

Council continued to discuss the condition of the present sidewalk, the width of the road, off-street parking and whether there should be on-street parking on one side of the street or both.

Councilwoman Price and Clyburn expressed being in favor of on-street parking on both sides of the street.

Mr. LeDuc stated from the discussion of Council it seemed that Council would like to have on-street parking on Morgan Street at least on one side. Councilwoman Price stated this area is in her district and she would like to request that parking be on both sides of Morgan Street.

Mr. Sottile then continued his presentation showing proposed buildings, infield lots, streetscaping, architectural details such as front porches, etc. He said they recommend between one and one-half story buildings for the area. He said they would be recommending removal of all the chain link fencing in the area.

Mr. LeDuc stated at first it seemed that only about 20 homes could be built because of finances. However, because there has been interest from three developers who would like to put up their money to build homes, that all of the homes might be able to be built in the first phase.

Mayor Cavanaugh thanked Mr. Burgess and Mr. Sottile for the presentation. He said he felt Council had expressed the feeling that they would like to have parking on both sides of the street.

BOARDS AND COMMISSIONS

Hall, Miles

Giobbe, Ed

Planning Commission

Councilman Smith stated Miles Hall had informed him that he is resigning from the Planning Commission. He said he was recommending that Edward Giobbe be appointed to replace Mr. Hall. He asked that this appointment be on the next agenda for action.

Aiken City Council Minutes

REGULAR MEETING

September 22, 2003

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

Others Present: Roger LeDuc, Gary Smith, Ed Evans, Larry Morris, Anita Lilly, Pete Frommer, Sara Ridout, Philip Lord of the Aiken Standard, Josh Gelinis of the Augusta Chronicle and about 30 citizens.

Mayor Cavanaugh called the meeting to order at 7:35 P.M. Mayor Cavanaugh 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 Price moved, seconded by Councilman Smith and unanimously approved, that the agenda be approved as presented.

MINUTES

The minutes of the work session and regular meeting of September 8, 2003 were considered for approval. Councilman Sprawls moved that the minutes be approved. The motion was seconded by Councilwoman Clyburn and unanimously approved.

ANNEXATION – ORDINANCE 09222003Henry Street 796Suggs, JeanSuggs, WilliamSuggs, GaryTPN 30-057.0-01-004Virginia AcresPine Log Road

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to annex 796 Henry Street.

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 .39 ACRES OF LAND, MORE OR LESS, OWNED BY JEAN SUGGS, WILLIAM SUGGS AND GARY SUGGS, AND LOCATED AT 796 HENRY STREET AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-10).

Mr. LeDuc stated the owner of .796 Henry Street, Ms. Jean Suggs, would like to annex her .39 acre property as Residential Single-Family (RS-10). The property is contiguous to the city by the rear property line, and the applicant is interested in receiving city trash and garbage pickup and Public Safety protection. This is one of many properties in the Virginia Acres area which has annexed in the last few years.

The Planning Commission voted unanimously to approve this annexation at their August 12, 2003, meeting.

The public hearing was held and no one spoke.

Councilman Cunning moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading an ordinance to annex a .39 acre lot at 796 Henry Street as RS-10 Residential Single Family and that the ordinance become effective immediately.

ANNEXATION – ORDINANCE 09222003AUSC-AikenAiken County Commission for Higher EducationPacer DownsTPN 00-103.0-01-001DormitoriesUniversity ParkwaySC 118Bypass

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to annex 2.33 acres owned by USC-Aiken located off University Parkway.

Mr. Gary Smith, City Attorney, stated he was a member of the Aiken County Commission for Higher Education, which owns the property proposed to be annexed, so he was recusing himself from the meeting while the matter was discussed.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX INTO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY TALLING 2.3343 ACRES OF LAND, MORE OR LESS, OWNED BY THE AIKEN COUNTY COMMISSION FOR HIGHER EDUCATION AND LOCATED OFF THE WEST SIDE OF UNIVERSITY PARKWAY AND EAST OF SOUTH CAROLINA HIGHWAY 118, BEING A PART OF THE SITE

OCCUPIED BY THE UNIVERSITY OF SOUTH CAROLINA AIKEN CAMPUS AND BEING KNOWN AS PART OF TAX MAP PARCEL NUMBER 00-103.0-01-001, AND TO ZONE IT RESIDENTIAL MULTI-FAMILY LOW DENSITY (RML).

Mr. LeDuc stated the University of South Carolina Aiken campus recently annexed 9.3 acres to build a new dormitory. They later determined that they need to include additional property as part of this dormitory complex and are now asking that an additional 2.33 acres be annexed into the city to meet the city's landscaping and parking requirements. This would become part of the dormitory property which is now under construction, and the Planning Commission voted unanimously to approve this annexation.

The public hearing was held and no one spoke.

Councilman Sprawls moved, seconded by Councilwoman Clyburn and unanimously approved that Council pass on second and final reading an ordinance to annex 2.33 acres of property on the Aiken campus of the University of South Carolina to be zoned Residential Multifamily Low Density and that the ordinance become effective immediately.

Mr. Gary Smith then returned to the Council Room.

ZONING ORDINANCE 09222003B

Zoning Board of Appeals
Order

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

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE TO PROVIDE FOR BOARD OF ZONING APPEALS WRITTEN DECISIONS TO BE SIGNED BY THE BOARD MEMBERS PRESENT AND VOTING, AND SENT TO APPLICANTS BY CERTIFIED MAIL, NO LATER THAN BY ITS NEXT SCHEDULED MEETING.

At the July 22, 2003 meeting of the Board of Zoning Appeals, they unanimously recommended two changes to the Zoning Ordinance. The first change involves the requirement to mail back written decisions within 25 days after a Board meeting. This deadline has been difficult to meet since the minutes and other staff responsibilities sometimes delay our ability to turn orders around within 25 days. In most other court cases, orders are required within 30 days. By modifying the Zoning Ordinance as set forth, it would require that no later than the date of the next regularly scheduled meeting, the final written decision would be mailed. The extra five days would give the Commission members and staff the necessary time to prepare the orders properly and to send them to all interested parties in a timely manner.

The second change involves a recent ruling by the South Carolina Court of Appeals requiring all Board members who vote on agenda items to sign it prior to it being mailed.

The Planning Commission reviewed this at their September 9, 2003, meeting and recommend unanimously the approval of the changes for BZA's appeals. As stated at their meeting in most cases the time period would be for 28 days except for two or three times a year there may be a limit of 35 days before the Orders are sent out.

City Council approved this ordinance on first reading at the August 11, 2003, meeting.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilwoman Clyburn and unanimously approved, that Council pass on second and final reading an ordinance to amend the Zoning Ordinance to require BZA written decisions to be signed by Board members who vote on it and to send copies via certified mail no later than the next BZA scheduled meeting, and that the ordinance become effective immediately.

CITY PROPERTY – ORDINANCE

Dicks, Nathaniel
Jones Street
Laurens Street
Edgefield Highway
S.C. Highway 19 N
TPN 30-040.0-02-005

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to sell a lot owned by the City of Aiken on Jones Street.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE APPROVING THE SALE AND CONVEYANCE OF THE PROPERTY OWNED BY THE CITY OF AIKEN LOCATED AT THE CORNER OF JONES AVENUE AND LAURENS STREET (ALSO KNOWN AS EDGEFIELD HIGHWAY OR S.C. HIGHWAY 19) IN AIKEN, SOUTH CAROLINA, TAX PARCEL NUMBER 30-040.0-02-005.

Mr. LeDuc stated that Mr. Nathaniel Dicks would like to purchase a parcel of land owned by the City of Aiken adjacent to his office at the corner of Jones and Laurens Street. The estimated value of this property based on an appraisal in the 1990's by Aiken County is \$6,000. He is offering the City \$10,000 for this property and intends to construct an office on the property within the next twelve months. The only request he has of the City is that we remove the concrete pad from the previous home that was on this property prior to his purchase.

Staff has reviewed this request and feels it is a good offer and recommends its approval.

Councilwoman Clyburn moved, seconded by Councilwoman Price and unanimously approved, that Council pass on first reading an ordinance to sell property at the northeast corner of Jones and Laurens Street to Nathaniel Dicks for \$10,000 and that second reading and public hearing be held at the next regularly scheduled meeting.

Councilwoman Vaughters asked about the present zoning of the property, to which Mr. LeDuc responded that he thought it was General Business, but he would be sure to have the zoning at the next Council meeting.

Councilman Cuning asked about procedures of the city to have property appraised when selling property. He said he felt the city should have a market analysis done when selling city property.

SOUTH MEADOWS – ORDINANCEDedicationWater LinesSewer LinesUtilitiesSewer EasementsEasementsLift StationWhiskey RoadWaters, JerryTPN 00-159-01-454TPN 00-159-01-022

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to accept water and sewer utilities at South Meadows.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE ACCEPTING THE DEDICATION OF THE WATER AND SANITARY SEWER, EASEMENTS AND EQUIPMENT OWNED BY JERRY WATERS BUILDER, L.L.C. IN SOUTH MEADOWS PHASE ONE "A," PHASE ONE "B," PHASE TWO, AND ON A PORTION OF A 91.97 ACRE TRACT.

Mr. LeDuc stated Jerry Waters, developer of South Meadows, has requested the City to accept the water and sewer lines, sewer easements and lift station within the South Meadows development. It is customary for the City one year after the construction of these utilities to accept these lines after inspection by our Public Works Department.

The Department has field reviewed all these easements and lines and recommends that the City accept them into our system. The development began over three years ago and most of these lines have been installed for over two years, which is beyond the minimum of one year that the city requires. Mr. LeDuc stated for developments in the city the city also accepts the streets, but since this development is in the County, the staff is only recommending acceptance of the water and sewer lines, sewer easements and lift station in South Meadows.

Councilman Cunning moved, seconded by Councilman Smith and unanimously approved, that Council pass on first reading an ordinance to accept the water and sewer utilities shown on a plat of South Meadows and that second reading and public hearing will be set for the next regularly scheduled meeting.

GRANTDepartment of JusticePublic Safety DepartmentFinger Print Machine

Mayor Cavanaugh stated Council needed to consider acceptance of a grant from the U. S. Department of Justice.

Mr. LeDuc stated for the past ten years the city has received a funding grant from the U.S. Department of Justice for purchasing equipment for the Department of Public Safety. In the past this helped us purchase equipment that has been requested but not funded in the current year's budget. This year we are requesting purchase of equipment to help electronically scan fingers and palms with the image appearing on fingerprint cards which are then used internally and provided to the FBI and South Carolina Law Enforcement Division. The new inkless fingerprinting method will save time and money and allow the officers to be back on the street faster for patrol duties after an arrest is made.

The City of Aiken needs to provide a 10% cash match to this \$26,011 grant, and we will use funds from our Federal drug sharing account for this portion. A public hearing was held with the Community Advisory Committee to receive input concerning this purchase.

The meeting with the Committee and the public hearing was held on September 3, 2003, and there were no negative comments received concerning this purchase.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved, that Council accept a grant in the amount of \$26,011 from the U.S. Department of Justice, with the City providing 10% from the Federal Drug sharing account, to purchase an electronic finger printing machine for the Department of Public Safety.

RESOLUTION

Historic Marker
Laurens Street
Park Avenue
Morgan Circle
Fountain

Mayor Cavanaugh stated Council needed to consider a resolution approving the placement of a historic marker at the fountain on Laurens Street at Park Avenue.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE PLACEMENT OF A BRONZE MARKER AT THE FOUNTAIN AT THE INTERSECTION OF PARK AVENUE AND LAURENS STREET.

Mr. LeDuc stated the Historic Aiken Foundation has requested the City's permission to place an historical marker at the fountain at Laurens and Park. The location for the historic marker would be set on top of the north side of the stone wall and consist of a 12 inch by a 36 inch bronze marker. The marker would be attached by two metal spikes imbedded in cement and read:

The Morgan Circle and Foundation
 Named in Honor of
 Thomas Redmon Morgan
 Mayor of Aiken
 1899 – 1900

The Historic Aiken Foundation has researched the history of Mayor Morgan and found that he was instrumental in much of the beautification in the downtown area, including the parks as we see them today. He was the owner of the Legare-Morgan house located at 241 Laurens Street. The Morgan family has requested the Foundation to place this plaque in his honor and are willing to pay for its manufacture and installation. Should Council approve this resolution, they would like to dedicate this in early November. The Planning Commission reviewed this request and approved it unanimously with the condition that Public Safety has no problem with the location. Public Safety has reviewed the location, and as long as the plaque is in the fountain area off the roadway and does not block the sight distance of oncoming traffic, they have no objection. He said Public Safety did have some concern, however, that if there is a marker in the circle how people would actually view the marker.

Mr. LeDuc stated the Morgan family has agreed to pay for the marker and for the installation of the marker and wish to have a dedication later this fall.

Mayor Cavanaugh stated he had some concerns about placement of the marker. He stated he had concerns about safety when the request was for placement in the circle. He said to see it a person would have to walk to the circle or stop a car to read it. He suggested that perhaps the marker could be placed on the southern sidewalk from the fountain. He said this would allow the marker to be larger and it could have more information and history of Mayor Morgan, the fountain and the Legare-Morgan House. He said historic markers are to be read and need to be placed in a place where they can be read. He felt it would be a safety hazard to be in the circle with the fountain.

Councilmembers discussed the request and felt that the marker could be a safety problem in the circle, and no one would be able to read it. They also felt it should have more history on the marker such as the Legare-Morgan House and to place the marker at Laurens and Park would make it more accessible to the public to read. They also discussed the size and what the marker should be like. It was suggested that perhaps it could be similar to the Historic Marker at Laurens and The Alley which has the history of Aiken.

Mr. Gary Smith, City Attorney, stated he understood from the discussion that Council's intent is to authorize the Historic Aiken Foundation to place a marker similar to the marker at the corner of Laurens and The Alley (history of Aiken marker), with the marker to be located near the intersection of Park Avenue and Laurens Street south of the fountain, and the wording to include more history of Mayor Morgan and the Legare-Morgan house with the City Manager to work with the Historic Aiken Foundation on the wording for the marker.

Councilwoman Vaughters moved, seconded by Councilwoman Clyburn and unanimously approved, that Council approve the request for placement of a marker in honor of Mayor Morgan with the marker to be placed near the sidewalk in the parkway at Laurens and Park Avenue south of the fountain and that the size, material of the marker and wording on the marker be approved by the City Manager working in conjunction with the Morgan family and Historic Aiken Foundation.

PAVING 2004

Street Paving State Streets

Mayor Cavanaugh stated Council needed to consider approval of the state street paving list for 2004.

Mr. LeDuc stated every year the City receives approximately \$215,000 from the state "C" funds for the paving of state streets in the city. The streets that Council approved last year have not been paved, and it is our understanding that the State will not begin this program until 2004. We would like them to receive our list for 2004 as soon as possible so they might be able to add these new streets to the existing list for paving next year.

Yearly we ask the Public Works Department to review the condition of all the streets within the City of Aiken to determine which ones have the greatest need for repaving. A copy of the list was given to Council for information. The list of streets is based on a rating of 1 to 5 with 1 being the worst and 5 being the best. This information, along with comments we have received from citizens, Councilmembers and the state are combined to develop a priority listing of streets to represent our paving list for this next calendar year.

This list is submitted to Council for review and approval. Also included for Council's information is the repaving list from 2003, and staff is recommending that the streets with a rating of 1 and 1 1/2 be submitted for repaving in 2004. Should funding provide for additional streets, we are recommending that those starting with a rating of 2 be completed. Upon your approval, this list will be sent to the County Transportation Committee (CDC) for their final review and submittal to the State Highway Department for repaving. Hopefully these streets would be scheduled and paved along with the streets that we have listed for 2003 during calendar year 2004.

Street	From	To	Rate
Bissell Road			1
Boardman Road	Two Notch Road	626 Boardman Road	1
Canterbury Court			1
Chaffee Lane			1
Colleton Avenue E	Newberry Street	Whiskey Road	1
Dunbarton Circle			1
Ellenton Street			1
Fauburg Street			1
Jackson Drive			1
Joseph Hofmann Terrace			1
Lee Lane	Richland Avenue	Jasper Street	1
Morton Avenue north end	Aldrich Street	Aldrich Street	1
Nottingham Drive			1
Perrin Street	Hampton Avenue	south to Edgefield Avenue	1
Sherwood Place			1
South Boundary	Laurens Street	end of pavement	1
Sumter Street	South Boundary	Grace Avenue	1
York Street	South Boundary	Grace Avenue	1
Horry Street S & N	Barnwell Avenue	Park Avenue	1.5
Marion Street N & S	Park Avenue	end near Barnwell Avenue	1.5
Marion Street S	Richland Avenue	Park Avenue	1.5
Chaffey Springs Road			2
Cherry Drive	Two Notch Road	Palm Drive	2
Church Street	Pickens Avenue	Hampton Avenue	2
Colleton Avenue E	York Street	Williamsburg Street	2
Colleton Avenue W	Williamsburg Street	York Street	2
Colleton Avenue W	York Street	Newberry Street	2
Croft Avenue			2
Elm Street	Palm Drive	Maple Drive	2
Florence Street N	Edgefield Avenue	Hampton Avenue	2
Florence Street S	Hampton Avenue	Edgefield Avenue	2
Jasper Street			2
Lancaster Street	Hayne Avenue	Richland Avenue	2
Laurel Drive	Richland Avenue	Summit Drive	2
Marlboro Street N & S	Park Avenue	Richland Avenue	2
Newberry Street N	Colleton Avenue	Park Avenue	2
Newberry Street S	Park Avenue	Colleton Avenue	2
Palm Drive South	Palm Drive	going E around circle back to Palm Drive	2
Pickens Avenue	Church Street	Shady Lane	2
Shady Lane	Pickens Avenue	Hampton Avenue	2
Sumter Street	Camellia Street	to end beyond Sundry	2
Tennessee Avenue	Congress Drive	Supreme Drive	2

Councilwoman Vaughters stated that at the Old Aiken Master Plan meetings citizens expressed concern about the open ditches on Fauburg Street. She asked if anything would be done about the ditches when the street is paved.

Mr. LeDuc stated typically only the paved street would be repaved. He said if Council wanted to get the ditches filled in the City would have to take care of the ditches. He said there are only a few open ditches in the city, and if Council wanted them closed the city would have to do the work and set up the funding for the work. Council asked that the staff consider closing the open ditches while the streets are being paved.

Councilman Sprawls moved, seconded by Councilwoman Price and unanimously approved, that Council approve the state street paving list for 2004 with the streets rated 1, 1 ½ and 2 included on the list for 2004.

TOOLE HILLPurchaseNorthside DevelopmentResolutionHicks, Dessie M.TPN 30-026.0-12-012TPN 30-026.0-12-013TPN 30-026.0-12-015TPN 30-026.0-05-014Dobson, MableTPN 30-026.0-04-012Taylor, ThomasTPN 30-026.0-11-009

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to purchase 6 parcels on Toole Hill for the northside development project.

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 that at the last City Council meeting Council approved the purchase of 15 parcels of property in the two block area of Toole Hill. At tonight's meeting we would like Council's approval to purchase an additional 6 pieces of property, 5 which currently are occupied with houses and 1 vacant lot. Should Council approve this resolution we will begin our inspection of the houses to determine their status for renovation. We have set aside \$600,000 in the budget to purchase these homes and to begin streetscape work in this area.

At the last Council meeting Council authorized the purchase of 15 properties valued at \$116,500. The purchase of the 5 houses and 1 lot totals \$71,000. Funding is available in the budget for these properties.

Councilwoman Price moved, seconded by Councilman Cuning and unanimously approved, that Council approve the resolution authorizing the purchase of 6 pieces of property consisting of 5 homes and 1 vacant lot in the Toole Hill area for a total of \$71,000.

CHILDREN'S PLACEDemolitionBarnwell Avenue NE 310Temporary BuildingPortable Building

Mayor Cavanaugh stated Council needed to consider a request for assistance in the removal of a building at 310 Barwnell Avenue NE.

Mr. LeDuc stated a letter had been received from President Hayward Barnwell of Children's Place, Inc. requesting assistance from the city to remove a building at 310 Barnwell Avenue NE. A short time ago they discovered moisture problems within the building and upon further analysis they determined that the building was not salvageable without the repairs costing more than the actual worth of the building. They are asking the city's help to remove this building through our demolition program. Due to their lack of funding, they would like the city to do this at no cost to Children's Place and would like to relocate a temporary portable facility at this location for up to one year. During this time they will investigate expansion of their facility on adjacent property, or find other property somewhere on the north side to locate their programs. They serve over 100 Aiken children every day and due to the problems with this building have had to eliminate their under 2 year old program until the problem is resolved.

According to the policy that City Council set last spring, with Council's approval staff would post this property for 30 days, and if no one has made an offer to Children's Place to remove this building, the City would then proceed with its removal. It is our understanding that this building was constructed in the late 1940's and has little or no historical value.

Councilman Cuning stated he was concerned about demolishing the building. He said he felt the building should be moved and relocated. He said the building was not in a dilapidated condition.

Councilwoman Price stated she felt the problem probably was a safety issue with young children in a building that has mold.

Councilwoman Vaughters stated she wondered if something could be done about a mold issue or a moisture issue that would be less expensive than tearing down the building or moving it. She said she felt the building fit in the area, and Council had said they would look at buildings that fit into the neighborhood before demolishing them. She said she would like to understand more about the mold issue.

Mr. Philip Merry, 755 Two Notch Road, Treasurer of Children's Place, stated he was speaking on behalf of the Board of Children's Place. He said the condition of the house was a rapidly developing problem for Children's Place. He said it was determined that there was a safety problem for the young children who were in the program housed in this building. He said there is a significant moisture problem in the building. He said it seems the problem is caused by the lay of the land, as the entire city block all slopes to one low point and this house is built on top of the low point. The house was in poor shape when Children's Place took it over and over the years Children's Place has used it for housing the children from infants up to 24 months old. These children are the most vulnerable, neglected and most often affected by the problems dealt with at Children's Place. He said Children's Place wanted to serve the children of this age, but with the discovery of the moisture problems Children's Place had to indefinitely suspend the infant to 2 year old program. He said there are a lot of issues both with DHEC and other state licensing agencies that come into play. He said this governs what Children's Place can do. He said they not only have to be mindful of the current conditions in the building with respect to safety of the children, but any and all solutions that Children's Place seeks have to ultimately dovetail with the state regulations. He said they looked at every option, but at every turn they ran into problems. He said they can't relocate the children temporarily anywhere because it takes licensing of the building, which is a 6 to 8 month process. Also, the State Fire Marshall has to approve any temporary facility. He said the problems posed a deadend and they found no solution outside of trying to fix the immediate moisture issues. He said they brought in local contractors and also a certified industrial hygienist and microbiologist from Augusta who reviewed the building thoroughly. He said the microbiologist determined that the process of appropriately dealing with the problem, cleaning up the moisture issues and making the place inhabitable by infants to 2 years old would cost in excess of \$60,000. Of course, Children's Place does not have that money. He said they could build a facility of equal or greater function to Children's Place for less money than the lowest money to clean the present building. He said this is the reason they arrived at the conclusion that they would like to remove the building. He said they would prefer to have the building moved and adequately placed on a foundation that would give the building adequate air flow so the building could be saved.

Mr. Merry pointed out the primary issue is adequately dealing with the problem with respect to safety of the children. The people most susceptible to moisture related problems are the very old and the very young. He said children that are infants would be in the facility 8 hours a day. He said they were looking at the possibility of not being able to adequately remediate the problem and make it safe for the children at any cost. He said once the mold gets a foothold it is difficult to get rid of it, and it may come back even if the drainage situation is taken care of. He said the program for the children had been suspended and the children were sent home. He said this not only affects the children and their families; it affects the employees, the revenue stream and services delivered to the remaining children in the program. He said there were about 22 children

in the infant program. He pointed out there is a different standard which must be met in dealing with the problem if the building is going to be used as a private residence versus as a commercial entity servicing children. Mr. Merry pointed out that Children's Place had filled up the space available and was actively seeking more space. He said possibly this crisis may be the opportunity for Children's Place to make an initiative to a permanent solution with more space. He said he would like to get the playground out of the parkway, as he felt it was unsafe. He said this problem may solve their long term plan.

Councilwoman Vaughters stated she had read that it would cost more to repair the building than it is worth. She pointed out that everything repaired on Toole Hill will cost more to repair than the buildings are worth. She said she understood there is a problem, but she would like for the city to look at the water situation and see what can be done to get the water from the area.

Council continued to discuss the matter at length, discussing the drainage problem and what could be done to alleviate the ponding water. They discussed demolishing the house or moving the house to a vacant lot owned by the city or someone privately moving the house. It was pointed out there is a vacant lot owned by the city about three blocks from this location. It was pointed out that possibly the mold would create a marketing problem for selling the house. They also discussed other possible locations for Children's Place. It was stated it would take 6 to 8 months to get approval for a temporary building on the property.

Mr. Merry stated Children's Place had requested an extension of the lease for the building presently used for office space, but had not received a response. He said, therefore, they may also be looking for office space. He said they might be forced to use the temporary structure for offices and still look for a long term solution, which means they might be moving from the area and would not have to do anything with the building on Barnwell Avenue. Mr. Merry stated their situation is really an emergency. Their first priority was getting the children out of the building, and now they are trying to check any opportunity for a new location or removal or demolition of the building on Barnwell Avenue. He felt posting of the property for demolition for 30 days would be a start, and in the meantime Children's Place could be checking out other locations for their operation. If they find a place, then the building will not have to be removed.

Mr. Bill McGhee, 217 Fairfield Street and Schofield Community Association, stated he understood the Children's Place situation. He said they would like to preserve the character of the neighborhood as much as possible and tearing down the house would not add value to the character of the neighborhood. He said they would like to see what they could do as far as working with them to either move the house or helping them solve the problem in some other way. He said he had not looked at the cost involved.

Council discussed the fact that if the house is moved by the city or anyone else to another location in the area that the house would still have to be renovated to be livable, and a cost would be involved. Council continued to discuss the situation at length and possible solutions.

Councilman Cuning moved, seconded by Councilwoman Price and unanimously approved, that Council support the posting of the property and moving of the structure at 310 Barnwell Avenue NE to a location within the downtown area, and that if that is not able to be done within 30 days then the issue come back to City Council for consideration of demolishing the house.

AGREEMENT

Water Service
Water District
New Ellenton
Hotel
Public Works
Convention Center
Whiskey Road

Mayor Cavanaugh stated the city had received a request to modify the agreement with the New Ellenton Commission of Public Works for providing water to the proposed hotel and convention center on Whiskey Road.

Mr. LeDuc stated at the February 11, 2002, meeting Council passed a resolution and agreement with the New Ellenton Commission of Public Works. This agreement resolved a disputed area along Whiskey Road at Hunters Glen with New Ellenton. It also allowed New Ellenton to tap into our water supply system for use during emergency periods. By having the city's water supply as a backup for their system, they were able to acquire a Farmers Home Administration loan instead of having to build a new water tank, thus saving them several hundreds of thousands of dollars.

At that time New Ellenton Commission of Public Works had an agreement with the new hotel and conference center on Whiskey Road to supply them with water. The signed agreement stated that if the hotel was not occupied by December 31, 2003, the New Ellenton Commission of Public Works right to serve the hotel would revert to the City of Aiken. They are now asking for permission to modify this contract to allow them to extend the agreement to serve the hotel to July 31, 2004.

A copy of the former agreement and letter from the New Ellenton Commission of Public Works and a letter from the hotel owner Banshi Patel was given to Council as information. At the last City Council meeting, Council asked that this be placed on the agenda for formal consideration to determine whether or not to grant an extension to July 31, 2004.

Due to various reasons the hotel construction was not started and therefore will not be completed by the December 31, 2003, date. The New Ellenton Commission of Public Works has asked to modify the agreement so the hotel would have until July 31, 2004, to complete the hotel.

Mr. LeDuc stated he had also given Council a copy of the Council minutes for August, 2001, when Council discussed whether or not the City of Aiken would provide water to the hotel, which was defeated by Council on a vote of 5 to 2. Some of the conditions that the Planning Commission recommended were included in the minutes at that time. He said this was given to Council as information.

For City Council consideration, is a request for modification of the February 11, 2002, agreement granting an extension for serving water to the hotel and convention center from December 31, 2003 to July 31, 2004.

Mayor Cavanaugh stated the issue to be considered is whether Council wants to modify the agreement with the New Ellenton Commission of Public Works to allow an extension of the time for serving water to the hotel and convention center from December 31, 2003, to July 31, 2004.

Mayor Cavanaugh asked for comments from those present.

Mr. Mark Key, Chairman of the New Ellenton Public Works, stated the reason for the request for an extension on the agreement was due to delays in USDA, upgrades and other delays in the project. He said the Public Works Commission was asking for an extension on the agreement to allow New Ellenton to serve water to the hotel as it was felt it would be completed by July 31, 2004. He said New Ellenton wanted to provide water to the hotel because it would be revenue for New Ellenton. He said they needed the revenue to survive. He said they are in the business to provide water. He said

unforeseen delays will cause the hotel not to be built by the December 31, 2003 deadline. In response to a question by Mayor Cavanaugh regarding who will run the water lines to the hotel from Talatha Church Road, Mr. Key stated it will be the responsibility of the developer to run the water line from Talatha Church Road to the hotel.

Councilwoman Price stated she had heard that there was a question as to whether New Ellenton was going to do the piping or whether Mr. Patel is going to do the piping from New Ellenton. She said because of that there is no clear direction as to who is going to do the piping. She asked if this was an issue with New Ellenton.

Mr. Key stated it was not an issue, as they have a development policy where the developer is responsible for installing the water line, and once it is approved and inspected then New Ellenton will accept it and it is deeded to New Ellenton. He said New Ellenton is not putting in the lines; it is the responsibility of the developer.

Councilman Cunning stated before the agreement with New Ellenton there was no clear distinction as to the service area for Aiken and New Ellenton.

Mr. Key stated during the time the hotel was asking for water service, Aiken and New Ellenton came to an agreement regarding water district lines that were not clearly defined. He said that issue was solved in the agreement. He pointed out that the area on which the hotel is to be built was a disputed area. He pointed out that Mr. Patel petitioned the City of Aiken requesting water and sewer services. When the services were declined Mr. Patel then approached the New Ellenton Public Works for water service, and there was an agreement to provide water service.

Councilman Smith pointed out that when the City entered the agreement Aiken agreed to serve as New Ellenton's back up as a favor to New Ellenton. He said he understood that was the gist of the agreement. Also, since there was an agreement with Mr. Patel to provide water service in the future, City Council felt it was reasonable for a time limit as to when their service would be provided. He said that New Ellenton is now asking Aiken to extend the time period for service to the hotel for various reasons, with one of the reasons being that the Department of Agriculture loan was delayed. He said it had been said that the loan was delayed because of things certain Councilmembers did. He said his recollection was that for a long time the application was never completed, which would not be a responsibility of Council.

Mr. Key said the delay was not a problem from Aiken or New Ellenton. He said they entered the agreement in good faith and really thought that the time limit was fair for all parties. For whatever reason, the hotel did not get built so New Ellenton is back to ask for an extension in the time limit for the hotel. In response to a question of Councilwoman Price, Mr. Key stated that the hotel was a big project and would be a good bit of revenue for New Ellenton, probably \$3,500 per year. He stated the revenue figures were used in New Ellenton's grant application to get the loan for expansion of the water system. In response to a question from Councilwoman Clyburn, Mr. Key stated that the New Ellenton Commission of Public Works is a public service district, and there is no relation to the City of New Ellenton as far as operations. He did state in order to get a grant or borrow money, the Commission has to get approval from the New Ellenton City Council, because they represent the people of New Ellenton.

Mr. Mark Graham stated he was representing Southern Partners and Mr. Patel in this case. He said he was not a party nor did he participate in the agreement between Aiken and New Ellenton in establishing the time limit for water service to the hotel. He said in the sequence of events, getting approval from the County, the City and the New Ellenton Public Commission was the first step. He then had to get plans for the building completely drawn and approved, which took some time to complete. He could not get a loan for the hotel until the plans were drawn and approved. He said he did not know how the time limit was determined, but there was a process to go through to get the loan guaranteed, and no work could start until the loan is approved. He also pointed out there had been a lot of rain during this time. He pointed out that the commitment from New Ellenton to provide water was done before the agreement was entered into with Aiken, so there was no time limit on their agreement with New Ellenton.

Councilwoman Price stated when the matter was considered for water service there were people who came out in large numbers who did not want the hotel. However, a decision was made for New Ellenton to provide the water service for the hotel. She said she wanted to be reasonable and fair. She said the decision had already been made, and she wanted to be reasonable and fair about the process. She said, given the circumstances, is it reasonable and fair to expect him to have the hotel built by December 31, 2003. Mr. Graham said if everything had worked like clockwork it would have been fair, but there were circumstances such as the architect passing away and six months of rain, all of which delayed the project. He pointed out that even through there was a letter from New Ellenton agreeing to provide water service, there was a time period that New Ellenton was under construction with their water system. There was a time delay there because the lenders had to be sure that New Ellenton was going to be on schedule with their water. The building could not be built until it was sure the water system was in service. He pointed out that the trees were not removed until after permission from the lender for that portion of the work was received. He said they have an approved city landscape plan, and it has not been violated. The City of Aiken will provide sewer service, so there had to be an approved landscape plan.

Mr. Wes Smith, 201 Kalmia Forest Drive, stated he represented Mr. Patel. He said he felt everyone entered the agreement in good faith and everyone had performed in good faith. He pointed out there are certain sequential steps that have to be done on a project such as this before you can go to the next step. He said there are certain plans that have to be prepared before one can file applications for approval from regulatory agencies, banks, etc. in getting the necessary approvals to proceed with the project. He said if the time line in Mr. Patel's letter is studied, one would see there have not been any undue delays or hindrances. He said it may have seemed there was no activity, but many things had to be pulled together to get the project in place. He pointed out that the agreement with Mr. Patel and the New Ellenton Commission of Public Works was dated August, 2001. The agreement with New Ellenton working out the boundary lines and the other conditions and imposing the time limit on the agreement was not until February, 2002. He said Mr. Patel has had due diligence in applying for the permits and moving forward and doing the work. He said there had been delays because of the rain, but they could not begin building anything on the site until they had water available. He said water was not available from the New Ellenton Public Works Commission until May, 2003. He said that was the earliest date they could start building. He said the Aiken County development permit expired and it has been renewed. He said they now have everything in place except extension of the completion date in the agreement with New Ellenton.

Mr. Wes Smith stated there were two USDA loans involved. One is a loan that Mr. Patel applied for as the guarantee to build the hotel. The other loan is the loan that New Ellenton Public Works Commission had to build the project. He said those loans for rural development are according to a federal statute and they are protected, and once an agreement is in place the federal law prohibits, without the approval of the agency, any removal of revenue bases or contingencies or boundary lines for customers by an agency. Mr. Key stated the hotel was part of the funding source that was relied on in their application to USDA in getting the project approved. He said he felt it would now not be legal for that to be terminated without the approval of the USDA. He said he had a case several years ago representing another Public Service District where Aiken County tried to redraw their boundary lines and an injunction was filed. The case was heard and the judge ruled that County Council was not permitted to redraw the boundary lines reducing the service territory or the service customers for the Public Service District. He said he felt that would apply in this case. He said he felt they had made a good faith effort to comply with the timelines. They were delayed by the additional time that was taken in getting the necessary approvals and then there was a lot of rain. He said he felt the request of the New Ellenton Public Works Commission to extend the time was appropriate.

Mayor Cavanaugh stated he understood that Mr. Smith was stating that the City of Aiken government would have to approve the extension because not approving the extension would be making changes that were stated in the application and USDA does not allow that.

Mr. Wes Smith stated that was basically what he was saying.

Mr. Gary Smith, City Attorney, stated he would prefer that Council go into executive session to discuss the legal ramifications of what Mr. Wes Smith is talking about. He said he would prefer to go into executive session to discuss the matter.

Councilman Smith read a portion of the Council minutes of February 11, 2002. He said he had expressed concern that the agreement with the hotel was the collateral for the USDA loan. "Mr. Key then stated the hotel was not collateral for the loan, but water rates had been increased. He said New Ellenton was going forward with the project with or without the hotel. He said the proposed agreement with Aiken clarifies the boundary lines and gives New Ellenton the emergency tie in." He said now the city is being told something different about the loan application than what Mr. Key declared at the meeting.

Mr. Wes Smith stated that for USDA loans all sources of revenue are considered, and once the statement of customers and rates are filed that it becomes part of the application. He said he did not know if New Ellenton included that in their revenue stream. He said it is customary in USDA loans to include all the revenue streams.

Mr. Key was asked to clarify the matter as to whether the revenue from the hotel was declared in the application for the loan. Mr. Key stated the original paperwork for the USDA loan was not completed by him, and he was not sure whether the revenue for the hotel was in the loan application. He said New Ellenton was going forward with the water line whether or not New Ellenton had an agreement with Aiken. Mr. Key stated he would clarify his statement. He said the revenue from the hotel is not needed to pay for the project. He said if New Ellenton did not serve the hotel, they could still do their project.

Mr. Larry White, Hunters Glenn, pointed out that a letter had been sent from the New Ellenton Commission of Public Works to the City of Aiken asking for an extension for occupancy of the hotel. In that letter Mr. Key states that "revenue from the hotel and convention center was pledged to the USDA project." He also pointed out that Mr. Patel's letter shows Aiken Hospitality Group with a Fripp Island, SC address. He said Mr. Patel's letter states that water is available to the hotel. He stated Mr. Key has stated that New Ellenton Public Works is not responsible for laying the pipe to the hotel from Talatha Church Road and that it is the responsibility of the developer. He said they have heard that the developer has not said he would pay for the water line going to the hotel, as it would cost too much money. He said Mr. Patel should not blame the Councilmembers for delays in the project. He said if he wants to blame anyone he should blame the citizens of Hunters Glenn, as they do not want that hotel. He said he was not in favor of the hotel at all. He said he did not want to see a hotel and convention center placed in that location. He said he was not against development. He said he would like to see some professional development at the location so there would not be a lot of traffic. He pointed out the plans for the hotel and the convention center is 12,400 square feet. Giving 2,400 square feet for utilities, kitchen and restrooms that leaves 10,000 square feet. Mr. Graham stated at the Aiken Planning Commission that they would limit the number of people in the convention center to 250 people. He said that was part of the agreement for the permit. He pointed out that in 10,000 square feet there could be over 1,400 people, but he only has parking for 250 people. He felt the parking would be a problem. He said if Mr. Patel actually limits himself to 250 people in the convention center that is not a good business and he will not make money off the convention center.

Ms. Diane Giddings, Hunter's Glenn, thanked Council for listening to the citizens of Hunters Glenn. She said they were present to ask Council to deny the extension of the agreement with New Ellenton Commission Public Works which would hold Mr. Patel to the deadline of December 31, 2003. She said she had heard from those speaking that there must be a blending or a preservation of character to keep the neighborhood. She said they were concerned about safety, drunk drivers, strangers wandering the streets, increased crime, and traffic. She said most of the traffic from their area on Whiskey Road begins at 5 a.m. In the traffic study the first car counted was after 7 a.m. She said

the increase in traffic comes partially from the developing subdivision of South Meadows as well as the potential development at the corner of Mundy's store. She said that would be an additional 130 homes or 267 additional cars. She said they had aired their concerns about a business directly adjacent to a neighborhood. She said their entrance would be totally destroyed because it will be a two way turning exit out of their neighborhood. It will take out 99% of the median. She said this median had been maintained solely by neighbors. She said they had paid out of their own pockets to maintain the entrance. She felt there would be large delivery trucks at all hours and the roadbed is incapable of handling the extra traffic and it will devalue their property. She felt the hotel is inappropriate for the neighborhood and would introduce a major commercial project into a largely undeveloped area. She pointed out that occupancy versus capacity needs to be considered. She said she understands that if the capacity of a room is a certain amount it does not matter what the occupancy sign may designate for the room. She was concerned about the capacity of the hotel. She said Mr. Patel has said he will only allow 250 people in the conference center, but if the capacity is larger the sign limiting the number to 250 will not mean anything because the capacity will be 1,400 people. She questioned why he would build a building six times the capacity of what he intends to utilize. She asked that Council consider this. She said denial of the extension will deny Mr. Patel the ability to put in a foundation for the hotel before the end of the year. If he is able to go forward with construction he will build at least the foundation for both buildings. She said she did not believe Mr. Patel would comply with the agreement with the New Ellenton Commission of Public Works, thus bringing the hotel back to Aiken. She said then Aiken will be forced to rethink the position of providing water to the hotel, which will be partially built. She said if Council denies the extension nothing can be done. She pointed out that the letter from New Ellenton Commission of Public Works says "that the convention center has to receive a Certificate of Occupancy by December 31, 2003, or New Ellenton agrees to give up its right to serve the property." She said the agreement by Aiken was that it was the hotel and convention center, two buildings. She said the hotel takes considerably longer to build. She said if the agreement is extended and they agree only to the convention center there will be a building and the hotel will be done when they get to it. She said Hunter's Glenn did not want the hotel in this location. She asked that Council consider that it will affect the residents personally. She said they fear for the elderly and the children in the neighborhood. She said a business office that is open 9 to 5 p.m. Monday thru Friday is much more suitable to this location. She said they understand that they cannot stand in the way of progress forever, but felt the hotel is not progress.

Councilman Cunning moved, seconded by Councilman Sprawls and unanimously approved, that Council go into executive session to get legal advice concerning possible legal action on the agreement with New Ellenton for water service to the proposed hotel and convention center.

Council went into executive session at 10 P.M. After discussion Councilwoman Price moved, seconded by Councilman Smith and unanimously approved, that the executive session end. The executive session ended at 10:30 P.M. and Council went back into the Council Room to continue discussion on the matter and to make a decision on the request.

Mayor Cavanaugh stated the executive session was to receive a legal briefing from the City Attorney concerning the issue of extending the deadline for issuance of a Certificate of Occupancy for the hotel and convention center from December 31, 2003 to July 31, 2004.

Councilman Smith moved, seconded by Councilwoman Vaughters, that Council deny the request for a modification of the agreement with the New Ellenton Commission of Public Works.

Councilwoman Vaughters stated her opinion was that there is a situation where Council did not approve water service to the project the first time for very good reasons. She said two years were allowed to get the project done. She said Council could have been approached several months ago when it was known that the project was not going to meet the deadline. She said the citizens do not want this project. She said these citizens are

not in the city, but she felt representatives have to be concerned about taxpayers. She felt the right decision was made the first time and the agreement should not be changed.

Councilman Cunning stated he felt Council had to worry about the taxpayers who are city residents and the ramifications of what Council decides.

Councilwoman Price stated she did not support the project the first time around. She said she will support the extension at this time. The reason is that she is looking at what is reasonable and fair in terms of looking at when this project should be completed. She said she did feel that an extension has been requested by the New Ellenton Public Works is warranted and she will support the extension for the project.

Councilwoman Clyburn stated she had asked if the city had ever extended an agreement before and the answer was yes. She said she listened to the discussions of what might happen if the agreement is not extended and several things could happen. They could come back to the City of Aiken and Aiken could provide the water. New Ellenton could go ahead and give them the water any way or they could just sink a well. When the city extended sewer one of the good things was that it gave the City of Aiken some control. She said if they have already planned to build a hotel they probably are going to build it anyway. She said in the interest of fairness she was going to vote to extend the agreement to the New Ellenton Commission of Public Works.

Mayor Cavanaugh stated he was going to vote against extending the agreement because he felt the city had been very fair. He said he felt it was a fair agreement to start with and the agreement was entered into in January, 2002. He said the agreement was to build the hotel and convention center and have a Certificate of Occupancy by December 31, 2003. He said that is almost two years. He said he had not heard enough good reasons why the time should be extended. He said he did not feel that the location was the right place for a hotel. He said the area would develop as commercial, which is fine. He said he walked the area and several of the houses which are down behind where the convention center is going to be had their yards flooded. He said he did not think that would be totally corrected, as there is a tremendous drop in the back. He said he did not want to see that happen to the people in South Meadows. He said he did not want to see the increased traffic nor the median cut. He said he did not understand building something 12,000 square feet for 250 people. He said he felt there had been plenty of time to get the buildings constructed. He said he would vote against the extension.

Councilman Sprawls stated he would vote in favor of the extension as he did the first time. He said if the city had provided city water with the conditions as proposed he felt the development would be much better. He said he felt a seven month extension is reasonable considering everything that has happened, including 9-11.

Mayor Cavanaugh called for a vote on the motion to deny the extension to July 31, 2003, to build the hotel and convention center. The vote was: Mayor Cavanaugh and Councilmembers Smith and Vaughters in favor of denial. Opposing the motion was Councilmembers Clyburn, Cunning, Price and Sprawls. The motion failed.

Councilman Sprawls moved, seconded by Councilwoman Clyburn, that Council approve a modification to the agreement with the New Ellenton Public Works Commission granting an extension from December 31, 2003 to July 31, 2004, for the Certificate of Occupancy for the hotel and convention center to be constructed on Whiskey Road near Hunters Glenn subdivision. The motion was approved by a vote of 4 to 3, with Councilmembers Clyburn, Cunning, Price and Sprawls voting in favor of the motion. Opposing the motion was Mayor Cavanaugh and Councilmembers Smith and Vaughters.

STREET NAMEEast Pine Log RoadPine Log Road EastBy-PassOld AirportU.S. 78Deodar Plantation

Mayor Cavanaugh stated a request had been received to rename a portion of the former East Pine Log Road.

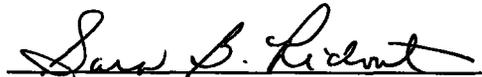
Mr. LeDuc stated the section of Pine Log Road going from the new by-pass to U.S. 78 needs to be renamed. This is the road that currently fronts on Deodar Plantation development. The Aiken Planning Commission originally named this road Bending Limb Way, but Aiken County's 911 Department said that this road name could not be used. Based on a recommendation from Aiken County they suggested the name of Deloach Way because the road runs through land originally owned by the Deloach family.

The Planning Commission discussed this at their September 9, 2003, meeting and are recommending to City Council the renaming of this portion of the road as Deloach Way.

Councilwoman Clyburn moved, seconded by Councilman Sprawls and unanimously approved that Council approve the renaming of the former realigned East Pine Log Road section to U.S. 78 as Deloach Way.

ADJOURNMENT

There being no further business the meeting adjourned at 11 P.M.


Sara B. Ridout
City Clerk