoning, the request could not go before the BZA for a special exception. It was pointed out that from what Mr. Terry was explaining to Council, they did not feel the home would be a Type 1 home, which is for physically and mentally handicapped individuals.

Mr. Terry stated he had invested a lot of money into the home for repairs. He said he thought he had gone through the right channels and checked everything out.

Councilwoman Price stated if Mr. Terry is to have a group home for physically and mentally handicapped veterans that he must meet DHEC regulations for handicapped people. It was also pointed out that they must have the appropriately licensed personnel on hand, and it is a much more expensive process than having a retired nurse on board.

Councilman Dewar said he was confused also about what kind of home is requested. He said he was not sure which agencies have to get involved. He said perhaps staff could help him. He said he did not think that just because the VA said something that state laws do not apply.

Mr. LeDuc stated from what he was hearing about the request it appears that the request would fit under "other group homes" and that would not fit in a residential area. He said staff would do more research and at this time he would not see this coming back before Council unless we hear something differently from DHEC that would allow this type of home in this residential area. He said staff will work with Mr. Terry.

No action was taken on the request.

DEDICATION – RESOLUTION 06162008E

Utilities

Streets

Sanitary Sewer

Stormwater Lines

Water Lines

Kemper Downs Subdivision

Summerville Homes

Pine Log Road

Mayor Cavanaugh stated a resolution had been prepared for acceptance of a deed of dedication for utilities and roads in Kemper Downs Subdivision on Pine Log Road.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING ACCEPTANCE OF A DEED OF DEDICATION, FROM SUMMERVILLE HOMES, LLC., FOR ALL THE STREETS, SANITARY SEWER LINES, STORM SEWER LINES, WATER LINES, AND ALL EASEMENTS FOR THESE UTILITIES, FOR THE KEMPER DOWNS SUBDIVISION.

Mr. LeDuc stated Public Works Director Larry Morris has completed his inspections of the streets, sanitary sewer, stormwater and water lines, and all utility easements in the Kemper Downs Subdivision. He recommends their acceptance into the City system. All roads and utilities have been in place for over two years. He said this is the subdivision that was stripped of all the trees. He said because of the trouble the developer has had

and the way the subdivision has been developed the city is concerned about the subdivision and would like to have the utilities deeded to the city so the residents in the subdivision have some relief as to who is going to maintain the streets, utilities, etc.

In addition, the Chief Operations Officer of Summerville Homes, developer of Kemper Downs, has informed Mr. Morris that all lots in this subdivision have been sold or are under contract. Each of these lots has been sold with the stipulation that three trees—one deciduous, one evergreen, and one small sized—be placed on each lot.

For City Council consideration this is a resolution accepting this deed of dedication of Kemper Downs Subdivision infrastructure into the City system.

Council discussed whether they could enforce the stipulation that three trees be planted on each lot. It was the general feeling that the city would have no enforcement authority that the trees be planted, but would have to assume that the trees will be planted.

Councilwoman Vaughters expressed concern about assuming that the trees will be planted. She pointed out the commitment previously expressed about the subdivision was not carried out and the trees were all taken down.

Councilwoman Clyburn stated she agreed that for the residents already in the subdivision, it would be best if the City accepted the deed of dedication. Then the City would have a way to make sure that things are okay in the future.

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council accept the deed of dedication for the infrastructure in the Kemper Downs Subdivision. The motion was approved by a vote of 6 to 1, with Councilwoman Vaughters opposing the motion.

DEDICATION – RESOLUTION 06162008F

Utilities

Woodside Plantation

The Reserve

Storm Sewer Lines

Water Lines

Sanitary Sewer Lines

Mayor Cavanaugh stated a resolution had been prepared for acceptance of deeds of dedication for utilities in several sections of Woodside Plantation.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF DEEDS OF DEDICATION OF WATER, STORMWATER, AND SEWER UTILITIES, AND UTILITY EASEMENTS FROM THE RESERVE AT WOODSIDE, LLC.

Mr. LeDuc stated Public Works Department Director, Larry Morris, has met with representatives of the developer of several sections of The Reserve at Woodside. At these meetings, several sections were identified as ready for acceptance by the City for certain utilities. No roadways or roads are contained in these deeds of dedication. Instead, the storm sewer lines, water lines, sanitary sewer lines, related equipment, and off-site sanitary sewers as built and as noted for Phase 3, Sections 2, 5, 6A, 6-A offsite sewer as-built, 6-B offside sewer as-built, 7, 11, and 12 are specifically recommended for acceptance by Council into the City system.

Mr. LeDuc stated that at the next meeting Council will be considering changes in maintenance guarantees. The city will be asking the developers to deed the utilities upon final plat approval and will be asking for cash or a letter of credit that will guarantee that the city can take care of the utilities so the process can be speeded up so the city can have the ability to work with DHEC on maintaining the water and sewer systems and working primarily with the citizens.

For City Council consideration this is a resolution accepting the utilities in several sections of Phase III of Woodside Plantation into the City system.

Councilman Smith moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the resolution to accept the deed of dedication for utilities in several sections of Phase III of Woodside Plantation.

PURCHASE PROPERTY – RESOLUTION 06162008G

Saluda Street
Edgewood Subdivision
TPN 120-18-06-001
Northside Redevelopment Initiative

Mayor Cavanaugh stated a resolution had been prepared for purchase of property in Edgewood Subdivision near Saluda Street.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE PURCHASE OF A LOT IN THE
EDGEWOOD SECTION OF THE CITY OF AIKEN.

Mr. LeDuc stated as part of our ongoing Northside Redevelopment Initiative, our Neighborhood Services Division has identified an additional parcel for purchase. It adjoins land already owned by the City to the south. In addition, the asking price of \$11,500 appears to NDS staff to be in line with the prices we have paid for lots in this area. The property is a triangular lot of about one-half acre.

For City Council consideration, this is a resolution to authorize the purchase of Lot 131 in the Edgewood Subdivision of Aiken from James Williams for \$11,500.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council purchase Lot 131 in the Edgewood Subdivision from James Williams for \$11,500.

PURCHASE PROPERTY – RESOLUTION 06162008H

The Alley
Newberry Street
TPN 30-046.0-04-012
TPN 121-21-06-002
Municipal Building Expansion

Mayor Cavanaugh stated a resolution had been prepared for the purchase of property at the corner of The Alley and Newberry Street.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE PURCHASE OF REAL PROPERTY
LOCATED IN THE CITY OF AIKEN.

Mr. LeDuc stated over the last couple of years City Council has heard a number of presentations by staff concerning the need for more office space. Based on these discussions, Hank Moormann and Mike Holland made a presentation concerning the city's space needs, and you decided we should stay in our present Municipal Building. In the past few years Public Works/Engineering Office moved out of City Hall and Neighborhood Services moved out this year. The Staff Attorney will be moving to the second floor at Rye Patch later this summer. After researching this in greater detail, we looked at three options. These included adding a third floor, expanding the rear portion of the building to The Alley, or purchasing the property owned by the Brinkleys to expand our building to Newberry Street. We looked at the cost per square foot for these three options, and the most cost effective expansion would be the third option, which is purchasing the property owned by the Brinkleys. Expanding our building to Newberry Street would give us 0.2117 acres and allow us to construct an approximate 18,000

square foot two story building. It is the city's intent to occupy the second floor while using the first floor as retail space. The addition would be connected to our existing building and have an entrance on either Newberry Street or The Alley.

The Brinkley family has agreed to sell us their property for a total sales price of \$930,851.06. This purchase price would be payable in four installments - \$55,851.06 at the closing, \$300,000 by the end of 2008, \$300,000 by the end of 2009, and \$275,000 by the end of 2010. The property proposed to be purchased would increase our capacity by about 50%. The good points for the purchase of the property are that City Hall could stay downtown, and staff would not have to move out during construction. The intent is to build a two-story building and use the second floor for office space with the first floor remaining retail. It would be built such that in the future a third floor could be added or we could occupy the first floor rather than retail. North Augusta is spending \$20 million for their new City Hall and Aiken County will be spending \$20 to \$35 million for their new building. We would be able to expand City Hall for about \$4 million.

For City Council consideration this is a resolution authorizing the purchase of 0.2117 acres located on Newberry Street from the Brinkley family for a total price of \$930,851.06.

Mr. Pete Seaha, 161 Laurel Ridge Circle, stated he was speaking as a citizen. He asked how the figure of \$930,851.06 was decided. He pointed out the purchase price comes out to be \$4,500,000 per acre. He said this was an obscene amount of money. He was wondering about the cost of a third floor on the present building or going out the back to the street. He felt the citizens should know the cost of the alternatives.

Mr. LeDuc responded that the purchase price was \$900,000 for the property. The Brinkleys asked that the City split the commission fee, and then closing costs, etc. were added. He pointed out to Mr. Seaha that Council has discussed his questions regarding other options at length. It would cost more than \$4 million to add the third floor. He said one problem of adding a third floor is that we would lose the use of the back portion of City Hall during construction. The Conference Center and Council Chambers would not be usable during construction. Computer operations would also have to be moved to add a third floor. One of the issues of going out to the street is that we would lose the courtyard area. Also, there would be very little room for construction. We would gain only about 3,500 sq. ft. extending to the back. Council had looked at the options of moving the Council Chambers to another location or the possibility of doing away with the Conference Center.

Mayor Cavanaugh stated Council had questioned the cost and other options. He pointed out, however, the downtown area is a wonderful place. He said land downtown is very valuable. He said if the city did not own this property, then there is a question as to what else might go there.

Councilwoman Price pointed out property values downtown continue to escalate. She said that at one time the city could have bought the house next to Harper Realty for about \$500,000. She said at that time Council thought that was too much.

Ms. Jane Page Thompson stated she did not hear that the city had had the property appraised. She pointed out the Aiken Antique Mall is twice the size of that lot and it is for sale for \$1.1 million. She said she was shocked at the \$930,000 price, but she did feel that what Council was doing was great. She pointed out that possibly the city could get an option to purchase the house next door along with this contract, so if the city needs to expand in the future they would have that option.

Mr. LeDuc stated the negotiation process of dealing with three heirs had been difficult. He pointed out the property next door includes more than just the house. There is the real estate shop, the house and the paint store. He said possibly the price is inflated, but it is adjacent to our building.

Mr. Johnny Johnson, 316 Pine Drive, stated he also felt the price is high for the property. He questioned the seller being give the first right of refusal to purchase any retail units the city may construct on the property in the future.

Councilwoman Vaughters asked the City Manager's opinion of an option for purchase of the additional property if the city needs to expand in the future.

Mr. LeDuc pointed out possibly the city could negotiate an option. However, options are usually for 6 months to 1 year. He said the city has no use for the option at this time unless Council has the desire to purchase the property. He pointed out that under the proposed contract the city has three years to pay for the property, so the city does not have to borrow money to pay for the purchase.

Mayor Cavanaugh stated he feels there is a difference in an option and the right for first refusal. He suggested the city could ask for the right of first refusal for the additional property.

Councilman Smith moved, seconded by Councilman Dewar and unanimously approved, that Council pass the resolution authorizing the purchase of 0.2117 acres located on Newberry Street from the Brinkley family for \$930,851.06 for expansion of City Hall and ask for a right of first refusal for the additional property.

CITIZEN REQUEST

Key, Rosalind
Morgan Street 357
Housing

Mayor Cavanaugh stated Ms. Rosalind Key had requested to appear before Council on a matter.

Mr. LeDuc stated Rosalind Key has asked to speak to Council. He said he had received no information as to what Ms. Key wanted to discuss with Council so we could be prepared. However, he assumed it is concerning her house that the City built at 357 Morgan Street.

Ms. Rosalind Key, 357 Morgan Street, distributed some information regarding her concerns about her house at 357 Morgan Street. She said there was a lot about the process that she did not know and thanked Council for being late on the agenda, giving her an opportunity to listen and hear concerns of people who would like to be heard.

Ms. Key then proceeded to read a letter that she had prepared, stating her concerns regarding her property on Morgan Street in the Toole Hill community. She said she had participated in the required training sessions before her home was constructed in 2007. She said several discrepancies had arisen regarding the billing and charges for several items for the home and no resolution had been found so that is why she was appearing before Council. She said to rectify the differences that in August, 2007 the city had offered her a settlement of \$3,750 to cover the disputed items. She said the city had failed to send the check mentioned in an email to her dated August 10, 2007. She said since that time she had tried to make arrangements with the city, with the assistance of Call for Action on WRDW News 12 as well as working with her Council member.

Ms. Key stated her home is built on a hill, one of the few on a hill in the area. She said she was requesting the city to provide safe egress into and out of her home. The slope of the driveway is dangerous, and even more so since Morgan Street is a busy thoroughfare. She expressed concern about potential slips and falls which could result due to the incline of the driveway. She asked that the City have the driveway reggraded to a lesser angle so the rise to the garage floor would be a more smooth transition. She said just as considerations were made for extra drainage to protect people and property from flooding and other unsafe conditions, she felt similar considerations should be given to make the entry to her home safe.

Ms. Key said the walkway is another area of concern and had been adjusted since her move into the home, but the area still remains unsafe. She said she was requesting the City of Aiken to provide adequate railing or additional steps to ground level to ensure safety. She also expressed concern about the Porch Rocker Project. She said upon completion of the Home Buyers Seminar she was told she would receive either one porch bench or two porch rockers and she had received neither for her home. Ms. Key requested that the City of Aiken provide either one porch bench or two porch rockers as promised.

Ms. Key stated she was requesting the same type consideration be given to her as was provided for her neighbors. She asked that Council consider her requests. She pointed out that in the information she had given to Council there was a timeline of the events that had taken place beginning May 15, 2007. She said to try to resolve the issues she had been in touch with Senator Ryberg's office.

Mayor Cavanaugh stated he had understood that when the city offered the lump sum settlement that Ms. Key did not accept it. He asked if the lump sum would take care of all her concerns. He pointed out that Ms. Key had accepted the house on the hill, knowing that the driveway was up a hill.

Ms. Key stated her problem with the settlement is that originally the city had offered her \$3,750, however, Mr. LeDuc has always referred to the settlement as \$3,500. She said she had accepted the \$3,750 by email. She said the \$3,750 was to address the original concerns expressed in her letter to City Council dated June 9, 2008. She said the fund would only take care of the items agreed upon at that time, but not all of the concerns. She said her additional concerns began shortly after the Christmas holidays. She said the city had repaired a portion of her driveway and because of the repair she used the front walkway and found that it was very unsafe. Ms. Key stated she was told that several things could be addressed after she accepted the house. She said some of the repair items have been addressed, but the overcharges have not been addressed. She said her concern at this time is the city living up to the offer that was originally made and agreed upon in the amount of \$3,750. Second, is the concrete areas that she was not aware of at closing. Third, is the issue of the porch rockers.

Councilwoman Clyburn addressed the issue of \$3,750 versus \$3,500 settlement.

Ms. Key stated there was a difference of \$250 in the settlement fund. The original offer was \$3,750. She said there was a release form that she was requested to sign in order to receive the settlement amount. She said she found out about the release form in December, 2007. She said the release form was a waiver releasing the city from all responsibility as well as the builder and she was not comfortable with signing the release considering the level of repairs that had to be made on the home. She was concerned that by signing the release she would have voided her home warranty which was good for one year from construction on certain items and up to 10 years on other items relating to the home. She pointed out the release only mentioned \$3,500 rather than the \$3,750 agreed upon. She said that was never the fee talked about. She pointed out the driveway has always been a problem and is still very much a problem. She said she would like for it to be less steep so it would be safer.

Council continued to discuss Ms. Key's concerns at length.

Mr. LeDuc explained that Ms. Key moved into the home on Morgan Street in June, 2007, and has not been satisfied with the construction and several other items concerning the home. We have met with her on several occasions along with the contractor. After several attempts to try to satisfy her, the City offered to credit her \$3,500. At those meetings there were questions concerning how much she owed the City when she signed her change order in late 2006. Mr. LeDuc provided papers with Ms. Key's signature on the bottom concerning the price she agreed upon to build this home. She is now stating that the driveway is too steep; however, it was explained to her at the time the house was being built that she would have a steep driveway. She is also concerned that her steps are too high and that a railing should be installed. According to Code a railing is not required, and we have not installed any at other homes. Leasa Segura who has been

working with her and has met with her on numerous occasions is present to explain what we have tried to work out with her and other affordable home owners within these neighborhoods. He said Ms. Segura and Mr. Neal Riddle, contractor, were present to answer any questions.

Ms. Segura stated Mr. Riddle was not responsible for the driveway. In working with the projects the city takes responsibility for landscaping, for the driveway and walkway. She recalled that there were four people looking at this area and they talked about the driveway and the grade and the possible need for a retaining wall and a parking pad. At that time Ms. Key was not concerned about the driveway since she was from New York. To install a retaining wall and a parking pad would take up a lot of the front yard so a mutual decision was made for it to remain as it is. Ms. Segura stated the walkway had been redone one time, but she was not aware of the issue of railings until very recently. Ms. Segura stated she hesitated to give a price for railings since she did not know where the railings could go and what type of material. She said she had looked at Lowe's and priced some materials for about \$700 for material only.

Mr. LeDuc stated at this time the city has built over 50 homes in the area and Mr. Riddle has built a number of the homes in the Toole Hill area. He said the city had had great success building affordable homes. He pointed out none of the homes had been built with a garage before, as the city was trying to build affordable homes. If there was not a garage on the property the land would better accommodate the house. Putting a garage on the house made the driveway a lot steeper. He said the steepness of the driveway never came up until a few months ago. He pointed out there had been many meetings by Mr. Riddle and subcontractors for the home to try to make corrections. He said a lot of the discussions earlier were the issues code enforcement issues which the city would have to deal with or were the issues a matter of a preference or cosmetic. He said Mr. Riddle had tried to resolve a lot of the issues. He said some issues were she had all stainless steel appliances because that is what she wanted and there should be a credit on the appliances, move cabinets to certain locations, doorways moved to certain locations, certain type windows and credit should be given, credit for light bulbs, etc. He said the list went on and on. He said after meeting several times and trying to work out an agreement and trying to find a compromise an offer was made to try to satisfy Ms. Key for all the issues to be resolved. He said an agreement was prepared and the agreement states if Ms. Key accepts the check this would settle the issues Ms. Key has for the house, including kitchen cabinets, hardwood flooring, light bulbs, mailbox, mudroom entry outlet, credits for household appliances, credits for front door, the dimmers, etc. He said the city had never been involved with dimmers, other appliances, type of doorways, etc. since affordable homes were being built. He pointed out if there are code problems, the city will deal with those issues. However, if they are not code issues the city does not feel obligated. He pointed out the porch rockers project was not a city program so the city did not give rockers to any of the homeowners. It was a project of the Women's Club of Aiken. He said staff had tried to be fair to Ms. Key, but also protect the city's interest so it would not be a case of having to continually go back for more issues and new items. He said if he said \$3,750 at one time that would be fine. He said it was not a calculated figure, but a figure which staff felt would be fair. He said he really didn't feel the city owed anything on the home, but to try to make things right and satisfy Ms. Key an offer was made. He said Mr. Riddle had been to the home on numerous occasions trying to satisfy the concerns and complaints.

Mr. Riddle stated he had made over 30 trips to try to fix the house to satisfy Ms. Key with cosmetic items. He said there were no code violations on the house. He said they had tried to correct them for her. He said when they think they are through they get another list. He said he wanted to fix any items he should. He pointed out Ms. Key had filed a complaint to the Better Business Bureau against him. He said this was the first time in 40 years he had had a complaint filed against him. He answered the complaint and the Better Business Bureau sent a letter stating his handling of the complaint was outstanding.

Ms. Key continued to discuss her concerns and her expectations for the home and the handling of matters by staff.

Mayor Cavanaugh pointed out Ms. Key knew how the home looked before she moved into it, knew about the driveway and accepted the home. He questioned how the city and others could be blamed for the issues. He pointed out there were no code deficiencies.

Councilwoman Clyburn asked Ms. Key what were the items she wanted, and Ms. Key responded there were the three things listed in bold in the letter dated June 9, 2008. These include the originally agreement upon settlement of \$3,750; consideration of regrading the driveway and walkway and railings or additional steps for the walkway and the porch rockers or bench.

Discussion continued with Councilmembers trying to come to an agreement to settle the complaint. Ms. Key stated she would be finished with the city if the three items were resolved. She said she would be satisfied with Mr. Riddle as long as the issues he is supposed to repair are repaired. She pointed out as problems present themselves and are still under warranty, she should be able to go the builder to have them repaired. She said the majority of the items had been done, but there were still some items to repair.

Councilwoman Clyburn stated it seemed the only item of the three issues that could be dealt with is the issue of \$3,750. She pointed out someone had looked at the driveway and determined there were no code violations as well as the walkway.

Mr. LeDuc stated the offer of funds was to take care of all the complaints that Ms. Key had so she would not be coming back with more issues.

Mayor Cavanaugh stated he questions paying any money.

Then there was much discussion on a check and a release which Ms. Key was supposed to sign in order to get the settlement funds.

Councilwoman Price stated she understood Mayor Cavanaugh's comments that the city does not owe anything based on the discussion. However, to move forward she would propose that \$3,750 be paid and the issue be closed along with a release being signed.

Mr. LeDuc stated the release is written that upon acceptance of the money the issues would be closed with the city and with Mr. Riddle.

Ms. Segura asked if the issues filed by Ms. Key with Senator Ryberg, State of South Carolina, Better Business Bureau, Housing Authority, 2-10 Warranty Company, etc. would also be closed. She pointed out complaints take a lot of time to follow up. She asked what resolving would involve.

Ms. Key stated she was concerned about the warranty on items in the home. Ms. Segura responded the city purchases for the home buyers a 2-10 warranty and signing the release would not negate the 2-10 warranty.

Mr. Neal Riddle stated he would repair the items on Ms. Key's list which she had already submitted. He said he would fix the items even though it may be after June 29, 2008, however, he would not expect to get further lists for repairs.

Councilwoman Price stated there had been questions as to whether the city owes Ms. Key. She said no one believes the city owes Ms. Key anything. However, in lieu of all the concerns an offer was made that the city give Ms. Key \$3,500 and she can take care of her concerns. She pointed out that based on staff time to follow up and track these items, it was felt it would be better to offer the funds and move forward than to continue to receive complaints on a weekly basis.

Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council offer a settlement of \$3,750 to Ms. Key upon her signing a release which will take care of Ms. Key's complaints with the city and Mr. Riddle, except for items covered under the 2-10 warranty.

Councilman Dewar stated he wanted to make sure that the payment of \$3,750 and the signing of a release would be with the understanding that the city is released from any complaints on the property. He said he would think the items which have already been identified that Mr. Riddle needs to repair should be completed.

Ms. Key stated she had no problem signing a release that would not put her in jeopardy and would complete this part of the process. Her question is whether signing the release would negate the 2-10 warranty. She asked if the items that have been identified and noted that Mr. Riddle needs to repair would be repaired if she signs the release.

Councilmembers stated the 2-10 warranty is separate and would take care of things in the house which might be broken. Ms. Key would deal with the 2-10 warranty company for those items. It was noted that the items on the list that Mr. Riddle agreed to repair could be attached to the release to insure that these items are completed and no others added to the list.

Mr. Riddle stated he would take care of the items in the two emails that he had just received up until June 29, 2008. After June 29, 2008, the 2-10 warranty will take care of the items.

Mr. Gary Smith, City Attorney, asked that Mr. Riddle provide copies of the emails to the city so that he could amend the language of the release agreement and specify that the list will be done. He said he would also modify the release agreement to make it clear that signing the release would not negate the 2-10 warranty. He said he understood from Council's comments that if the city pays \$3,750 that all other complaints should be withdrawn.

Mayor Cavanaugh called for a vote on the motion that Council offer a settlement of \$3,750 to Ms. Key upon her signing a release which will take care of Ms. Key's complaints with the city and Mr. Riddle, except for items covered under the 2-10 warranty. The motion was approved by a vote of 6 to 1 with Mayor Cavanaugh voting against the motion, stating he did not feel the city owes the money to Ms. Key.

BUSINESS LICENSE

Rental Property

Mayor Cavanaugh stated Councilwoman Vaughters had asked that discussion of the business license and rental property be discussed.

Councilwoman Vaughters asked for clarification of the business license fee for rental properties.

Mr. LeDuc pointed out the business license has categories for different businesses and each city sets a cost for each category for their city. The category rates may vary from city to city, but all cities who use the NAICS system will have rental properties in Class 7. It was pointed out that rental properties pay the same license as other businesses who are classified as a Class 7.

It was pointed out there are individuals with rental properties who pay a business license and have been doing so for years. However, in the rental registration process it was discovered that some individuals were not paying the business license fee and should have been. There was concern as to why the city had not been able to identify all rental property owners in the past and be sure they were paying a business license like others.

Ms. Lilly, Finance Director, pointed out people with two homes would be identified as a 6% assessment rate, and all 6% assessments are not rental properties. It was also pointed out the city never charged a person who just had one rental home.

Mr. LeDuc pointed out the city would know about the big housing complexes, but it is more difficult to identify the individual rental property owners.

Council briefly discussed the business license for rental properties and asked whether the city would charge those for back years who had not been paying. Ms. Lilly pointed out the office could if directed by Council, however, it would take some effort and time to do so.

Council then discussed the amount of revenue derived from business license and which amounts to about \$7 million, including insurance licenses and franchise fees for SCE&G, Aiken Electric Cooperative, and Atlantic Broadband.

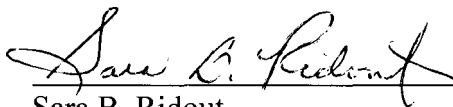
CROSLAND PARK

Councilwoman Clyburn stated Council had received a letter from Ms. Pat Causey regarding her concerns about Crosland Park. She pointed out Ms. Causey was present at the meeting earlier, but had left the meeting.

Ms. Leasa Segura pointed out Mr. Gary Yount, the new president of the Crosland Park Association, wanted to convey to Council that Ms. Causey's letter was a personal letter on Crosland Park and did not give the opinion of the Crosland Park Association.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:07 A.M.


Sara B. Ridout
City Clerk