

Aiken City Council MinutesREGULAR MEETINGApril 25, 2011

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Pete Frommer, Kim Abney, Ed Evans, Ben Moore, Larry Morris, Alicia Davis, Tim Coakley, Sara Ridout, Amy Banton of the Aiken Standard and about 80 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Councilwoman Price led in prayer, which was followed by the pledge of allegiance to the flag.

GUIDELINES

Mayor Cavanaugh reviewed for those present the guidelines for speaking at the Council meeting. He asked that those speaking respect each other and treat others the way they would want to be treated. Personal attacks and derogatory comments directed to individuals are not allowed. He asked that those who would like to speak to raise their hand and be recognized. He asked that comments be limited to five minutes.

ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Councilman Dewar stated because there are some children in the audience he wondered if the item regarding fluoride in the water could be moved up on the agenda. It was suggested that it be moved to the first item under New Business. Councilman Dewar moved, seconded by Councilwoman Clyburn, that the agenda be approved as amended. The motion was unanimously approved.

MINUTES

The minutes of the regular meeting of April 11, 2011, were considered for approval. Councilwoman Clyburn moved, seconded by Councilman Wells, that the minutes of the April 11, 2011, meeting be approved as submitted. The motion was unanimously approved.

BOARDS AND COMMISSIONSAppointmentsDr. Kent CabbageHousing AuthorityMartin BuckleyPatricia AndringaKristin BrownArts CommissionRobert BesleyBuilding Code Appeals Committee

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

Mr. Pearce stated Council has twelve pending appointments to boards and commissions. Four appointments are presented for Council's consideration.

Councilman Homoki has recommended that Dr. Kent Cabbage be appointed to the Housing Authority to replace Martin Buckley. Housing Authority terms are for five years. If appointed Dr. Cabbage's term would expire May 28, 2015.

Councilman Dewar has recommended that Patricia Andringa be reappointed to the Arts Commission with the term to expire April 11, 2013. He has also recommended that Robert Besley be reappointed to the Building Code Appeals Committee with the term to expire May 12, 2013.

Mayor Cavanaugh has recommended that Kristin Brown be reappointed to the Arts Commission with the term to expire April 11, 2013.

For Council's consideration, this is approval of four appointments to the various boards and commissions of the city.

Councilman Homoki moved, seconded by Councilman Ebner, that Dr. Kent Cabbage be appointed to the Housing Authority with the term to expire May 28, 2015, that Patricia Andringa and Kristin Brown be reappointed to the Arts Commission with the terms to expire April 11, 2013, and that Robert Besley be reappointed to the Building Code Appeal Committee with the term to expire May 12, 2013. The motion was unanimously approved.

Councilman Ebner stated he would like to recommend that Catherine Thomas be reappointed to the Arts Commission and reappoint Phil Haggerty to the Building Code Appeals Committee.

Councilman Wells stated he would like to recommend the reappointment of James R. Findley to the Building Code Appeals Committee.

These appointments will be considered at the next Council meeting.

BUSINESS LICENSE – ORDINANCE 04252011

Revised Renewal Form

Income Tax Return

Verification

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Business License Ordinance regarding verification of gross receipts.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 12-35 OF THE AIKEN CITY CODE.

Mr. Pearce stated that after our meetings regarding our Aiken Business License Ordinance and payment receipt practices, City Council voted to end the practice of requiring business license holders to provide verification of gross receipts as part of filing their annual business license renewal.

Council expressed interest in adopting an ordinance to codify this policy change to no longer require gross receipts verification at the time of the renewal form filing. He stated the ordinance deletes the language which required copies of portions of state and federal income tax returns reflecting gross incomes be filed at the time of renewal of the business license.

City Council approved this ordinance on first reading at their April 11, 2011, meeting. For Council consideration is second reading and public hearing of an ordinance to amend Section 12-35(b) of the Aiken City Code to eliminate the requirement of providing gross receipts verification at the time of applying for, or renewing, an annual City of Aiken business license.

The public hearing was held.

Ms. Debbie Nix stated she would like to make the suggestion that “may not” be changed to “shall not” in the ordinance in the sentence “Applicants may not be required to submit copies of portions of state and federal.....” She stated may not and shall not are two

different words. She said in the legal dictionary it says “may” is the choice to act or not or a promise of possibility as distinguished from “shall” which makes it imperative. She said she would like for the statement in the ordinance to be imperative. She asked that a Councilmember make a motion to change “may not” to “shall not.”

Councilman Dewar moved that “may not” be changed to “shall not” in the sentence added to the ordinance regarding not requiring copies of portions of state and federal income tax returns. The motion was seconded by Councilwoman Clyburn and unanimously approved.

Ms. Nix stated she would like to make a few comments. She thanked Council for the change. She said she was glad this book was closed, but she was also sad. She said even though we did accomplish something after spending \$10,000 for hiring attorneys and other expenses, and meeting for over a year, it seems that the relationship with small businesses has been injured even further with how things happened. She said she was sad about that. She felt this was a great opportunity for both sides. For them it was very difficult. She said she knows Council wants respect, but small businesses want respect too. However, after a year of coming to the meetings, going to Horizons, and thinking this matter was handled and coming to Council, staff said it was not. Staff said that they were going to make the County businesses bring in their tax returns also. Then they found out that most of the small businesses were not invited to the meeting, and they had to personally invite them. She said it was very inflammatory and not respectful to them either.

Councilman Dewar moved, seconded by Councilwoman Clyburn, that Council approve on second and final reading an ordinance to amend Section 12-35(b) of the Aiken City Code to eliminate the requirement of providing gross receipts verification at the time of applying for, or renewing, an annual City of Aiken business license with the change of “may not” to “shall not.” The motion was unanimously approved.

PAYMENT DUE DATES – ORDINANCE 04252011A

Payments

Holidays

Weekends

Due Date

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance regarding payment due dates for payments to the city that fall on weekends or city holidays.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 2 OF THE AIKEN CITY CODE.

Mr. Pearce stated City Attorney Gary Smith has prepared an ordinance in support of the policy revision voted on by City Council at our March 28, 2011 meeting, regarding payment due dates.

As Council will recall, on occasion payment deadline dates have fallen on a Saturday, Sunday, or an official City holiday when our offices are closed, and payments cannot be taken.

The proposed ordinance codifies that when these calendar conflicts occur, any payment due date deadline that falls on a Saturday, Sunday, or official City holiday will be accepted until 5:00 P.M. on the next City business day after a Saturday, Sunday, or an official City holiday, and without penalty.

City Council approved this ordinance on first reading at their April 11, 2011, meeting. For Council consideration is second reading and public hearing of an ordinance approving the addition of Section 2-312 of the Aiken City Code to set forth that any City payment due date falling on a Saturday, Sunday, or official City holiday can be paid by 5:00 P.M. the next City business day, and without penalty.

The public hearing was held and no one spoke.

Councilwoman Clyburn moved, seconded by Councilman Wells, that Council approve on second reading an ordinance amending the Code to set forth that any City payment due date falling on a Saturday, Sunday, or official City holiday can be paid by 5:00 P.M. the next City business day without penalty. The motion was unanimously approved.

Councilman Dewar pointed out again that the amendment only applies to City holidays, which may not be the same as federal holidays. He also pointed out that this ordinance applies to any payments due to the city, not just business licenses.

MUNICIPAL ELECTIONS – ORDINANCE 04252011B

Partial Transfer

Aiken County Registration and Elections Commission

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to provide for partial transfer of conducting Municipal Elections to the Aiken County Registration and Elections Commission.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE PROVIDING FOR THE PARTIAL TRANSFER OF AUTHORITY FOR CONDUCTING THE MUNICIPAL ELECTIONS TO THE AIKEN COUNTY REGISTRATION AND ELECTIONS COMMISSION.

Mr. Pearce stated that for many years, the Aiken County Registration and Elections Commission has been helping our Aiken Municipal Election Commission conduct City of Aiken elections. We have done so through an agreement between these two election commissions outlining the duties each of us must do. Recently, we were advised that State Law Section 5-15-145 provides for the transfer of powers, duties, and responsibilities for conducting municipal elections to county election commissions upon the adoption of an ordinance by the Aiken City Council, Aiken County Council, and approval by the U.S. Justice Department. The appropriate ordinances for Aiken County and the City of Aiken have been prepared for the partial transfer of duties for conducting our next elections. This agreement will remain in effect until it is modified or cancelled.

A copy of the ordinance and the related agreement between the City of Aiken and the Aiken County Elections Commission listing the duties of each was provided for Council's review. The agreement sets forth the same duties that have been in our agreement with the County Elections Commission for several past elections. The proposed ordinance will transfer these duties to the County Elections Commission after July 1, 2011. The agreement for election assistance will be in effect for future elections, but can be terminated by either party who gives 120 days advanced, written notice to the other party.

City Council approved this ordinance on first reading at their April 11, 2011, meeting. For City Council consideration is second reading and public hearing of an ordinance for the partial transfer of duties for conducting municipal elections to the Aiken County Registration and Elections Commission upon Department of Justice approval.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilwoman Clyburn, that Council approve on second reading an ordinance to provide partial transfer of duties of the Municipal Election Commission to the Aiken County Registration and Elections Commission. The motion was unanimously approved.

FLUORIDEWater

Mayor Cavanaugh stated Council will review the City of Aiken water supply fluoridation practices.

Mr. Pearce stated that over the past several weeks, Council members have received information prior to tonight's meeting from people in favor of continuing our water supply fluoridation practices. Other citizens have shared their concerns with continued fluoridation of our city water supply. A summary of materials they have provided was given to Council for review. In the materials their concerns include fluoride as a toxic substance, a potential carcinogen, that fluoride is a chemical that does not promote health, and that too much of it can rot, not preserve, teeth.

Mr. Pearce stated citizens are present for this review. Also, present is Christine Veschusio from DHEC to share some information that DHEC has gathered. Included in the materials from Council was a booklet from the American Dental Association regarding fluoridation of municipal water supplies.

The City of Aiken began fluoridating its water supply in 1955. This effort began after evidence from dental scientists established that levels of tooth decay were lower in communities that had higher levels of natural fluoride in their water supplies. In 2008, we were recognized for over 50 years of water fluoridation by the South Carolina Department of Health and Environmental Control (DHEC) and local dentists. When the City of Aiken was recognized, DHEC representatives, joined by representatives of the South Carolina Dental Association, shared that the Centers for Disease and Control in Atlanta have called fluoridation of water supplies one of the ten greatest achievements in improving public health in the 20th century by preventing tooth decay. They also shared that communities with fluoridated water have 30 to 40% fewer instances of tooth decay.

Council was told at that time that every dollar spent on fluoridation of public water supplies saved \$38 having to be spent on treatment of tooth decay.

According to a 2009 DHEC report, approximately 91% of South Carolinians on public water systems consumed fluoridated water. Nationwide, approximately two-thirds of water supplies are fluoridated, or have naturally occurring fluoride in them.

Prior to 2011, the U.S. Department of Health and Human Services recommended that the optimal fluoride level for communities was a range of 0.7 mg/L to 1.2 mg/L. The City of Aiken provided a fluoride level of 1.0 mg/L in its drinking water, the midrange of the recommended level. With more people utilizing dental care products such as fluoridated mouth rinses, federal and state officials recommended a voluntary lowering of water supply fluoride levels to 0.7 mg/L. We have done so with our city water supply since February, 2011.

At tonight's public meeting, for City Council consideration is a review of our public water supply fluoridation practices – currently at a level of 0.7 milligrams of fluoride per liter of water.

Ms. Christine Veschusio said she is Director of Division of Oral Health at DHEC. She said she is with the health services division of DHEC, rather than the regulatory division. She said her role is not to make decisions, but to provide information on behalf of DHEC in line with the mission to promote and protect the health of our state. She said her presentation was to give an overview of a public health problem and then also discuss the changes that have been put forth by the United States Department of Health and Human Services in regards to the recommended fluoride level in community water systems. She said she would talk about community water fluoridation, what it is and the benefits to the community.

Ms. Veschusio reviewed what community water fluoridation is. She said it is the adjustment of fluoride in the water to a level that is optimal for reducing tooth decay. It is important to remember that our water has some natural fluoride in it. Fluoridation is

adjusting the level to the optimal level to prevent tooth decay. She pointed out that in some cases in the state along the coastline they have to take fluoride out of the water, as there is a great deal of natural fluoride in the water.

Ms. Veschusio then reviewed a slide presentation. She stated tooth decay has been on decline overall in the nation, but has not been the same for everyone, especially for people of low socioeconomic status, children with a lower level of parental education, and individuals with little access to dental care. She reviewed data regarding children, pointing out that black children are more likely than white children to have untreated cavities, as well as children on the reduced lunch program, and children in rural areas. She said there is a Medicaid Dental program that serves children up to age 19. Also, the City of Aiken provides community water fluoridation, which provides the children 30 to 50% reduction in tooth decay. She pointed out women who are pregnant are vulnerable. At one time the Medicaid program had emergency dental care, but that has been eliminated. There is no access for adult pregnant women that are eligible for Medicaid. However, the City of Aiken has community water fluoridation and for adults there is a 27% reduction in cavities if there is community water fluoridation.

She pointed out that in South Carolina one-third of the working adults do not have insurance and therefore do not have dental insurance. She said there was a study done by the S. C. Hospital Association where they looked at emergency room visits for ambulatory care sensitive conditions, conditions for which one should not have to go to the emergency room. Dental is one of those conditions. Dental was the number 1 reason why people accessed the emergency room in rural counties. The ER charges alone for dental related visits are \$9.1 million in South Carolina. There is no longer adult dental Medicaid treatment, even emergency care. However, in Aiken there is community water fluoridation, which provides a 27% reduction for adults in tooth decay.

She pointed out that children and older adults are often the most vulnerable individuals. For adults on Medicaid and Medicare, there are no dental benefits. However, a positive thing for Aiken is the community water fluoridation, which provides a 27% reduction of cavities. She then reviewed the effects of tooth decay. She pointed out that with no access to dental care many people suffer with tooth aches and problems which go on and cause serious health problems and even death.

Ms. Veschusio pointed out that the US Department of Health and Human Services reported in January that they had done a very thorough look at the scientific evidence on community water fluoridation. She pointed out that the public health standards that have been used for the adjustment of fluoride in the water at a certain level for optimal prevention of tooth decay of 0.7 mg/L to 1.2 mg/L have been in place since the early days of community water fluoridation. For Aiken, fluoridation has been in place for over 50 years. She pointed out now that there are many other things that have fluoride, such as toothpaste. She said from the report US DHHS determined that the level of fluoride in water could be reduced to 0.7 mg/L for the optimal prevention of tooth decay. They clearly documented the benefits of fluoride in regards to preventing tooth decay. She pointed out that US DHHS and EPA had jointly released the announcement in support of each other. However, the recommendation from DHHS is on the health benefit of fluoride. EPA has a different mission totally. EPA's mission is to look at the maximum amount of fluoride in the water that is allowable. It does not look at the health benefits. It is looking at the maximum amount of fluoride. The two together are now looking at the science together. She said EPA has not released their recommendation yet. They are more concerned about the natural fluoride levels in the water, which is not a concern for Aiken because Aiken does not have a natural high level of fluoride in its water. However, along the coast there are communities with both well water and community water that have high levels. She said she wanted to emphasize the Using Credible Scientific Evidence which is really, really important. This body of literature is extensive. It has been 66 years of solid design of experimental research. It is not one study; it is multiple studies looking at this issue. She said it is really solid research and studies that they have actually replicated. In response to the US DHHS recommendation, DHEC took the lead on the change in South Carolina. In South Carolina there are Safe Primary Drinking Water Regulations that the water systems are required to follow. The current optimal range in the Drinking Water Regulations is 0.8 to 1.2 ppm. DHEC offered the

water systems a variance to be able to lower their fluoride level to 0.7 ppm. In advance of the finalization of these recommendations DHEC has made that recommendation to all community water systems. She pointed out that lowering the amount of fluoride will be a savings for the communities.

Ms. Veschusio stated in looking at the entire community there is generally a 20% to 40% reduction in tooth decay for individuals that have access to fluoridated water. CDC estimates that for every \$1 spent on water fluoridation there is a savings of \$38 in dental treatment costs. The cost to fluoridate water for one person for their lifetime can be less than the cost of one filling. When it comes to the cost of treating dental disease, there is a cost to everyone.

She pointed out there are an increasing number of cities that are fluoridating their water. In 2008 we were up to 72.4% of the public water population being served by community water fluoridation. There is a very good adoption of fluoride in the United States, and it is increasing. She pointed out fluoridation is not a policy recommendation from one organization, but there are many organizations that recognize the public health benefits of fluoridation of water. She said there is strong support from other experts on community water fluoridation.

Ms. Veschusio stated in summary tooth decay is a problem for many Aiken residents. Many things can cause tooth decay. The more support we can give to our community by providing fluoridation can help. The problem would be about 20% to 40% worse without community fluoridation. She said community fluoridation has been proven safe, effective and cost effective to reduce both tooth decay and the cost of treating tooth decay. She said she is available to provide additional information if needed.

In response to a question from Councilman Dewar regarding any data on the effects of fluoride on children under the age of 12 or infants, Ms. Veschusio stated there had been a study but there are mixed reviews. The science is not clear yet that they might have some very moderate fluorosis which is a small white spot on a tooth. When the infants start eating solid foods at 6 to 8 months that issue diminishes.

Councilman Dewar stated one statement was that most communities that fluoridate will have 20% to 40% fewer cavities and for every \$1 on fluoridation we save \$38 in dental treatment. She said these figures came from Community Guide of the Task Force for Preventative Services. It is a national task force of experts. It is a large group. They did a very thorough analysis of all the literature and this is their figure of 20% to 40% reduction in cavities.

In response to a question from Councilwoman Clyburn regarding fluoride in the water in communities along the coast, Ms. Veschusio responded that cities along the coast do fluoridate. However, some communities along the coast have more fluoride in their water than the recommended optimal level, so they employ a process called reverse osmosis, which takes some fluoride out to reduce it to the optimal level. In response to a question regarding if there is a study that parallels children on fluoridated water versus those not, Ms. Veschusio stated there was not a study because South Carolina is largely rural. She said there is data on the children, but not a comparison. She stated the children in South Carolina do fairly well compared to other states, which are not the case for most public health issues with children in South Carolina.

Councilman Wells stated that, since in the past there had not been fluoride in toothpaste, as well as fluoride treatments that are now accessible to many today, he wondered with those uses and fluoride in the water if that would get the level of fluoride above what is safe. Ms. Veschusio responded that is why it is being recommended that the level of fluoride in community water be lowered to 0.7 ppm. She said that is the reason they have recommended that the level be reduced to allow for the increased use of other things that have fluoride in them. She pointed out, however, that not all children have toothpaste and toothbrushes.

Mayor Cavanaugh asked how you justify the balance of fluoride with one fits all with 0.7 ppm in the water. He said we get fluoride in toothpaste, food, etc. Ms. Veschusio stated

when the new research was done, they did take into account new forms of fluoride that were not available in the 50's and 60's when making the original recommendations. She said that is why they decided they needed to revisit the recommendations. She said there were several large studies that were done. One study was specifically about the amount of water we drink.

Mr. Bill Busser stated fluoridation is an emotional issue. He stated he is a retired engineer with a master's degree, including statistical analysis. He said one statistical professor told them at the start of the course "Tell me what you want to prove, and I will design a statistical data set that the public will believe." He said the data that he is presenting will be from the CDC, World Health Organization, NRC (National Academy of Science National Research Council), and the December, 2010 EPA report, "Fluoride: Dose-Response analysis for Non-Cancer Effects." The EPA report sets the current level for fluoride in public water. He said fluoridation is not a law!! It is something that is voluntary.

Mr. Busser stated his review of the data has led him to request the City of Aiken to stop adding fluoride to our water. Let the doctors and dentists determine the correct level of fluoride for each individual.

He said he would tell Council what he found in the EPA report after showing three charts. The first one is the CDC chart that the CDC uses to claim that adding fluoride to the water was one of the top 10 scientific breakthroughs of the 20th century. He pointed out they only used fluoridated water communities. Also, they have no reference so this only shows one set of data. The second slide shows data for fluoride use in the US and 18 other countries. Mr. Busser stated the United States had spent hundreds of billions of dollars adding fluoride to the water to reduce DMTF of our children (decayed missing or filled permanent teeth). He said the countries he highlighted had never put fluoride in their water. They all started with a higher tooth decay rate than the US, and three of the four are now lower than the US. He then reviewed the slide of the World Health Organization Data (2004) showing the drop in tooth decay. He pointed out those with the biggest drop had no water fluoridation.

Mr. Busser stated the one thing the WHO data does not show is the United States level of dental fluorosis and skeletal fluorosis because of too much fluoride in the water, as reported in the 2006 NRC report. From the EPA report summary: At low intake levels, fluoride prevents dental caries (tooth decay). However, slightly higher levels lead to dental fluorosis, a condition in which the enamel covering of the teeth fails to crystallize properly. Prolonged high intake of fluoride, at any age, can result in skeletal fluorosis, with increased risk of bone brittleness and bone fracture.

He stated from the EPA report: Fluorosis is a permanent condition. The point to remember is fluorosis is a permanent condition. Once you have dental fluorosis you are subject to tooth decay because you have holes in your enamel. The United States started with a good concept, but it is a "one size fits all approach" and this is causing problems with severe fluorosis for children per the NRC (National Academy of Sciences National Research Council).

In 2006, the "NRC concluded that severe enamel fluorosis occurs in approximately 10% of the children in communities with water fluoride concentrations at or near the EPA, MCLG of 4 mg/L. This led the EPA to lower the recommended fluoride level. Does this mean that 90% of the children were getting the right amount and now we are changing their level so they will have more DMTF? The EPA responded to the NRC report and has now set the standard to 0.7 mg/L to lower the severe fluorosis in 10% of the children and to reduce the lifetime accumulation of fluoride into bone (that is 18% of the old standard).

The EPA is still trying to pick a "one size fits all approach" to have one fluoride level that gives children less dental fluorosis and minimizes skeletal fluorosis. How many people now have permanent dental and/or skeletal fluorosis from the hundreds of billions of dollars spent on fluoride since fluoridation started in 1945?

Mr. Busser then stated he wanted to tell them why infants are at a higher risk. The EPA one size fits all approach does not address individual children's needs. From Table 5-1 in the EPA report: The best children's adequate intake for infants is 0.01 mg/day, and it goes up to the 14-18 year olds that need 3.0 mg/day. 0.01 mg/day to 3.0 mg/day is quite a spread for the single new EPA standard of 0.7mg/L. At this level, the infant should only drink 14.3 ml or 0.48 oz of water/day for the adequate amount and this excludes the fluoride in all other products. He asked what baby drinks less than a ½ oz of water a day. If an infant drinks 20 oz of powder formula mixed with city water, the infant will receive 40 times the adequate amount. African-American infants may even be more at risk. A number of studies in the EPA report show that African-American children have almost 2.3 times the fluorosis of the white and Hispanic children for the same water fluoride level.

Adding to the infants problems are drug interactions. The EPA report includes the Hong, Levy, Warren, and Broffitt study "Amoxicillin Use During Infancy and Late-Erupting Permanent Tooth Fluorosis." The study shows Amoxicillin use significantly increased the risk for fluorosis in babies. After controlling the fluoride intake, the adjusted risk of fluorosis was not significant for amoxicillin use. Fluorosis is a permanent condition for the rest of the infant's life. Do you want to start an infant with this burden? Or should the city warn water users to not use city water for infants?

The EPA report temperature impact statement is: "Studies support the conclusion that fluorosis prevalence and severity is generally greater in populations living in hot climates." No guidance is issued on what the hot climates fluoride reduction should be. The EPA report studies also found other factors that increase fluorosis risk through increased fluoride absorption. Absorption rate is changed by your physiological condition (health status), nutrition, mineral intake (example: low calcium intake increases fluoride absorption), acid-base disturbances and exposure to drugs.

After hearing this data, do you trust the EPA officials in Washington to set your family's individual fluoride needs?

Mr. Busser stated in summary from the EPA report: At low intake levels, fluoride works. At slightly higher levels, it leads to dental fluorosis. When the EPA balances the low intake levels and the slightly higher levels that lead to dental fluorosis for all of the United States, it leaves a lot of damage for many people, especially infants.

Mr. Busser stated he had only touched on a couple of points from the EPA report. He said their whole study is on the impact of fluorosis. He said he could not see where all the money that has been spent and all the effort everyone has spent on pushing fluoride has done anything for us, but in fact it has probably hurt us because now more people have fluorosis and can get tooth decay and tooth problems later.

Mr. Busser stated in conclusion his request to the City of Aiken is to remove fluoride from the water and let licensed medical professionals in Aiken determine the correct level of fluoride for individual needs. If the city decides to continue with fluoridation, they are accepting dental and skeletal fluorosis medical responsibility for every person on city water. Also, the city should ask the Aiken licensed medical professionals to set the correct fluoridation level for Aiken water to minimize fluorosis based on the area temperature and elevation, genetic mix, age mix, average general health, average weight, average nutrition level, and average prescribed drug use in Aiken based on the EPA data. He said the EPA report is 168 pages with 12 pages of references. It has been reviewed by 12 to 15 people. It is a solid report. It shows that we are now trying to address fluorosis and not address tooth decay.

Mayor Cavanaugh asked Mr. Busser to explain how fluoride affects bones and arthritis.

Mr. Busser stated fluoride causes the bone internal structure to soften and expand and the external surface hardens. He noted a study in Utah of two cities about 10 miles apart with one city with fluoride in the water. There was a much higher hip and bone fracture rate with the city with fluoride. The Mormons all eat the same and have the same

religion. All the seniors in Aiken who have been drinking the water have the potential for additional fractures. He stated he feels that it causes arthritis as well.

The discussion on fluoride continued for about two hours.

Ms. Kathy Pate stated she appreciated the questions and Mr. Busser's presentation. She said basically she had looked at a lot of information on the website with the agenda. She said she has a Bachelor of Science degree in chemical engineering and had worked with a chemical company that specialized in functional chemicals for pulp and paper industry, including water treatment. She said she has some understanding of water treatment chemistry and chemicals used for water quality and water purity. She said fluoride does not meet that criteria. She said fluoride is a chemical that is added to basically medicate the population and help treat tooth decay. It does occur naturally in the water in the form of calcium fluoride, which is different from sodium fluoride. Sodium fluoride is easily dissolved in water whereas calcium fluoride is not. She pointed out some information in the CRC handbook of chemistry and physics regarding sodium fluoride and stated it is toxic. She continued to quote from the CRC handbook and stated that fluoride added to the water and continued exposure can entail dental or skeletal fluorosis, which Mr. Busser talked about. She pointed out there is uncertainty about the level of fluoride in water. She pointed out adding fluoride to the water supply does not improve the water quality, and it is toxic. She felt community water fluoridation is a case where the city decides what dose of fluoride the citizens receive. The question is what dose is right. She said adding fluoride to the water is adding medicine to the water. She pointed out we don't put medicine in the water to regulate everybody's blood pressure. She said there is no reason to do the one size fits all approach for fluoride. In a typical doctor-patient relationship a doctor prescribes medicine specific to the individual based on their medical background, allergies, etc. A doctor also monitors the patient's response to the medicine according to their individual response. The aim in pharmacology is to deliver the right dose to the right person at the right time. She said fluoride in the water does not do that. She wondered who in the city is monitoring the response of every individual to fluoride. She pointed out the level of fluoride in the city water is regulated by SC DHEC. The optimal level was recently lowered to 0.7 ppm and the change came only after a report early this year showed that 41% of children age 12 to 15 have dental fluorosis. This is a significant increase from 32% of children with fluorosis in a 2005 study. She stated people are consuming more and more fluoride in foods and beverages, not just from city water, so it does not make sense to continue the fluoride program. She said there is still controversy about the possible health effects of drinking water fluoridation, according to the American Cancer Society. She pointed out the health effects are not settled about fluoride in the water and continued to talk about health effects and fluoride and what is a safe level of fluoride. She said there are 3,500 science and medical professionals who have signed a petition through the fluoride action network in opposition to the practice of community water fluoridation programs. She said it had been stated that every dollar spent on public fluoridation saves \$38 on tooth decay, but what is the cost of the hip replacement in the community caused by excessive fluoridation. She pointed out citizens of Aiken have costs to remove fluoride from water or to buy organic food to avoid fluoride intake. She said the first official link between cigarette smoking and cancer was discovered by the Germans in the late 1920's. It was not until 1950 that health authorities in the US began to suggest a relationship between smoking and cancer, and it was not until 1980's that political action occurred. She wondered if we are going to wait until the EPA tells us to stop adding fluoride or will we look at the data and understand what is the prudent thing to do. Individuals should have the ability to decide for themselves how and if they will be treated with fluoride.

Dr. Matt Colberson stated he is an electrical engineer, but he is also a dentist and orthodontist. He said one thing Mr. Busser mentioned was that in response to some of DHEC's studies regarding fluoride, he heard "Tell me what results you want and I will design you a study to get it". He said that is sort of what he had heard in the last presentations against fluoridation. He said there are many studies that could be compared, but he is not a statistician and can't quote the statistics. However, from a clinician who treats children he can see the benefits of fluoride. He said he has a question on his client's health history as to whether they have fluoridated water or not. He said there is without question a tremendous difference in the health of the teeth that he sees of

those who have fluoridated water and those who do not. He said there had been comments about hip replacements, bone fractures, and dental fluorosis. He said the comments about dental fluorosis were like it is a cancer. He said he had heard some horrible things about dental fluorosis, but he wondered how many knew what dental fluorosis is. He said there are various levels of dental fluorosis. A mild example and what one sees in the general population might be a small white spot on a tooth. He said it does not lead to decay. He said poor oral hygiene, poor dental habits and not seeing a dentist regularly is what leads to decay. There are more severe levels of fluorosis. He said the benefits of fluoride were discovered in something called the Colorado Brown Stain. In Colorado there were some severe cases of fluorosis where there was an extremely high level of fluoride in the water. People started getting mottled enamel, and they realized there were some problems with the higher levels of fluoride. That is when they began determining what would be a more optimal level of fluoride in the water supply. He said because there has been a learning curve, and we have not possibly nailed down the exact level should we take it out of the water. He felt we should not take it out of the water. He said he would challenge any engineer or any statistician that comes before a crowd like this and quotes all the statistics to say how many patients they have seen and back up the information. He said he sees a mix of patients in his practice, and about half of his patients come from the city of Aiken, though his practice is in North Augusta. In response to a question as to whether he felt fluoridated water goes beyond helping tooth decay and does damage, he stated he drinks fluoridated water, and he would not have it any other way. He said he had not seen a lot of studies that say fluoride is bad and that it causes bone fractures. He said he just wanted to tell Council as a member of the community and as someone who is treating children to tell Council what he sees in his clinic. He said he is not looking at studies or statistics on a day to day basis, but he is looking at the children on a daily basis and he sees the benefits of fluoride.

Ms. Theresa Finer, a diabetic educator and nurse for 30 years, asked how we get past the fact that fluoride is a toxin. Dr. Colberson responded that aspirin, Tylenol, etc, are also toxins if used in excess.

Ms. Lucky Davis stated she drinks a lot of water, over a gallon a day, because she has a tendency to dehydrate. She said because of fluoridation she was concerned about drinking so much water and how much fluoride she may be getting. She said she is starting to show brittle bones. She has lost four teeth. She said if fluoride was prescribed to her that would be a different story. However, fluoride is put in the water and everyone gets the same dose.

Mr. Scott Frazier stated he was an engineer. He said from what he had read water fluoridation has a lower benefit for tooth decay, but that fluoride in toothpaste is more effective because it is a higher concentration of fluoride and you don't ingest it like you do with it in the water. He said there are benefits with fluoride in the water, such as people who do not have or use toothpaste. He pointed out he does have some dental fluorosis. He said from what he has read fluorosis does not cause a decrease in the strength of enamel. It just causes a stain. He said, as mentioned earlier, we learned dental benefits of water fluoridation from an area that had high levels of natural fluoride. Those people had stained teeth, but they also had unusually healthy teeth. Studies are ongoing to try to find the optimal level where we don't have stains but get benefits from fluoride. He pointed out that poisonous aspects happen at high concentrations. He said fluoride is a toxin, but anything such as aspirin is poison if you have enough of it. He said he has moderate fluorosis, but he has never had a cavity. He said the studies which he had seen are dealing for the most part with higher concentrations of fluoride. He said there are not many studies and they had poor controls. He said it is difficult to tell for sure if what they found is due to fluoride or something else. He said there are several studies of the benefit of water fluoridation for tooth decay, but not many on the harmful effects. He said we don't have very strong evidence for the negative effects of fluoride, other than dental fluorosis. There is a lot of strong evidence for helpful effects of fluoride. However, it is still better to brush topically with fluoride toothpaste.

Ms. Leslie Dack stated she formed an organization three years ago called Citizens Alliance for Water Safety. In 2008 she attended the International Society of Fluoride Research Conference in Toronto, Canada. She went there because of some health

problems she was having and came away an activist. She said she met over 100 scientists from 15 different countries. She said she sat through 40 hours of scientific papers being presented from the different countries. She said the things she learned were incredible. She said there are now 3,600 professionals on the list that are opposing fluoridation. These people include dentists, doctors, environmentalists, chemists, toxicologists, and many other health professionals. She said there are four main arguments against water fluoridation. First, any purported benefits of fluoridation are in scientific controversy. Studies from 50 years ago do not pass the mustard under today's standards for safety or effectiveness. Research from the same era also proved cigarettes and asbestos did not cause cancer. The American Medical Association concedes that no studies were done to determine any side effects caused by fluoridation. She pointed out that the Center for Disease Control and the American Dental Association have stated in recent years that any benefits that accrue from the use of fluoride come from the direct application of fluoride to the outside of the teeth and not from drinking it. Therefore, there is no reason to expose your internal organs and your skeleton to fluoride. Secondly, the fluoride used for water fluoridation does not have FDA approval. Fluoride is considered by the FDA as an unapproved drug. The proper use of any drug requires an understanding of how much is too much. Since fluoride is already in many foods and beverages, an estimated total intake of existing fluoride amounts is imperative. She said there have been no long term studies on effects and how much we are getting. She pointed out also that over 360 pharmaceutical drugs have fluoride in them. Research shows that fluoridation is unnecessary because we are already receiving 300% or more of the American Dental Association's recommended daily amount. She pointed out there is concern about diabetics who drink excessive amounts of water and people with kidney conditions who drink a lot of water. Thirdly, constitutional civil liberty issues occur regarding the forced medication of the population, when alternative means of reducing cavities are easily available, such as tooth brushing with fluoride toothpaste. She pointed out the \$38 saved on treatment of tooth decay for every dollar spent on fluoridation of public water is a very old figure. She said if you have fluorosis on a tooth it is not just stain, but will cost about \$1,000 to put a veneer on the tooth, which is only good for a few years. Fourthly, chemicals used for fluoridation are not high quality pharmaceutical products. They are by products of aluminum and fertilizer manufacturing and contain a high concentration of toxins and heavy metals such as arsenic, lead and chromium. She stated the product used in the water in Aiken is sodium fluoride. She stated she had taken the numbers off the bags and researched the bags. They come from China. They are being brought in from Texas. They should be certified NSI standard 60. They are not being certified by National Sanitation Foundation nor certified by Underwriters Limited. She said she is still working on determining who has certified them. She pointed out the product comes from China. Some of the independent scientists have been finding not only arsenic, lead and chromium, but also radium. She said she had not talked to one doctor or dentist that knew which medications have fluoride in them. She said the reason they have fluoride in medications is because it makes them stronger, go in deeper and faster and stay longer. She said this is accumulative poison. Fluoride is very toxic, more so than lead, but is a protected poison. There are studies that show the damage to internal organs from ingesting fluoride. She said one pea size amount is the same amount in one glass of water. She said Bill Hirzy, who called for the NRC report to be done which Congress ordered, stated that fluoridation is a hazardous waste disposal scam for industry. It is coming from the phosphate fertilizer industry and the aluminum industry. The phosphate fertilizer and the aluminum industries fund the dental schools.

Ms. Dack stated that in 2006 the ADA also stated that infants should not drink formula with fluoridated water in it, because they will be overdosed. If you get it from the time you are an infant you are more likely to get dental fluorosis than if you drink it as an adult. As an adult you are more likely to get skeletal fluorosis. She said children should not use fluoride toothpaste because they may accidentally swallow it and it is toxic. It has been stated there are no advantages to water fluoridation today, as the risks today far exceed the benefits. She said ADA states that fluoridation is 100% safe if not swallowed. Dentists cannot give a professional opinion on the safety of fluoridated ingested water. The California Board of Dental Examiners in 1999 issued a letter stating that the effects of ingested fluoride are not within the purview of dentistry. Dentists cannot give a professional opinion as to the safety of fluoridated water, as they would be practicing medicine without a license. The ADA refuses to discuss any negatives of fluoridation

with dentists or the public and wants no public discussion. In recent years several dentists who have testified on anti-fluoridation side have been reprimanded by their state dental officers. If a dentist speaks out against fluoridation he could lose his license.

Ms. Dack stated one of the best ways to prove the dangers of fluoride is to prove it in court with expert witnesses. There have been three landmark cases adjudicated since 1978. She said the Texas Judge said the following was proven in court "The artificial fluoridation of public water supplies such as contemplated by Houston may cause or may contribute to the cause of cancer, genetic damage, chronic toxicity including dental modeling. The value of artificial fluoridation is in doubt as to the reduction of tooth decay." She said there are many countries and cities that are not fluoridated and have the same rate of dental cavities going down. She said there have been 90 cities in the last three years that have stopped fluoridation and saved their cities, in some cases, millions of dollars. In these areas the rate of tooth decay did not go up. The reason tooth decay did not go up is better hygiene and better nutrition. She pointed out there are studies done in the last couple of years that show across the board lowered IQ in children. She urged Council to read the studies, read the NRC Report. She said they have been trying to get EPA to rule on the study, but they won't because it is so controversial and because industry is lobbying for them not to. She felt Aiken needs to be able to make their own decision on fluoride. She said 95% of the fluoridated water ends up in the ground in the lakes and streams. If a person wants to use fluoride toothpaste or have fluoride treatments, that is the person's choice. DHEC could provide every poor family with fluoridated toothpaste cheaper than it is costing the City of Aiken to fluoridate Aiken's water. She said she has estimates that it costs from \$50,000 to \$120,000 a year for fluoride in the Aiken water. She felt this was something to look at when we have very tight budgets. She said she was against fluoride in the water.

Mr. Elvin Bye, Ashberry Drive, stated he is a retired scientist and worked for a corporation for 40 years. Later he was director of Toxicology, so he has some experience with controlled studies. He said he had not heard reference to any study that would probably be valid to get this approved by the FDA today. He said in the early 30's and 40's the Germans were doing research with fluoride in which they were attempting to do some mass medication of people, particularly prisoners. The result they were looking for was increased stupidity and a more docile person. He said he was puzzled that we would use materials of that type in our water today. He said he was also puzzled as to how that initially got started into the cities. He said Ms. Dack had indicated that some of the aluminum companies were involved with this. He said fluoride is a byproduct from the aluminum industry. He said one of the executives from the aluminum industry in the 1940's ended up in a government job that had to do with public policy. Following that, about 18 cities became involved with fluoride in their water. He said that process puzzles him as to why that kind of process was carried out versus a process in which you had real controlled studies not antidotal studies. He said the reason is that in a controlled study you must have the two groups in which everything is held constant with the exception of the one variable, the fluoride. He said he did not know of any studies with fluoride in which that was the case. He said the fact that we are debating this tonight indicates that this is a very equivocal situation and that we don't have an answer to it at the present time. He said unless we have some more controlled studies, he felt it will be many decades before this is resolved. He said another matter that bothers him is that even the people who are for fluoridation say this is not good for infants, yet we put it in the water supply for everyone. He was concerned about the fluoride they receive during the nine months they are inside their mother. He said he believes that there is an accumulative effect from fluoride and that eventually we will find some side effects from this which will be quite adverse. He said there is a meta study that deals with the subject of the IQ of children. It does show an association between a lower IQ and fluoride. He said he was puzzled by all of this, but realizes at this point we are going to have two sides on the issue because we do not have the data at the present time to support one side or the other.

Mr. Mike Smith said he had heard a lot of things he agrees with, but agrees with Mr. Bye more than the others. He said he was a retired professor from the University of Georgia. He said he had professorial rank in ecology group, pharmacology, and genetics group. He said he was well aware of the dimensions of this problem. He said he worked at the Savannah River Site with the University of Georgia and was involved in a number of

other toxins in the environment, including having worked at the Chernobyl site for over eight years. He said his impression of what he has heard and read up to this point is there are really no good studies like Mr. Bye said which allows you to make a decision on this matter. He pointed out the National Institute of Health uses statistics all the time and a study does not go through them any more without good statistics. Statistics can tell lies or they can tell other things. In reality major decisions about health are being made by the NIH by using good statistics. He said he had spent a lot of time reviewing papers for scientific journals, and his review of some of the early research that was used to support the idea that fluoride was good just does not stand the mustard of a good statistical treatment. He said there are ways to do good studies. He said if Council goes forward he would predict suits. As research is done he felt it will show that fluoride has a lot of bad effects. It is a medication.

Mr. Sam Dack stated he had watched the research that Leslie Dack has been doing for the last several years, specifically in pursuit to solutions for her own health problems. For a lay person she has accumulated an impressive amount of data. He said he wanted to make one brief statement regarding the early studies that Mr. Smith had mentioned regarding studies used to sell fluoridation to the American public many years ago. He said there were three studies. One of the three used was the Kingston-Newberry Study which involved two demographically similar cities in New York. One of the cities was fluoridated and the other one was not. The study was set up to follow dental caries. He said the study would not pass the mustard today. There was a great deal of publicity about cavity rates dropping 60% in the fluoridate city as opposed to the one not. To this very day those two cities remain one fluoridated and one not. Today there is no discernable statistical difference between the cavity rates in those two cities.

Dr. Rocky Napier stated he is a pediatric dentist who has practiced in Aiken for over 21 years. He said he also has an electrical engineer background. He recognized the number of dentists present who are still here at this time. Some left earlier. He said they all support community water fluoridation. He stated Council had heard a lot of claims about the ill effects of fluoride. He asked that they be found in Aiken. He said as a dentist he has not seen it. He said all of the alarmist stories heard regarding the ill effects of community water fluoridation he had never seen, but he has seen thousands of kids over the past 21 years. In addition to the children that he has seen in Aiken, he sees a lot of children from 8 surrounding counties. He said he sees a diverse group of individuals, diverse in age, race, and socioeconomic status. Some are exposed to community water fluoridation and some are not. He said he feels he has a broad clinical exposure to fluoride and community water fluoridation. He said he feels that fluoride benefits the children who need it. It benefits them in reduction of dental disease. It is a big help to them. It is part of the solution. Good home care, proper diet, etc. help also. Community water fluoridation is a piece of the puzzle. He said he can see a difference in the children who come from communities that are fluoridated as compared to those from communities not fluoridated. He said for the kids that are in non-fluoridated communities, he writes prescriptions for fluoride supplementation for them so they will get some systemic exposure to fluoride, in addition to the topical fluoride. If the community water fluoridation is discontinued in Aiken there will be a lot of people getting prescriptions for fluoride. He said that would be an inconvenience to the parents and the children. This would mean that the kids would not benefit from systemic exposure to fluoride any longer, and the decay rates will go up. In 2010 the Pew Foundation ranked the state of South Carolina as number one in the nation relative to its dental infrastructure. There were eight benchmarks that were measured on the report. One was the percentage of residents in the state that were exposed to community water fluoridation. In South Carolina over 93% of our residents are currently exposed to community water fluoridation. He said that puts South Carolina 8th or 10th in the nation as far as how well the state is fluoridated. He said it is something that is needed in a state that has a high percentage of low socioeconomic individuals and residents that live in rural areas. He said we would not find anyone at MCG in Augusta opposed to community water fluoridation. He said, as far as comparing what we have in this state and nation compared to other countries in Europe, for example, they have socialized medicine and dental care. He pointed out that Christine Veschusio stated earlier that community water fluoridation is the only dental safety net that a lot of children in this state have. If it is eliminated, you will eliminate it for the kids that need it the most. The recent adjustment down to 0.7 is

an adjustment that is being made after 66 years of study. It is being done gradually and in a reasonable manner. He said his response to the discussion of community water fluoridation is that Council govern it with a thermostat not a light switch. He said we may be back in 10 years and readjust the level down further. However, the best advice that we have available today says we need to lower the level from 1.0 to 0.7. He said an earlier speaker had talked about severe fluorosis in 10% of the children. He said fluorosis is something he hardly thinks about on a daily basis in Aiken. There are children who have mild fluorosis, but it is not a factor in their oral health. It does not affect their daily lives, and it does not affect their social interactions with other people. It does not make their teeth weak. He said if he could go to work one day and not fill a tooth that would make him happy, but he does not see that coming any time soon. He said he could see the problem getting worse if Council removes fluoride from the community water system. He pointed out there had been 286 areas that have voted to retain or add fluoridation to their water supply. He asked Council to keep these comments in mind. He said Council has a choice to do what is reasonable or could do something drastic. He encouraged Council to do something reasonable that makes common sense.

Councilwoman Price stated there had been alarming descriptions of fluoride at this meeting in reference to it being arsenic, lead, chromium, radium, coming from China, and not knowing contents. She wondered how you ease the public's feeling and minds about hearing this information in terms of fluoride being safe for the general public.

Dr. Napier suggested to look at the peer review sites and look at what over three quarters of the community water systems in the state are doing and what over 70% of the community water systems in the nation are doing. He said if one looks at the water quality report that is printed annually; it is an exceptional water quality report. He said the dentists have experience on a day to day basis. He said there are 128 organizations that agree with the peer review science that supports community water fluoridation. He said there are exceptions to everything, but he had not seen these bad things which were discussed in Aiken.

Councilman Dewar wondered how likely the city would be to get 0.7 ppm in every house in Aiken given we pump 1 million gallons of water per day from one pump station. Dr. Napier responded that is an average and was a question he had before there was a range for the fluoride. Now there is an amount of 0.7. He was not sure how well Public Works can adhere to a set amount. He said he assumed it would be holding a 0.7 as an average. He said that is something that DHEC will look at.

Mr. Pearce stated the range that has been in effect from 0.8 to 1.2 was the range that the supply could be. The City of Aiken has been at 1.0 until the recent reduction to 0.7. He said the city had always had a specific rate. The range is what DHEC approves for the water supply.

Mr. Larry Morris stated all the city's flow equipment for the feed equipment is flow paced. It can be set for the wells with a single pump system. The well can be set for a certain amount of water per day and then based on that the pounds of fluoride to be used is calculated and this is put into the controller and keeps it at the setting. He said there is one surface water site and three ground water sites. There are four sites used for the main city and one site that serves a small area. Based on invoices, the cost of fluoride was about \$45,000 per year for the 1.0 mp/L. He said the cost will be reduced with the level down to 0.7. In response to a question regarding the radium that was detected in the water, Mr. Morris stated the radium was detected at the Shiloh plant only. It was not detected at the other three sites. The Shiloh plant is a spring fed plan. It was built in 1909. We get about 1.5 million gallons per day from that plant. The water is captured from the sand hills and flows along a confining clay layer, which is kaolin clay. Kaolin clay has in it naturally occurring very small trace amounts of uranium. One of the byproducts of decaying uranium is radium. It is a naturally occurring metal. He said there is a band of area that DHEC has shown that has naturally occurring radium. He said the water from that plant serves the northside. He said the last test showed the radium level below the 5.0 pCi/L. He said the figures are based on an average. He said only DHEC can do the test which is done every three months. He said a test well had been drilled, and we are waiting on the tests to see if it is radium free water. He said the

recommended procedure by DHEC when radium is found in the water is to blend it with radium free water to get the level low.

Councilman Homoki stated many people have a filter on their refrigerator, he wondered if that would filter out fluoride. Mr. Morris responded that it depends on the type material in the filter.

Dr. Shawn Velez, an endodontist, said many of community cannot afford his procedures, much less the restorative procedures that would be needed after decay has occurred to that extent. He said he was not present to argue the literature. He said it had been established that there is literature on both sides of the issue, and more studies are needed to prove the issue. He said he can speak to what he does clinically. He said fluoride fortified teeth decay differently than non-fluoridated fortified teeth. He said cavities will penetrate the softer areas of the tooth, however, dental cavities will not breach a fluoride fortified tooth in the same way. He said the cavity is only visible when observed radiographically. In other words, the enamel has held up, but the underlying dentyne which is the softer part of the tooth does not. He felt that clearly demonstrates that fluoride fortified teeth clinically are not weaker because of the fluoride addition. He said he would hate to see fluoride taken away because we have an alarmist concern. He said if you cannot trust your health and dental professionals to help guide Council members along with good literature, who can you trust. Do we trust the mounting evidence that may not have any real evidenced based merit or may be the lowest classification of strength of a study or should you trust an organization whom he did not believe was involved with a conspiracy to harm our young children or our adult patients. He requested that Aiken City Council examine the literature, but also take heart and consider the expert opinion of the dental community in deciding whether to decrease or eliminate fluoridation. He said if the fluoride is to be decreased it should be done on a gradual basis. He stated a cavity in a youngster not only affects their health and the loss of teeth, but also there is a socioeconomic impact of the disease for the person who does not have access to the topical fluoridation and toothpaste. Even if they have access to the tools we have to depend on compliance to the tools, but we need water to live. We don't need to brush our teeth to live. He said there are economical and workforce consequences to the decisions made today. He recommended that Council pay strong attention to the dental governing forces such as the ADA, whom he believes has the best interest of the community at heart, as well as the local dentists in town who are local experts.

Dr. Bob Lofgren, a local dentist, said he had been practicing in Aiken for 35 years. He said he had seen the benefits of fluoride, and he was convinced that fluoride goes a long way towards reducing but not eliminating dental decay. He said on the issue of fluorosis he had not seen it. He said he sees an occasion brown stain on a tooth, but he did not see the reasoning to say that dental fluorosis is a problem. He said he was speaking of his clinical experience.

Dr. Charlie Wyont, a local dentist, said he has practiced dentistry in Aiken for 34 years. He originally set up his practice 34 years ago outside the city limits of Aiken and practiced in an area that was not fluoridated. He said after he moved his office within the Aiken city limits it was amazing the difference he saw in the children residing in the Aiken area, versus outside the Aiken area on the DMFT index. He said he travels to Honduras every year on a mission trip. He said he wished some of the alarmist would go with them on these mission trips and see the kids in these third world countries that don't have the benefits that the children of Aiken have. We have the benefit of a city that is prosperous enough to provide them with a protection that the kids in other countries don't have. He said he had done full mouth extractions on 7, 8, and 12 year olds. He said that affects that child. He said that is a socioeconomic problem, even in third world countries, because those children are devastated by losing their teeth. He said we do not have that problem here. He said for the 34 years he has practiced in the Aiken area he has never seen a severe fluorosis case. He said he had seen some white spots on teeth, but he had not suggested to a patient that they get a \$1,000 veneer to fit the white spot. He said there are other ways to remedy that small problem. He would suggest that Council seek opinions from resident orthopedic surgeons to see if they think brittle bones and hip fractures are caused by fluoride or caused by obesity, or osteo problems that occur, but not fluoride. He said in his 34 years experience he had seen no ill effects of fluoride.

Dr. William Webb stated he is a general dentist in Aiken and has practiced in Aiken for 45 years. He stated he wanted to share three generations of dental history. He said his father grew up on Wire Road near Central Baptist Church. At 19 he had all of his teeth extracted and got complete dentures. He said he grew up in the Beech Island area. There was no fluoride there. He said he had a mouth full of cavities and had a filling done every time he went to the dentist. Fillings stopped the decay, but fillings weaken the teeth. He said at his age now he has nine crowns and fillings in every tooth. He said he has two sons. One is 30 and grew up in Aiken drinking fluoridated water. He has one filling. The other son is 36 and grew up in Aiken. He has no fillings. He drank Aiken fluoridated water. He said he would leave the decision to Council.

Mr. John Wade stated he would like to ask how, what type and where can be checked to see if he has too much fluoride in his body. He said he drinks a gallon to two gallons of water a day. He wanted to know how to get tested.

Mr. Sam Dack stated there are a couple of studies, but we don't have the proper studies needed to make a final decision and may not have such studies for a long time. He said there have been some studies done that show relatively little correlation between fluoridation and non fluoridation areas. They do show a very strong correlation between dental health and socioeconomic status and oral hygiene. He said oral hygiene was something that began to be popular in this country after World War II. He said the generation story that was told could be one of changing habits and availability of oral hygiene, rather than a story of fluoridation or not. The correlation statistically between demographic status, access to professional care and oral hygiene education are very strong in studies. The correlation between dental health and fluoridation or the lack of it is more problematic.

Ms. Erin Boyleston stated she is a local dental hygienist and a dental hygiene educator at the College of Georgia. She said she was a lifelong resident of Aiken County. She said until the time she went to college twice a day she swallowed toothpaste. She said today her teeth are healthy; she does not have brown stains on them and does not have fluorosis or lots of expensive veneers. She said she does have some very mild white spots. She asked that Council consider not taking fluoride out of the drinking water for the benefit of the children and our community.

Ms. Shady Hall stated she works in Aiken and works primarily with economically challenged children and families. She said a lot had been said about studies, and she was not present to talk about studies. She said her degree is in psychology and counseling. She said she grew up in Saluda in the rural area where there was no fluoride in the water. She said they had proper oral hygiene at her house, as her parents required her to brush her teeth every day. However, because she grew up in an economically challenged home they used baking soda to clean the teeth and for cleaning everything else. She said she does have white spots on her teeth. She said it is important for Council to do what is best for all children and citizens. Council has to represent everybody. She said she was representing the children and families who could not come to this meeting and give them a voice. A lot of the children she works with are poor, and they don't have toothpaste. She said she was not talking about studies, but what she works with every day and what she lived with as a child. She said she was talking about families she serves in Salley and surrounding areas as well as in the City of Aiken. She asked that Council think about what they are doing and how it affects all the citizens. She said she was advocating on behalf of the kids who cannot advocate for themselves.

Ms. Christine Veschusio stated she would like to clarify the comments about the EPA study as she felt there was confusion. She said the Department of Health and Human Services and the EPA have commissioned a great deal of new studies that are in the process of being done. She said some of the earlier studies were not quality studies, but these new studies are quality studies. She said the Health and Human Services has released their information based on the health benefit. EPA does not move as fast, so they are not sure when they are going to release their information. She said their information is about the maximum amount of fluoride that is allowable in water. She said we hear comments about skeletal fluorosis, but from what she has read there are very

few cases, and these occurred with very high levels of fluoride. She said at 4 ppm is the area that you would have skeletal fluorosis. She pointed out you would not see that in Aiken, as Aiken's water system is one of the top in the state. She said Aiken's reports on the level of fluoride never exceed the proper level, so you would not be seeing a lot of fluorosis in Aiken. She said the water system in Aiken keeps the fluoride at the proper level. The question was raised how they keep it at the 0.7 level. She pointed out there is an online website where one can look at Aiken's report. She said she had made note of the studies mentioned, and she would get those reports for Council.

Mayor Cavanaugh stated the issue before Council is review of the city's water supply and the city's fluoridation practices. He said Council wanted the thoughts of citizens on this matter. He said Council had heard from the citizens. He said at this time he is not ready to vote to do anything to eliminate fluoride from the water. He said he did not feel that he had enough information at his hand to make that decision. He felt there were many wonderful things going on in Aiken. Many of the reports made sound good, but he felt there was not much proof yet. He said he was open to learning more that would convince him that we are doing the wrong thing. He felt the reduction of the level of fluoride to 0.7 should make a difference. He said if the level that we have had was causing fluorosis, then perhaps the reduction will cause less. He said he would like to do more research and get more information. He would like to have information from new reports.

Councilman Homoki stated he felt the problem is that there is no one definitive study that people can hang their hats on. He said Council has heard both sides. He said the dentists had all said it was good. He said he felt he did not have enough information to change what we are doing today. He pointed out 40%+ of our young kids go to school without having breakfast. They eat breakfast at school. He felt the dental hygiene of these young people is probably a suspect as the breakfast which they got at home, which was none. He said it is embarrassing for young people not to have teeth. They are very sensitive to peer pressure. He said until there is something a lot more definitive, he would suggest that Council not change anything at this time and continue the fluoridation.

Councilman Dewar stated he spent 20 years in the Air Force and every time they were stationed at an Air Force station the water was fluoridated. He said his children had few cavities. He said he got an assignment and the family could not go with him. The family went to Boston to live. Boston did not have fluoride in the water and his children got cavities. He said this is a tough issue. He said he was reluctant to go against medical authority and risk the dental health of the children. He said the dental professionals have assured Council that fluoride has made a difference in the dental health of the children. He said it was nice to hear from DHEC that Aiken has one of the better fluoridation programs in the state. It is nice to hear from the dentists that the children are benefiting from fluoride in the water. He said there were good arguments on both sides. He said Bill Busser and others have been sending him emails arguing that Aiken should remove fluoride from the water. He said he had also had emails from the dentists on the other side of the issue. He said he just could not see enough at this time to justify eliminating fluoride from Aiken's water. He felt scientists had made progress in reducing the amount of fluoride.

Councilman Wells stated he would like to say that for many years he has trusted our dental professionals in Aiken with the care of his teeth and his family. He said he trusts the dental professionals, who have proven themselves and have been here for many, many years and have had experience with our water system and with treating us and our children. He said it would take some real strong evidence for him to go against the opinions of the dentists.

Councilwoman Price stated that some years ago Council had a similar discussion about this same subject. Many of the sentiments expressed tonight were expressed years ago. She said she came to the meeting with a different opinion than what she is thinking now based on the discussion. She said there had been some real strong comments made on both sides of the issue. She said Council has to look at the broad picture. She said she knows many of the experts that made comments, and she respects them highly knowing that they have cared for many of the families in the community. She said she has to go

on the side of the experts that made comments. The other compelling comment came from Shady Hall who serves with a lot of underserved families in a lot of communities.

Councilwoman Clyburn stated when she came in earlier she had talked to some of the people who were present about what Council was going to discuss and what their opinion was. She said her concern was why you don't give infants water early these days as she had done years ago for her children. She wondered if that had anything to do with fluoride in the water. She said she was told that was not the reason for not giving them water. She said she had seen the video and had read a lot of the materials that had been provided to Council. She said she was concerned about having fluoride in the water with all the scary things she was looking at. She said she was particularly interested in the gentleman who said you can find a study to support any point of view that you want to take. She said she heard from people who are in the field like Shady Hall, like the dentists, like Dr. Wyont and the individuals that came up and gave their professional opinions as to what they were seeing in Aiken. She said she feels she has enough information to support leaving fluoride in the water, especially with going to 0.7 ppm. She said if anything is presented to Council that proves otherwise, Council would look at it. She said she would bring it up again if she finds information that proves to her that we are in some way hurting our children by keeping fluoride in the water. She felt right now Council should leave fluoride in the water.

Mayor Cavanaugh stated he felt we all had learned something. It had been a good evening where the citizens had come and shared their opinions with Council. He said Council had listened. He felt they had all gotten an education in some way that they did not have before. It makes Council more in tune with what is going on. He thanked everyone for their patience and their respect for everyone. Mayor Cavanaugh stated Council was just accepting the presentations as information at this time.

RESOLUTION 04252011C

East Gate Drive Extension

Oak Grove

Right of Way

Whiskey Road

Aiken Mall

Cracker Barrel

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to authorize acceptance of the Oak Grove Road right of way.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE ACCEPTANCE OF THE OAK GROVE ROAD RIGHT OF WAY INTO THE CITY ROADWAY SYSTEM.

Mr. Pearce stated that Engineering and Utilities Department Director Larry Morris has provided us with an update on the East Gate Drive extension project.

As Council will recall, as part of this roadway extension project, East Gate Drive will continue in an easterly direction through the intersection with Whiskey Road. By doing so, it will at some point intersect with existing Oak Grove Road, a right-of-way and roadway owned and maintained by the State of South Carolina. As such, our proposed roadway will not only intersect, but then overlap with this state-owned right-of-way. One of the projects in the most recent round of the One Cent Sales Tax is to connect that roadway with Centennial Drive and eventually connect to Powderhouse Road, in compliance with the studies that were done for the connector roads.

After Mr. Morris' discussions with SCDOT representatives, and given our long term plans to connect this roadway with Centennial Drive, and eventually Powderhouse Road, he is recommending that we accept the Oak Grove Road right-of-way from SCDOT. Accepting this roadway and right-of-way from the State, via SCDOT, allows our extension project to proceed and prevents the establishment of a split right-of-way with two entities claiming ownership of it. He said there are portions of the existing Oak

Grove right of way that the City must have in order to complete the three phases to the proposed project. He said in the discussions with the SCDOT there is no joint ownership of right of way. With SCDOT awareness of the city's plan and the financing for the connector roads, SCDOT will abandon the right of way and deed it to the City of Aiken.

For City Council consideration is approval of a resolution to accept the Oak Grove Road right-of-way from the State of South Carolina to be solely owned by the City of Aiken.

Mr. Larry Morris stated that in rebuilding and realigning the new roadway, which will cross Whiskey Road and line up with East Gate Drive, a portion of the state right of way will be needed for the project. Since the state cannot maintain a right of way that is not abutting an existing right of way, the City needs to take the entire road. The road is about 1,700 feet in length.

Councilman Ebner asked about the real estate that adjoins Oak Grove Road. Mr. Smith, City Attorney, responded that the property is in the County, and until the owners request annexation the property will remain outside the city.

Councilman Ebner moved, seconded by Councilman Dewar, that Council approve the resolution to accept the Oak Grove Road right-of-way from the State of South Carolina to be solely owned by the City of Aiken. The motion was unanimously approved.

TOWING ORDINANCE

Franchise Agreement Rate Changes

Mayor Cavanaugh stated ordinances had been prepared for Council's consideration to amend the towing ordinances.

Mr. Pearce read the title of the ordinances.

AN ORDINANCE REVISING CHAPTER 46 OF THE AIKEN CITY CODE TO INCLUDE ARTICLE VI TO REGULATE TOWING FRANCHISES.

AN ORDINANCE GRANTING NONEXCLUSIVE TOWING FRANCHISES FOR INVOLUNTARY TOWING WITHIN THE CITY OF AIKEN.

Mr. Pearce stated the City has had a franchise arrangement pursuant to a Supreme Court decision regarding involuntary tows and a contractual relationship with those towing companies inside the city limits for some time. He said with the recent rise in gas prices we have heard from the towing companies that the existing agreement is not economically feasible for them.

Mr. Pearce stated Aiken Department of Public Safety Chief Pete Frommer and City Solicitor, Ben Moore, along with other ADPS staff, have met with our area towing franchisees to discuss possible amendments to our towing ordinance and our existing towing franchise agreements.

After these meetings, and discussions, a consensus has been reached between these towing company operators and our Public Safety Department representatives.

Mr. Pearce stated proposed changes to the rates for towing are compared with current rates as follows:

	<u>Currently</u>	<u>Proposed</u>
<u>Regular Sized Vehicles, Daytime</u>	\$125	\$125
-- Nights, weekends, holidays	\$160	\$175
Storage Fees per day	\$ 25	\$ 25
 <u>Larger Sized Vehicles</u>		
Less than 17,000 lbs., Daytime	Market Price	\$150
-- Nights, weekends, holidays		\$200
More than 17,000 lbs., Daytime	Market Price	\$300
-- Nights, weekends, holidays		\$350
Storage Fees per day	Market Price	\$ 40

Other provisions in the franchise agreements remain the same.

Ben Moore has advised that Council will need to establish a length of time the towing franchise agreements are effective, because they cannot be perpetual.

For City Council consideration on first reading is adoption of an ordinance amending the Fee Rate Schedule for involuntary tows within the city limits of Aiken and approval of the model towing franchise agreements.

Councilman Dewar asked about an expiration date for the franchise agreement. He also asked if the garage keepers insurance of \$50,000 was sufficient.

Mr. Pearce stated that, based on the decision by the State Supreme Court, there would need to be an expiration date for the franchise agreement. It could be annual or bi-annual. He also pointed out that the insurance of \$50,000 was a minimum amount, and if someone had a car valued at more than that the city would not be liable, but that would be between the car owner and the towing company owner.

Councilman Wells moved, seconded by Councilwoman Price, that Council pass on first reading an ordinance to amend the Fee Rate Schedule for involuntary tows within the city limits of Aiken and approval of the model towing franchise agreements with the franchise agreement being based on an annual basis and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

CONCEPT PLAN – ORDINANCE

Murphy Oil
WalMart Center
3575 Richland Avenue W.
Shoppes at Richland
WRS, Inc.
U.S. Highway 1 South
TPN 087-19-03-011

Mayor Cavanaugh stated an ordinance had been prepared for first reading to approve a concept plan for Murphy Oil on Richland Avenue W.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING THE CONCEPT PLAN FOR PROPERTY LOCATED AT 3575 RICHLAND AVENUE W.

Mr. Pearce stated that in 2006 City Council approved a concept plan for the development of the entire tract for the Shoppes at Richland. The ordinance tonight for first reading is the approval of the concept plan for a particular parcel that is part of the development. He said Council would be amending the concept plan for the entire tract because the parcel being considered is a part of it. Or, you could consider it as approving a concept plan for the particular parcel.

Mr. Pearce stated Murphy Oil, USA is requesting approval of their Concept Plan for a convenience store at 3575 Richland Avenue W. on a 1.35 acre site. The gas station will consist of 12 fueling stations. It will be located on an outparcel at the Shoppes at Richland at the entrance to the WalMart campus. There are no external driveway cuts onto Richland Avenue to this parcel. The property would be accessed from the WalMart parking lot and the western entrance drive into this shopping center. He said Murphy Oil came before Council on January 24, 2011, with a proposed plan, and City Council did not approve the plan on first reading. Since that time Murphy Oil, who owns the parcel, has prepared a new proposal. The new proposal is significantly different in the number of pumps, the car wash has been removed, and the design of the building is more in keeping with the design of the WalMart retail store located on the developed tract. The Planning Director, Ed Evans, looked at the plan and considered it significant changes and treated this as a new application which has been before the Planning Commission.

The Planning Commission unanimously approved this request at their April 12, 2011, meeting with the following conditions:

1. that the access onto the center's entrance drive on the western boundary be right-in/right-out only and constructed so that left turns are not possible;
2. that the gas station canopy have a green standing-seam peaked roof and red-brick columns to mimic the detail on the WalMart building, and that the design be approved by the Planning Director;
3. that a revised Concept Plan be submitted listing all conditions of approval within 60 days; and
4. that proof of recording at the RMC Office of an agreement signed by the applicant listing all conditions of approval be provided within 60 days.

For City Council consideration, this is first reading approval of the Concept Plan for Murphy Express Gas Station located at 3575 Richland Avenue W. Should City Council approve this upon first reading, a second reading and public hearing would be held at Council's next regular meeting, May 9, 2011.

Councilman Ebner had asked that the City Attorney review the reasons why this request was before Council again.

Mr. Gary Smith, City Attorney, stated this request was back before Council because there was a significant change in the original plan and the plan being presented at this meeting. Mr. Ed Evans, Planning Director, determined that not only had they made some significant changes that would allow the original application to come back, but he considered the plan a new application because there were significant changes to the design. He said one of Mr. Evans' primary duties as the Director of Planning is to interpret the Zoning Ordinance.

Councilman Dewar stated he would like to make some comments. He said that decision was a concern of a lot of people in the community. He said some of the residents feel that a gas station is a gas station. He said clearly the Planning Director has the discretion to find this as a new application. He wondered if there was something in the Zoning Ordinance to define significant change.

Councilman Ebner pointed out that another key point is that with the Planned Commercial zoning, Council cannot deny a convenience store.

Mr. Smith stated there was nothing in the Zoning Ordinance to define significant changes. He pointed out that when the concept plan originally came before Council in 2006, the concept plan at that time said the uses in the Shoppes at Richland shall be those

permitted in the PC zoning district listed in the Use Table. The Use Table lists the uses allowed in the Planned Commercial zone. He pointed out that Convenience Stores are allowed in the General Business zone and by right in Planned Commercial zones, which is what the property being considered is zoned. When the concept plan was approved in 2006, Council was saying that the property could be developed in such a way that it would allow uses permitted in the PC zoning district to be on this property. A convenience store is allowed by right in the PC zone, and fuel sales are allowed as a conditional use in the Use Table with two conditions that have to be met. Those are that the facility is in a larger commercial project and secondly, that access to the facility is shared with such project. He pointed out that the proposed use would be a part of a larger commercial project, and access to the proposed gas station would be from the driveway to WalMart. He said this means that City Council can't just turn down a gas station or a convenience store on this property. He said Council does still have the continuing ability to have an impact on the design of the facility that goes on the property. There is a continuing ability to affect the intensity of the use that goes on the property. He said he recalls from the January, 2011, meeting that Council had concerns about the large scale of the project and also the fact that the design of the project did not really seem to blend in or be compatible with the rest of the development. He stated Council would have to decide in their mind whether removing the car wash and reducing the number of pumps constitutes a lowering of the intensity of the use.

Councilman Dewar stated he was essentially saying that it is almost a perfunctory act on the part of Council, as they are obliged by the Zoning Ordinance to approve the use.

Mr. Smith stated that is correct. One reason is that is the way the Zoning Ordinance is written. The Zoning Ordinance says that convenience stores are allowed by right in the Planned Commercial zone. The second reason is that when Council approved the concept plan in 2006, Council said whatever uses that are allowed in the Planned Commercial district would be allowed on this property.

Councilman Dewar stated he was lead to believe by the neighbors that if the developers had said a gas station was going to be in the area, the development probably would not have been approved. He said this is frustrating to the neighbors, because they thought no gas station would be allowed and that restaurants or retail were going to be in the area. They never expected a gas station in the area.

Councilwoman Price stated if Council is compelled to approve the request, why did this matter not come up at the January 24, 2011, meeting when the request was considered.

It was pointed out the issue probably should have come up, but it was just missed.

Councilman Homoki asked if Council was on solid legal ground to reject the original concept plan.

Mr. Smith stated Council did have the ability to turn down a design which they felt was not compatible with the remaining development. He said intensity was a valid legal argument to reject the original concept plan. He said the city had the ability to say 20 pumps is too many and ask if they would be willing to put in 12, or to work with a developer on the design because they felt it was not compatible with the rest of the shopping center. He said such modifications could be made to the application during the process. He said Council did have the ability to turn it down. He said to Murphy Oil's credit instead of going through this process, they could have filed their complaint with the Circuit Court. They have come back to the table and have worked hard to try to get Council's approval.

Councilman Homoki asked if their request would migrate back towards the car wash and 20 pumps.

Mr. Smith stated Murphy Oil would have to come back to Council to change the concept plan in the future if that was their desire to have a car wash or more pumps. If the proposed concept plan is approved, Murphy Oil could not build a car wash and additional pumps without Council's approval.

Mayor Cavanaugh stated asking for additional things, design, etc. are things that Council can deal with, not the fact that a gas station can be there. He said the outcome could have been the same on January 24, as nothing has changed. Council just asked for a change in some items.

Councilman Dewar stated what has changed is the fact that Council thought that the shopping center was a Planned Commercial concept, and that Council had total authority in terms of what could go in the center.

Councilwoman Price stated the earlier plan called for 20 pumps. The proposed plan was reduced to 16 pumps, with 4 of them diesel. She was concerned as to whether there would be a lot of 18 wheelers in the shopping center for the diesel pumps. She wondered how many other stations in town have 16 pumps. It was pointed out Kroger has 10 pumps. She was concerned about 18 wheelers coming into the shopping center for the diesel pumps.

Councilman Ebner pointed out that he doubted very seriously that the parking lot in the shopping center would handle 18 wheelers. He pointed out currently there is a truck route around the parking lot. He felt that needed to be answered before considering 18 wheelers coming into the area; otherwise there won't be much left of the parking lot.

Mr. Rod Abney, of GreenbergFarrow, Civil Engineers, stated he was representing the applicant, Murphy Oil, for the project concept plans before Council. He pointed out that Tom Bentley, Murphy's Permit Manager on the project was present, as well as Todd Salvagin, of SRS Engineering, Drew English, Attorney, and Jim Price of WRS, who sold the property to Murphy Oil. He said Murphy Oil wants to have Council's approval and prides themselves on being a good community partner. He said they work hard to try to be a good neighbor in the community in which they are located. Following the unexpected denial in January, 2011, they came back and met with city staff and worked to find out ways they could minimize the intensity of their use and work to find a solution. Mr. Abney pointed out the revised version of the concept plan. He said they had heard Council and staff loud and clear that the intensity of the use previously presently was unacceptable. As such they modified the number of pumps or NTDs down to six, which provides no more than 12 fueling positions at any one time. With regard to the question of diesel pumps, they have found that by separating the diesel out to a separate pump next to the unleaded pumps provides for ease of use of the customer. He said they have a 3+1 option that can be installed, and that is less money for Murphy Oil. That is one pump with two nozzles, which one may have seen at other gas stations around town. One has to know which one to pick up. Unfortunately, sometimes customers put the wrong type fuel in their car. Because of that, they have gone to two separate pumps. However, only one vehicle can fuel at those positions at one time. The most vehicles that could fuel would be 12 each side of 6 NTDs. The separate diesel and unleaded pump will not work at the same time. As far as 18 wheelers, they have to be able to get an 18 wheeler in and out, because the fuel delivery trucks are 18 wheelers. He said they can handle 18 wheelers, however, they don't expect the station to be a large 18 wheeler station, given that it is not on the interstate. The target customer and most of the customers they will have will be customers going to the WalMart. He said the Traffic Study shows they don't anticipate to generate many new trips into the station. Their customers will be persons who are already coming to the area. He said their use is not a destination use. Their use is an ancillary use.

Mr. Abney said the previous layout was more of a square canopy. In talking with staff, they felt a narrower canopy with a smaller footprint would work better on the lot given the lot configuration. With that they moved down to six pumps. He said they would much rather have more pumps in this market. He said their market research indicates that a larger number of pumps is justified, and they would like to have that. However, they understand the city is looking for a less intense use, and so they reduced the number of pumps. He said they had also modified the configuration of the site plan by elimination of the car wash. The parking was relocated to behind the station. They also relocated the dumpster to behind the station. The entrance drive was relocated off the main WalMart drive further to the south, providing a greater separation between signalized intersections

and their point of egress. At the request of the Planning Commission staff, they made the driveway a right-in/right-out driveway. He said they had also attempted to significantly enhance the landscaping provided on the site and done so in excess of the city's minimum requirements. He said it was their goal to make this a very high level, first class business and operation in the Shoppes at Richland in front of the WalMart.

Councilman Ebner expressed concern about 18 wheelers and pointed out that typically there is a routing for trucks as over a period of years the 18 wheelers will tear up the parking lot in the area. He wondered if the driveway will handle 18 wheelers.

Mr. Abney stated Murphy Oil operates about 1,100 stations around the country and found that asphalt does not work. He said they use heavy duty concrete paving. It will be an 8" section over a minimum of 4" sub-base that will have a life of 20+ years to handle 18 wheel deliveries. WalMart understands this as well, and they use heavy duty permanent sections on their entrance drives and their truck routes. He said their trucks would only follow the WalMart heavy duty routing.

In response to a question, Mr. Abney stated they are proposing an outdoor propane station. It is located just south of the front edge of the canopy.

Councilwoman Price pointed out the total site is 56,000 square feet. She wondered about the size of the building. Mr. Abney responded the building is 591 square feet. It is a kiosk building that allows one to go inside to pay for gas. Typically, in this market they try to do a 208 building. However, after conducting the site investigation report and speaking with staff they understood that a 208 building was not appropriate for this market. 208's have a lot of outside sales. They knew that would not work in this case. He said they had sized to a 591 building, where all the products are inside. Sales take place inside the building.

In response to a question by Councilwoman Price regarding the building and the canopy, Mr. Abney responded that in this case the building is located beneath the canopy. He said the operating hours will be less hours than the hours of WalMart, which is 24 hours. He said they will open at 5 or 6 a.m. and will close by midnight. He said Murphy Oil does strive to be a low price leader and brings competition to the market place. He said they strive to be the cheapest and will try to provide quality, affordable fuel. He said all their locations do not have the design which is proposed for this location. He pointed out the store proposed would be a one and only store. He said they do not have a single store that has the color canopy proposed for this location. He said they prefer a bright red canopy with a wide metal fascia with the Murphy Express logo prominently on the front and back. In talking with staff, they understood their normal color and canopy would not work at this location. He said they worked with staff to arrive at the color green. He said that would be the only color green they have. The 591 building would match the Shoppes at Richland architecture and WalMart. He said they tried to bring some of those features in on the front and back of the building at staff recommendation. He said this would be a truly one of a kind building. In an effort to work with the city they even removed any reference to Murphy Express or Murphy Oil. They do not have a single identifying sign that says "Murphy" anywhere. He said they have attempted to meet the city requirements without an identifying sign on the business. He said they do propose to have beer and wine sales, which would be permitted through the appropriate jurisdiction. They also propose to sell South Carolina lottery. He said they hoped the upgrades and other changes meet Council's approval. He said they want to meet Council's approval and work with the city. He said they realize the zoning of the land allows the gas station, but they are trying to be accommodating as much as possible to find a plan that works for this property.

In response to a question regarding the name of the business, Mr. Abney said they will probably have to have their name in small letters on the door or the window as required by the Fire Marshall. It would be for emergency identification; it would not be for advertising.

Ms. Daphne Roberson, of Rutledge Road, stated her house is more affected by the WalMart shopping center than any other house in the area. She said Mr. Rodrigues has

property bordering the WalMart shopping center. She said her house overlooks the entire shopping center. She felt promises which were made to them are not being kept. She said if a gas station had been in the original plan, it would not have been approved. She said a gas station is a gas station whether it is 20 pumps or 16 pumps. She said we don't need more gas stations on Richland Avenue. She said Mr. Scott Smith of WRS promised the residents restaurants and high end retail stores. She said she would like for them to abide by their promises made in 2006. She said they talked about gas stations and convenience stores and were told they would not have them. She wondered why the allowed use was not discussed in 2006 if it was allowed at that time. She felt the gas station would create a large volume of traffic in the area. She pointed out it is difficult to get out of Rutledge Road and make a left turn on Richland Avenue. She said page 1 of the Traffic Study of the revised plan shows these sites generate large volumes of traffic. She said she was concerned very much with the looks of Aiken. She felt it looks bad from the bottom of Kalmia Hill to Lominick's. She pointed out one gas station is closed at Kalmia Hill. She wondered if Murphy's could stay in business with the increase in the price of gas at this time. She said the Kalmia Hill area had been promised many things which had not been done. She wondered when our word was our bond. She said the law is the law, but the law was not discussed in 2006 about convenience stores and gas stations. She said she strongly disapproves of the gas station. She said Mr. Scott Smith had assured them that there would be restaurants and high end retail stores in the four outparcels. She pointed out that in 2006 they were told that gas stations and convenience stores could not be in the shopping center. She also brought up the matter of the excavation for the shopping center coming close to her house and trees being removed. She said WRS said they would not come closer to her house than Dyches Road. She said that would be about a 50 foot buffer. However, they came all the way up to her brick fence and removed all the trees. She said WRS stated they would plant trees. She felt there had been several things that had not come true to what they had been told and promised.

Mayor Cavanaugh pointed out the property had been sold to Murphy Oil. He also pointed out that by right Murphy Oil can have a gas station on the property, according to the Zoning Ordinance, and it was that way in 2006. He said Murphy Oil had worked hard to make changes to try to make the gas station more acceptable.

Mr. Martin Roberson, of Rutledge Road, stated he saw an 18 wheeler trying to get into WalMart a few days ago. It could barely make it into the WalMart and was holding up traffic. He was concerned about trucks delivering gas to the station and holding up traffic. He wondered if the deliveries would be in the middle of the night or early morning. He was concerned about people in and out of the area at all times. He said he has a problem with the proposed gas station. He said he understood the law, but he did not want to see the gas station go in the area. He felt it would ruin that part of the WalMart shopping center. He felt the shopping center is nice now, but he was concerned about a gas station and what might go on the other vacant lots. He was concerned about Aiken and what visitors see as they come into Aiken. He said he would like for the gas station to be denied.

Mr. Chris Rodrigues, Spring Drive, stated he received the Planning Commission report on the new application, but he was disappointed that it did not include comments from the neighbors. He said when the original application was submitted in 2006, there was dialogue about the service station and the neighbors were opposed to the service station. He said there was a consensus between the city staff, WRS, and the neighbors that a service station probably was not compatible for the area. He said that was the bargain, no service station, that was struck with the neighbors, and WRS seemed to be very anxious to please the neighbors. He said he did not have a piece of paper to that effect, but that was the bargain. He said some city people and Council members remember that. He pointed out that the concept plan was denied at the January 25, 2011 meeting. He felt it was clear at that meeting that the plan was turned down because it was for a service station. He felt it did not have anything to do with the canopy, color, architecture, etc. He said he does know that he was told in 2006 that the concept plan does not include a fuel station, and City Council would have to approve any changes to the concept plan. He felt that suddenly that protection had evaporated, and he was concerned about it. He asked why we are discovering now that a service station is allowed by right in the

Planned Commercial zone. He pointed out the Planning staff was complimented at the Planning Commission for their tireless and countless hours they worked with the Murphy Oil people to make a workable concept plan. He was concerned that he heard nothing from the Planning Department about the new plan, and they did not seem to understand that the neighbors do not want a service station in the shopping center. He said the neighbors felt they had a bargain that there would not be a service station in the center. He wondered who paid for the countless hours that the Planning staff spent in working with Murphy Oil in trying to make a workable concept plan that they could get past City Council. He said Mr. Scott Smith told him that he was not going to do anything there that would be a bad neighbor as he lived in Aiken. He felt a service station in the center would cause his property to lose value. He asked that Council members think about the discussions on the matter and stick to the original bargain. He urged Murphy Oil to sell their property to someone who could put a more compatible use on the property. He urged Council to vote to deny the service station. He asked that Council amend the ordinance and the concept plan to be what it was supposed to be in the bargain. He felt the tone had changed substantially in five years. He said he did not like going out every night and seeing the lights, hearing the car horns, loud music, the shouting, and the motor sounds. He said a gas station would be more of that. He said if Council approves the plan over his objections, he wants four things. One is reduced hours with the station closed at 10:30 or 11 P.M. at the latest. He wants no beer sales, no cigarette sales, and no lottery sales. He felt these things bring the wrong kind of people in the neighborhood late at night. He said his house is close to the center and would be a handy target for those looking for mischief.

Mayor Cavanaugh pointed out that the city had nothing to do with the sale of the property. He stated Mr. Smith sold the property and had told the neighbors certain things. He pointed out the Zoning Ordinance allows service stations by right in Planned Commercial zones.

Mr. Gary Smith, City Attorney, stated back in 2006 when Council was considering the original concept plan, if there had been a discussion in the Council Chambers about whether or not a convenience store or a fueling station would be allowed, Council could have asked at that point whether or not WRS would have been willing to accept a condition on the approval that no gas station be allowed. He said he wrote the ordinance and did not recall Council having that discussion with Scott Smith. If that had been a condition that Council felt strongly about, Council could have put that condition as part of the concept plan approval and a gas station would not be allowed. He said he did not see that discussion in the minutes in 2006. He said Mr. Rodrigues may have had that conversation with Mr. Smith elsewhere. He said it was not in the minutes, and it was not part of the ordinance approved by Council. He said if Council had strong feelings about the matter, it could have been addressed by Council in 2006. He said as far as the lottery ticket sales, the beer and wine sales, that is done by the Department of Revenue. They decide whether or not that is allowed. City Council does not have the jurisdiction to tell them they can't do something that is allowed by state law.

Mr. Rodrigues wondered if City Council could put additional conditions on the concept plan. He said if they could tell them what colors to use and suggest things for the canopy, roof line, etc. which he felt were lesser issues, why could Council not put conditions on things that affect the character of the retail area. He said a service station could have a major impact on the shopping center with traffic, beer sales, and lottery sales. He said there was an agreement that there would not be a service station in the shopping center.

Mr. Gary Smith pointed out that there are already beer and wine sales in WalMart and in a liquor store which is in the shopping center. Also, there are several restaurants in the center that serve beer and wine.

Councilman Homoki stated if that was the agreement that there would be no service station, then the property should have been zoned in some other category other than Planned Commercial zone. He stated at this point Council does not have much choice. However, in the future if there is a major development and some agreements are made Council needs to be sure the zoning that is assigned has the weight for the agreements.

Mr. Rodrigues stated he thought in the discussions it was felt there should be certain protections, and felt those protections could best be provided in a Planned Concept, where the provisions are listed in the agreement.

Councilwoman Price stated during that time there were a lot of issues regarding development on the northside. There were concerns that Aiken was not large enough to have two WalMarts. The whole development came with a lot of concerns about people and development. She said she agreed this was an integrity issue and she believed the Robersons and Rodrigues that they feel they were told something but it did not occur. She pointed out, however, there is nothing in writing to substantiate the agreement of no service station. She said the issue had proceeded and had gone far. She wished Council had been told in January that the Planned Commercial zone allows a service station by right. She said at that time Council was concerned about the large number of stations requested. She said at this time Council is being told that they are compelled to approve the station. She felt that is a different picture now, when Council is legally bound by the ordinance to approve the request. She pointed out presently there is a convenience store just across the street from the shopping center and they sell beer, cigarettes and lottery tickets and there is also a car wash. She felt there had not been problems at the station.

Mr. Rodrigues stated he was not happy about the service station in the WalMart center, as he felt it would substantially lower the value of his property because of the quality of life after 9 P.M. He said the developers had done a good job in making the shopping center upscale, and there were worst things that could have happened on the property. He was concerned that there was a bargain that there would not be a service station and now there is going to be a station.

Councilwoman Price stated she felt the revised concept plan was much improved from the plan presented in January.

Mr. Jim Price, Vice President of WRS, stated he was the individual who got the plan approved. He said he wrote the narrative, and he defied these people to tell him that he said there would not be a gas station there. He said he did not know that he had ever seen these people. He said in 2006 he helped write the provisions that would be in the ordinance for the development of the property. He pointed out that part of the property was zoned General Business, part was Planned Commercial. On the property there was a closed vacant K-Mart that was an eyesore. There was also a crack house motel on the property. He said if the neighbors do not like what the development brought, and feel that it is better than what was there before, he could not help them. He said he had tried to do an upscale development. He said to his knowledge they had never said they were not going to put a gas station in the center. He said a gas station is a compatible, compliant, approved use for the property. He said they have seven Murphy Oils in their developments throughout the Southeast. Prior to this, WalMart used to grant a lease to Murphy Oil on just about every supercenter. He said he felt they had brought them what they said they would bring. He said he had listened to people say that they had told untruths. He said he may come back before Council with future developments. He said he did not want Council to feel they were being untruthful. He said this is his city. He hoped the City of Aiken would support this new quality, corporate partner that is coming to our city. He said he had assumed that the intensity of the development on the lot was the cause of concern. He said that concern could have been that people who looked at it thought it would be like an interstate location where tractor trailers do fuel and where they spend the night. He said that is not what is proposed. He said it was a station for local vehicular traffic. He felt it was a very compatible use for the facility. He felt it complies with the shopping center. He said he has three more outparcels to sell. He pointed out there are four restaurants in the center now.

Councilman Ebner stated he felt Council needed to move the meeting on.

Mayor Cavanaugh stated he felt WRS had done a super job with the WalMart complex. He felt it looks nice, and he had heard many wonderful comments about it. He pointed out Mr. Price had gone around town and pulled out obvious things that make up Aiken and he tried to incorporate those into the design of the WalMart complex. He pointed out that the allowed use for a convenience store and gas station had been in the Zoning

Ordinance since 1999. It is not something new. He said he remembered a gas station being discussed, but he does not remember an agreement, and there is nothing in writing that there would be no gas station.

Ms. Debbie Nix stated she is not involved in the issue, but she was present when the matter was discussed. She wondered why the matter had come up again, when at the meeting in January it was stated that they could not come back until after 12 months. She also wondered why Council did not know about the allowed use in the Planned Commercial zone.

Mayor Cavanaugh pointed out that the project was changed dramatically, so much so that Mr. Evans, Planning Director, considered it a new project. He pointed out that the allowed use for a gas station was in the Zoning Ordinance and has been since 1999. It was just missed.

Mr. Evans, Planning Director, stated when the matter came before the Planning Commission the issue of use never came up. The only issue before the Planning Commission was the design and aesthetic issues. It was only when it got to Council that the issue of denying the use came up.

Mr. Smith stated at the January meeting there was discussion about not wanting a gas station, about too many pumps, and not liking the design. When the motion was made, no reason was given for denying the concept plan.

Councilman Homoki stated he thought the store was denied because of the design and intensity.

Councilman Dewar stated he felt it was turned down because Council sided with the neighbors, who said they thought it should be a higher level project on the property. He said someone from WRS convinced the neighbors that a higher level project would be on the property, and the neighbors convinced Council that it should be a higher level project. He said Council denied the project because it did not comply with what the neighbors said was to be there.

Councilwoman Price stated her comment at the meeting was that the project was too massive. Also, based on the comments from the neighbors that they were promised that a gas station was not supposed to be in the center, the project was denied.

Mayor Cavanaugh stated Council may not agree as to why the project was denied, but had Council known about the allowed use in the Zoning Ordinance, Council would have known they could not deny it.

Councilman Dewar stated that as it turns out in 2006 Council, knowingly or not, approved a gas station in the WalMart center.

Councilwoman Clyburn stated Council approved Planned Commercial zoning in 2006, and the PC zone has in it by right that a gas station is allowed. She said when she voted on it in January, 2011, it was because the project was very massive. The canopy was wrong, there were too many pumps.

Ms. Daphne Roberson asked if Council could make an amendment to the Zoning Ordinance that would cover the other three outparcels left in the shopping center, so they could be used for restaurants and high end retail stores. She pointed out that the neighbors never saw Mr. Price, but they had always talked with Mr. Scott Smith.

Mr. Evans pointed out there are three more outparcels, and all are zoned Planned Commercial and would fall under the same rules. He felt Ms. Roberson's question was for Mr. Smith, as to whether there could be a condition limiting the uses on the remaining outparcels.

Mr. Smith pointed out that the Murphy Oil does not own the other three outparcels. He said, however, if Council chooses a path of modifying the Planned Commercial zoning district, it could have an impact on what uses could go on the remaining outparcels.

Councilman Dewar stated he would like to know what control Council has over the operating hours for the station. He said he would also like for the City Manager to provide a copy of the letter sent to SCDOT about the traffic at the intersection of University Parkway and Richland Avenue. He said he thought the city differed from SCDOT. He pointed out the Traffic Engineer for Murphy Oil had indicated a level of service of C at University Parkway and Richland and a LOS of D at Gregg and Richland. Mr. Smith stated he would have information regarding hours of operation for Council at the second reading.

Mayor Cavanaugh asked if the turning radius for 18 wheelers coming and going from the area had been addressed. He also asked when gas would be delivered to the station.

Mr. Rod Abney stated the issue was addressed. He said a program called auto-turn was run to ensure that trucks could come in and out safely. He said gas deliveries will depend on sales. Typically the deliveries would not be very early or late, but would be during normal business hours. He stated they do not control the time of delivery of the gas, as this is sub-contracted to a company that does fuel delivery. He said they do not want to run out of gas. He said it was not in their best interest to have gas delivered at the peak hour. He said they would prefer the gas delivery when it is not too busy and not inconvenience the customers. However, at the same time, they have to balance that with the desires of the neighbors and not deliver at 11 p.m.

Councilman Ebner asked that Gary Smith read his comment from the agenda packet regarding the allowed use.

Mr. Smith read the statement, "City Attorney Gary Smith states that the proposed uses cannot be denied, but City Council can regulate the intensity of the uses and the design of the project." He said at this meeting Council will be voting on the ordinance to approve the concept plan that is presented for a convenience store and gas station at 3575 Richland Avenue W.

Councilman Ebner moved, seconded by Councilwoman Price, that Council pass on first reading an ordinance to approve the Concept Plan for Murphy Express Gas Station located at 3575 Richland Avenue W. and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved. Second reading on the ordinance will be held on May 9, 2011.

PLANNING COMMISSION

Action Agenda FY 2011-12

Mayor Cavanaugh stated Council needed to consider approval of the Planning Commission Action Agenda for Fiscal Year 2011-12.

Mr. Pearce stated City Council met on Monday, April 18, 2011, with the Planning Commission to jointly develop an Action Agenda for the upcoming fiscal year. Based on this meeting, the Planning Commission and City Council agreed on ten items. We believe that several of the items developed in the new Action Agenda can be completed this year, with the continued cooperation of the Planning Commission and City Council. He pointed out one correction should be made in the proposed Action Agenda. He said 1.a. should be Planned Institutional (PI): Add "All Other Public Projects," and 1.b. should be "Planned Commercial (PC): Review Use Table."

Our City Attorney is drafting proposed amendments for the Zoning Ordinance for Council consideration at a later date. These amendments will cover inoperable vehicles at commercial locations, the definition of "family" and codifying certain recurring administrative interpretations made by our Planning Director since 1999.

For City Council consideration, this is the approval of the proposed Action Agenda for the Planning Commission for fiscal year 2011-2012.

Councilman Ebner stated he wanted to be sure that the Planned Commercial can be changed on the Shoppes at Richland. He asked if it could be changed, since it had previously been zoned with the allowed uses.

Mr. Gary Smith stated Council is looking at possibly modifying the Use Table, so that Planned Commercial does not necessarily say that certain things and uses are allowed in the Planned Commercial zone. The question is, if the Use Table is changed would that affect the uses allowed on the other three outparcels at the Shoppes at Richland. He said this could be part of the discussions, as the matter of changing the Use Table is discussed by the Planning Commission.

Councilman Homoki pointed out Council has not received any plans on the other three outparcels. He felt Council could rezone those outparcels if they did not fit what Council considers fitting with the PC format. He felt Council could change the uses allowed in the Use Table for PC. He said once some plans go before the Planning Commission, he felt Council could not change the zoning at that time.

Mr. Pearce pointed out that the only thing Council is considering at this time is approving the Action Agenda for the Planning Commission to work on. The Planning Commission would hold their discussions and then present their recommendations to City Council. The Use Table would not change until Council held first and second readings to adopt an ordinance to amend the Zoning Ordinance. In response to Councilman Dewar's comment that the ordinance would be before Council for their May 9 meeting, Mr. Pearce stated he felt it could not be ready for May 9, as the matter has to be discussed and studied by the Planning Commission first.

Councilman Dewar stated he expected to have item 1.a at the next Council meeting, as he felt that was what was agreed on when Council met with the Planning Commission.

Mr. Pearce stated to clarify what was mentioned at the joint meeting with the Planning Commission was that there were some items where the City Attorney could draft proposed ordinances that Council could have first reading and then send it to the Planning Commission for their review. He said he did not remember discussing a date for the ordinances. He said the ordinances would not be adopted on second reading until Council has the Planning Commission input, since it would be an amendment to the Zoning Ordinance.

Councilman Ebner stated for item 9 on the Action Agenda, with the events that have occurred in the past few days, he felt it would be wise that we at least send the list of the 40 or 50 items to City Council for review of the recurring issues that have arisen since its adoption in 1999. He felt with the issues that have come up at this meeting, that it would be wise if Mr. Evans could list the items.

Mr. Pearce stated item 9 refers to the administration of the Zoning Ordinance. As discussed on April 18, instead of listing 50 he would develop a list of the ones that have occurred more than one time. Some items were very specific to a certain situation that they did not see happening again, because each item only happened one time since 1999. He will try to develop a list of the items that have occurred more than one time.

Mr. John Wade asked for clarification on when the Highway Overlay District will come back to Council for consideration. Mayor Cavanaugh stated no date was set for that. Other items had a higher priority that would take up this year, so it will be a topic for discussion next spring.

Councilman Homoki moved, seconded by Councilwoman Clyburn, that the proposed Planning Commission Action Agenda for FY 2012 be approved by City Council with the switching of 1.a and 1.b listed in the proposed list. The motion was unanimously approved.

The Action Agenda approved by Council is as follows:

ACTION AGENDA FOR 2012 FISCAL YEAR

- 1a. Evaluate the need for amendments regarding the Planned Institutional zone.
- 1b. Evaluate the need for amendments regarding the Planned Commercial zone.
2. Open Space Element.
3. Union Street Area Plan.
4. Northside Road Study.
5. Possible amendments to the Zoning Ordinance regarding setbacks for manure containers.
6. Evaluate the need for amendments regarding the Planned Residential zone.
7. Possible amendments to the Zoning Ordinance regarding inoperable vehicles at commercial locations.
8. Zoning Ordinance amendment to increase the minimum depth of an untouched buffer for a commercial or multifamily residential project adjacent to a land zoned or used for single-family residential from 10 to 25 feet.
9. Revisions to the Zoning Ordinance to address recurring issues that have arisen since its adoption in 1999.

CROSLAND PARK

Plaque

Alberta "Al" Payne

Aldrich Street

Median

Crosland Park Neighborhood Association

Mayor Cavanaugh stated Council needed to consider approval of the placing of a commemorative plaque in the Aldrich Street median in memory of Alberta "Al" Payne.

Mr. Pearce stated the Crosland Park Neighborhood Association has voted to place a commemorative plaque in the entranceway median on Aldrich Street. The proposed memorial is a 10" x 14" bronze plaque on a 12" x 16" granite block, which creates a 2" granite border around the plaque. Council will recall that Mrs. Payne was a champion of many issues in Crosland Park, and a catalyst for our Neighborhood Revitalization Project.

Gary Yount, representing the Crosland Park Neighborhood Association, presented this project to the Design Review Board at its regular meeting on April 12, 2011. DRB unanimously approved this request.

Since the proposed plaque placement is in the right-of-way, City Council permission is needed in order for this plaque to be placed.

For City Council consideration is the approval of a request to place a plaque honoring longtime resident Alberta "Al" Payne in the median of the 600 block of Aldrich Street in Crosland Park.

Councilwoman Clyburn moved, seconded by Councilman Dewar, that Council approve the placing of a plaque honoring Alberta "Al" Payne in the median of the 600 block of Aldrich Street in Crosland Park. The motion was unanimously approved.

CITY UTILITIES – RESOLUTION 04252011D

1034 Reynolds Pond Road

1046 Reynolds Pond Road

Water Service

Ed Wilson

Mayor Cavanaugh stated Council needed to consider a request for city water service on Reynolds Pond Road.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE PROVISION OF WATER UTILITY SERVICES TO PROPERTY LOCATED AT 1034 AND 1036 REYNOLDS POND ROAD.

Mr. Pearce stated that Ed Wilson petitioned the Planning Commission for water service at a duplex apartment he owns on Reynolds Pond Road. This property is in the City of Aiken water district.

The Planning Commission unanimously approved Mr. Wilson's request upon the following conditions:

1. that an executed "Agreement on the Provision of City Services" listing conditions of approval, and an Annexation Agreement be recorded within 60 days of approval by City Council at the RMC Office;
2. that the City Engineer approve the design and installation of the water system;
3. that when the property is redeveloped, the development comply with the City landscaping and signage provisions to the extent deemed practical by the Planning Director;
4. that there be no manufactured housing; and
5. that the extension of City water service applies only to the current duplex, and any additional units on the property would require a new application for City water.

For City Council consideration is approval of the request for City water services at 1034 and 1036 Reynolds Pond Road.

Ms. Janet Hankinson was present representing Ed Wilson, the land owner. She pointed out 911 recently changed the address numbers on the duplex. The correct numbers are 1034 and 1036 Reynolds Pond Road. She pointed out the duplexes are on another person's water meter, so she needs approval for water service or denial so she can put in a well and septic tank.

Councilwoman Price moved, seconded by Councilwoman Clyburn that Council approve water service to 1034 and 1036 Reynolds Pond Road with the conditions recommended by the Planning Commission. The motion was unanimously approved.

CITY UTILITIES – RESOLUTION 04252011E

Kellogg Drive

Battle Court

Creek Court

Journey Real Estate Investments, LLC

Sanitary Sewer Service

Mayor Cavanaugh stated Council needed to consider a request for sanitary sewer service on Kellogg Drive, Battle Court, and Creek Court.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE PROVISION OF SANITARY SEWER UTILITY SERVICES TO PROPERTY LOCATED ON KELLOGG DRIVE, BATTLE COURT AND CREEK COURT.

Mr. Pearce stated that Journey Real Estate Investments, LLC, has made a request for city sanitary sewer service to a four acre tract of land at Kellogg Drive, Battle Court, and Creek Court. There was originally some discussion about annexing this property. Two lots at this location are contiguous to the Aiken City limits, but not currently within the city. The other two lots are not contiguous and cannot be annexed. However, after review by the Engineering and Utilities Director Larry Morris and Department of Public Safety Director Pete Frommer, they have shared their serious concerns with annexing this four-acre tract. Therefore, the owners have not filed an annexation petition; they have filed a request for city utilities instead.

The Planning Commission reviewed this utilities request and voted 4-1 to recommend approving it on the following conditions:

1. that an executed "Agreement on the Provision of City Services" listing conditions of approval, and an Annexation Agreement be recorded at the RMC Office within 60 days of approval by City Council;
2. that the City Engineer approve the sanitary sewer system;
3. that when the property is redeveloped, the development comply with the City landscaping and signage provisions to the extent deemed practical by the Planning Director; and
4. that there be no manufactured housing.

For City Council consideration is approval of a request for utility services--sanitary sewer service--at Kellogg Drive, Battle Court, and Creek Court owned by Journey Real Estate Investments, LLC.

Mayor Cavanaugh asked why we were not recommending annexation of the property.

Mr. Pearce stated Public Safety Director Frommer had not recommended annexation because of the crime rate being experienced in this subdivision, and Mr. Morris had questions about several of the roads which had been repaved. It was determined that the improvement of integrity of those roads would take considerable expense, and he was reluctant for the area to come into our system.

Councilman Homoki pointed out there was a question as to whether the owner could afford paying for the sewer connections. Councilman Dewar stated there was no mention as to the cost for the sewer. He wondered why we would want to approve the sewer.

Mr. Larry Morris, Public Works/Engineering Director, stated in response to Councilman Dewar's question on the cost, it will not cost the city anything. We are requiring the owner of the properties to install the system, since there are multiple properties involved. The lines will be going through backyards and across some roads which have recently been repaved.

Councilman Dewar pointed out the properties are not expensive, and maintenance in the area is terrible, with the grass not being cut in months. He wondered if the owner will spend that kind of money to run the sewer line.

Mr. Morris stated he had not personally talked with the owner of the property, but in discussion with staff he has indicated that he is going to run the sewer line. Otherwise, the units can become uninhabitable because of septic tank failures. He pointed out that not all of the units will be placed on city sewer. There will be units that will still be on septic tanks. He said that was a concern of his, plus the fact that there did not appear to be any real drainage plan in the area. He did not want to annex the property without some idea of any drainage problems.

Councilman Ebner stated he wanted the city to be sure that we don't have a situation where the sewer lines are not properly installed and sloped. It was pointed out that the property would still be in the County. He wondered if there were any future legal issues that we might encounter by providing water to all the houses and sewer to some of the dwellings.

Mr. Gary Smith, City Attorney, stated the city was free to contract with anyone outside the city limits to provide water and sewer services. The city could pick and choose which ones they will serve. He said there would be an agreement for providing utility services, which the owner would have to sign.

Councilman Ebner stated he had driven through the area, and it is a tough area. He felt we need to be sure we marshal our appropriate legal issues so we don't get backed into a problem in the future with sewer backups.

Councilman Homoki stated if the individual does set up the system, he did not know if he needed a pump. He wondered how the city handles the pump, and if it breaks down who fixes it.

Mr. Morris stated the city will be required by DHEC to take the sewer system over. He said Councilman Ebner's question is appropriate. He said city staff will observe the installation to make sure it is up to city standards. Otherwise, we would not provide them with a maintenance letter, which would prevent them from getting DHEC approval to use the system. He said we do have control over that, but once the system is in and up to city standards, then the city will have to accept it. Of course, that would be in the contract so it would not have to come back before Council, unless Mr. Smith states it needs to come back to Council. The contract would have to be drawn such that once the system is in and approved by Engineering staff and receives DHEC approval that it would automatically come to the city with the appropriate easements through the areas that the owner owns. Then, if other duplex owners wanted to tie into the system, they would also have to apply to Council. It would not be automatic that they could tie into the system. They would have to apply to Council, as this particular owner has, for Council's approval. That way we don't have a legal obligation to annex the property. The City does have the water system there, and with the approval we would have the sanitary sewer there also. The City would be providing the service and charging the double rate that we charge for out of city services.

Councilman Homoki asked if there was a connection between providing services, water and sewer, if an application for annexation is made.

Mr. Smith, City Attorney, stated Council has a policy that if a person wants to receive city water and sewer services you have to sign an agreement that says once the property is contiguous you will be annexed to the city limits. However, the annexation is a policy that Council chooses to enforce. He pointed out that, in this situation, Council is being told by the City Engineer and the Public Safety Director that they don't want the property in the city, and they have given Council good reasons why the property should not be annexed. He said the property could be annexed if Council wishes. It is okay to provide water and sewer services without requiring annexation. It was pointed out the annexation agreement is required, but Council has the option as to whether to actually annex the property. In some cases the city may not want to annex the property because of costs involved. He said the property owner could sign the standard water and sewer services agreement that has the annexation provisions, but Council does not have to annex the property.

Councilwoman Price stated she takes a different position. She said the owner is providing housing for people that need it. She said she understands there has been a lot of crime in the area in the past. She said she feels the owner is trying to clean the area up and has evicted some people. She said just as the city has helped other people, the city should do what we can to help this owner. She said she did not know what that meant in terms of services. She said the owner has said that when it rains, the drain fields cannot handle the water and the water backs into the apartments and it becomes unsanitary. She said we have helped others, and she felt the city should do what we can, given that he is providing a need for low income housing for people that need it. She pointed out the owner is trying to clean the area up.

Mr. Pearce stated the city will be helping the owner, they are just recommending that the area not be annexed. He said this was considered at the Planning Commission meeting. He felt that was the reason for the 4-1 vote. The one vote was that the city should not provide services because we are not interested in the property. The majority vote of the Planning Commission was that if we provide the service that may be the beginning of improving the area.

Councilwoman Clyburn asked what happens if the owner petitions the city for annexation because they need help from Public Safety and they are getting city services.

Councilman Homoki stated his concern was that the city will be providing water and sewer services, and they are charged double for this service. He pointed out the city has a

policy for an annexation agreement for providing those services. He said if the owner applies for annexation, he wondered if the city was open to a legal challenge if the city rejects the annexation request.

Mr. Smith pointed out Council is allowed to use their discretion to annex which ever properties they decide to annex or not annex. He said it is a legislative decision that Council can make.

Councilman Dewar stated a reason to say no to an annexation if they need help is that the city is not in business to help, but are in business to use the city money wisely, and we should not annex any property that costs more to service than the city can get in taxation. He said it is taxpayers money.

Councilwoman Price stated that could be labeled as selective annexation.

Councilman Ebner asked if the city property would be on a dedicated right of way if it is a county road. He said typically the city services are on a dedicated right of way whether it is city, county or state.

Mr. Morris stated that is not necessarily true. He said we do have sewers on easement. Crosland Park and Willow Woods are examples where the city has sewers on easements that are not dedicated right of ways. They are dedicated easements. In this case the sewer will be on right of way where they cross the road. For the most part, the sewer will be behind the units in the back yards, because that is the way they have to get to Fox Haven to connect to the city system.

Councilman Ebner asked if a pumping station would have to be on city property. Mr. Morris responded if a pump station is installed, the owner will have to give the city a portion of the property. Presently there is only one duplex that would need a pump station. We have precedent both ways, where we have an individual property owner that maintains their pump station. The station remains the property owner's, since it only serves their property. We have others where they have petitioned the city to take over a pump station in which case the city can put other property into the pump station. He said if a property owner wants a pump station, then it has to be designed so that the city can get other properties into it before the city will accept it.

Councilman Ebner moved, seconded by Councilwoman Clyburn, that Council approve the resolution approving the request for sanitary sewer service at Kellogg Drive, Battle Court, and Creek Court owned by Journey Real Estate Investments, LLC. The motion was approved by a vote of 5 in favor and 2 opposed. Opposed were Councilmembers Dewar and Homoki.

ADJOURNMENT

There being no further business, the meeting adjourned at 12:04 A.M.


Sara B. Ridout
City Clerk