

Aiken City Council MinutesREGULAR MEETINGMarch 28, 2011

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

Absent: Councilman Homoki

Others Present: Richard Pearce, Gary Smith, 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 20 citizens.

CALL TO ORDER

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

ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Councilman Dewar moved, seconded by Councilwoman Clyburn that the agenda be approved as submitted. The motion was unanimously approved.

MINUTES

The minutes of the regular meeting of March 14, 2011, were considered for approval. Councilman Ebner moved, seconded by Councilman Wells, that the minutes of the March 28, 2011, meeting be approved as submitted. The motion was unanimously approved.

PRESENTATIONS

Roger Dyar  
Traffic Engineer Services  
Level of Service Report  
LOS

Mayor Cavanaugh stated that Roger Dyar, the city's on-call Traffic Engineer, was present to make a report on his traffic services to the city and the Level of Service (LOS) Report.

Mr. Pearce stated we have asked Roger Dyar, our on-call Traffic Engineer, to be present at tonight's meeting. He will review some of the services that he has provided for the City of Aiken over the nine years he has served as our on-call traffic engineer. For Council's information, he has prepared his 2010 Level of Service Report (LOS). Our City Traffic Management Ordinance requires that the LOS for "critical roadways" be done every two years. He was instrumental in the 2006, 2008, and the most recent May, 2010 traffic count updates.

Ed Evans, Planning Director, has provided additional information about additional projects in which our traffic engineer has given valuable assistance.

Mr. Dyar will make a presentation and be available to answer any questions that Council may have about his role, our Traffic Management Ordinance, and his most recent work on behalf of the City of Aiken.

Mr. Dyar thanked Council for the opportunity to speak to Council and review some of the things he has worked on for the City of Aiken over the last nine years. He said generally the work he has done has been at the direction of the Director of Planning, the City Manager, or the Director of Public Safety. One of the things worked on in the 2002, 2003, 2004 time frame was the development of the Traffic Management Ordinance. He said that ordinance guides and sets the requirements for traffic impact studies that are done for new developments. He said he also worked on the Traffic Impact Fee, which was considered in 2002 and considered again in 2006. That involved a potential program

that would look at impact fees for developments to provide funding for transportation and improvement projects. About every two years, starting in 2004, he has looked at the Level of Service for the major streets in the city. He said a LOS report was done in 2004, 2006, 2008, and 2010. He said he had been involved with some of the major road corridor studies, such as a connector from Whiskey Road to Silver Bluff. He said he was involved in the consultant selection, reviewing the technical work of the consultants, the documentation, the reports and generally assisting the Planning Department with that effort. Similar work was done for the study for the connector from Whiskey to Powderhouse Road. He said currently he is assisting with some review activities and some technical assistance with the Northside Area Road Study that is underway. He said one study he did was the study of the connection between Whiskey Road and Silver Bluff utilizing Fabian. He said there have been a number of smaller connector type studies. He said they had looked at the feasibility of providing connectors from some of the commercial properties in the Whiskey Road corridor.

Mr. Dyar pointed out he had worked on the traffic signal at Silver Bluff and Fabian. He said this was a signal warrant study, which is a very detailed process to get a signal approved through SCDOT. This past year a signal warrant study was done for the intersection of Silver Bluff Road at Richardson's Lake Road. A number of traffic operational studies have been done, looking not only from a planning standpoint, but also from the standpoint of how the road intersections, traffic signals, signs and markings are actually working and operating. One such study was at East Pine Log Road at Collier. That request came from the Public Safety Department, and we eventually did get approval from SCDOT to add a left turn arrow. He said he did a number of analytical studies, looking at the different options for adding a right turn lane on Silver Bluff Road at Dougherty Road. The plan approved by SCDOT has recently been implemented. He said he did a study of East Gate Drive at the Mall access and the access across the way that goes into the shopping center where Publix is located. That was the precursor to the roundabout which has been installed and seems to be working well. He said this study addressed traffic flow and a planning issue.

Mr. Dyar stated he reviews any Traffic Impact studies that are turned in for new developments in the city whether they be residential or commercial. Over the years since that requirement has been in place there have been over 20 studies done and submitted to the city. Each of those has to be carefully reviewed before being approved by the city. Some of those include the convenience store on Edgefield Highway and the Cracker Barrel proposed on Whiskey Road. He said the traffic signal system is an area in which he has gotten more involved in the past year. The city took on the responsibility of maintaining a number of traffic signals on the SCDOT road system. In exchange for that, there is some reimbursement from SCDOT. They mandate that you have a Registered Professional Engineer on staff, on retainer, or on call to be involved with the management of those activities. He said he had been asked recently to take on those additional duties.

Mr. Dyar stated prior to becoming a full time consultant about 5 years ago he did it part-time for a while. Prior to that he had about 25 plus years in state and local government work. About seven years was with SCDOT in Charleston. The remainder of his government time was with cities in South Carolina, North Carolina and Florida. He pointed out he will be involved in any future changes on signals in the city, since the state agreement requires that the changes be recommended and approved by a Registered Engineer before being implemented.

Mr. Dyar stated he would like to review the highlights of the 2010 Level of Service Report. He pointed out the report contains a lot of information and numbers. He pointed out a level of service is a measure of the quality of the traffic flow on the street system in the city. He said they do not look at every street in the city because of the cost involved, but look at the major streets. He said there are about 62 miles of streets on which he has done the Level of Service analysis for the past 6 or 8 years. He said what was decided a number of years ago to use as the measure of the level of service is the average annual daily traffic (AADT) compared to the capacity on a daily basis of each segment of street. Sometimes a segment is a couple of blocks. He said they try to use a good rational break point for the segments, and it is usually traffic signals. He said we are looking at the percentage of the capacity that is being used by the average daily traffic. The levels of

service go from A to F with A being the best and F failing. Level A is a situation where less than about 30% of the daily capacity is being used. B is about from 30% to 50% of the capacity. C is from 50% to 70%. D is from 70% to 90%. E is from 90% to 100% and an F situation is where from a practical standpoint we are over capacity and carrying more traffic than we should be carrying on a daily basis. As we go from a level A to B, C, and D the freedom of mobility and the ability to change lanes decrease as the frequency of someone in front, behind or beside you increases. Typically the speed goes down and typically the delay goes up. He said it is normally expected to have a level of service D, but you would like to have a LOS of C or better everywhere. However, you would like to avoid a level of service of E and F. He said in addition to thinking about the LOS based on the average annual daily traffic, there will be times of the day at peak hours when there will be a level of service that is better or worse than that shown on the chart, table or map. That is because of the fluctuations of traffic throughout the day, the week, and the seasons of the year. He said intersections many times can have levels of service that are worse than shown on the charts because the definition of level of service at an intersection is different from the definition he is using. He said to keep the amount of data collection manageable and to keep the costs manageable, a number of years ago the decision was made to go with this analysis which is looking at the segments of road from one major crossroad to another.

Mr. Dyar pointed out in the table about one-quarter of the mileage that was studied of the major roads has level of service of D, E or F. He felt this was a fairly significant amount. Some of the D's are close to being E's. He pointed out Hitchcock Parkway between Dibble and Augusta Road the ratio is 86% which is very close going to a level E. He said looking at the total miles of travel on the segments that have D, E or F, that number goes up, and instead of being 25%, it is about 38%. He felt a fairly large percentage of the street mileage in the city has travel in the D, E or F category. He pointed out the listing of the highest volume increases over the past few years and reviewed the ten highest. He pointed out the trends from 2006-2008. The total amount of travel was up almost 13% in a two year period. For the last two years, from 2008-2010, there is a decline of over 4%. Looking at the overall trend from 2006-2010, there is still an increase of over 5%. On an annual basis that is 1.3% per year. There were some big increases going on from 2006-2008, some decline from 2008-2010.

Mr. Dyar then stated he would answer questions about the Level of Service analysis or other questions.

Councilman Dewar had several questions. He stated the Traffic Management Ordinance is a tough issue trying to determine how far away the impact should be from the project that generates traffic. He asked Mr. Dyar if the distance in our Traffic Management Ordinance is satisfactory for the community given the 2010 numbers.

Mr. Dyar stated the ordinance had been written simply. He said they tried to keep the ordinance as simple as possible because of administering the ordinance, the cost of getting studies done, and the cost of reviewing the studies. He said for most of the studies done in Aiken the distance is a quarter of a mile. Sometimes that will include two or three signals upstream or downstream from the site and sometimes more or less. Developments that have larger predicted volume of traffic go out one-half mile from the project. There is also a provision in the ordinance that gives flexibility to the city staff and the Director of Planning and in individual cases if a study scope needs to be expanded it can happen. There have been some cases where that has occurred.

Councilman Dewar stated he ran on a controlled managed growth platform. After he was elected the recession came and there went the growth, so there were no issues. He said he has voted against projects such as the Walgreens because of traffic issues. He voted against construction on Silver Bluff and that is a bad area for traffic. He said he expressed concerns about the Cracker Barrel to be constructed, though he voted for it. He felt when the restaurant is built we will have level E and F areas. He asked with Mr. Dyar's experience had he ever gotten to the point where traffic says the project is not a good thing to do, or do you continue to press on and consider the traffic study almost a formality without a lot of respect?

Mr. Dyar assured Councilman Dewar that the studies get scrutinized very carefully by him and staff. He said there have been occasions in other places where they had to say the project just would not work unless other things were done to make the traffic work. He said in cases revisions have been made to a plan in order to get the trip generation down to a level that could be accommodated. He said that is a provision within the current ordinance. He pointed out the Level of Service Report he had just reviewed is a tool, a planning tool, and it is a traffic operations tool. It is for whatever use the city wants to make of it. It is a tool to help with planning transportation needs, implementing improvements and in controlling access. He said he could not stress enough how important management of traffic access is. He said if access management had been in place 20 years ago you can image how different things would be.

Councilman Dewar stated we have an Access Management Ordinance, but he had never seen a package where the Planning Director had not asked for it to be waived. He said it had never really been put into effect. He said his concern was how we use this to help mitigate the traffic. He said everyone agrees there is a lot of traffic on Whiskey Road, but we continue to build on Whiskey Road.

Mr. Dyar stated all the impact studies have to have recommendations from the firm that did the preparation of the report of how they would mitigate the impacts. Sometimes that includes turning lanes, traffic signals, and changing phasing of traffic signals. He said the ordinance and Level of Service study are tools to be used by the city staff in reviewing new developments.

Councilman Dewar stated he would state again he felt the city needs a full time Traffic Engineer on staff because the consultant can only work on projects that we ask them to work on. If someone were on the staff, there could be some independent actions. He said he was not sure yet that the downtown portion of the traffic signals has been resolved. He said he had had complaints about the downtown signals. He said perhaps at some time we could bring that matter of a full time Traffic Engineer on staff to a vote of Council. He stated the LOS study was a very comprehensive study and well done.

Mr. Pearce stated the city spent about \$49,000 for the consultant work last year. He said we have to look at the market place and the benefits. At this point it has not seemed cost effective to have a full time position. He said he was not recommending adding any full time positions in the budget this year.

Councilwoman Clyburn asked for explanation of two areas that have about the same amount of traffic, but have different LOS levels. She pointed out Hitchcock Parkway from Houndslake to Huntsman has 19,400 AADT with an E level. York Street from Aldrich to Rutland has 20,200 AADT with a C LOS.

Mr. Dyar pointed out that York Street has four lanes and the section of Hitchcock Parkway referred to only has two lanes. In figuring the capacity they take into account the number of lanes in each direction, turn lanes, the number of signals, etc. He said in this case the two streets have about the same volume of traffic, but one road has more lanes, so there is more capacity on the four lane road. He said the AADT is the average annual daily traffic, the number of vehicles that travel the street.

Councilwoman Price stated we have a lot of new people from many areas of the country. Some of the people from large cities feel that we don't have a traffic problem. Others feel we do have a traffic problem. She asked how acute is the problem given the size of Aiken. She wondered if some of the problem areas could be remedied with turning lanes and traffic signals versus a full time Traffic Engineer on staff. She said she felt we are not ready for a full time traffic engineer at this time.

Mr. Dyar stated on the LOS it matters what you are used to and what you want. It also matters what resources you have to provide that level. He said if you want A, B, or C level of service everywhere, that can happen, but with a significant cost. It does matter a lot of a person's expectations. He said the first priority is always safety. He said if there are areas where collisions are happening, you have to do something about it. The second priority is ease of travel, congestion, delay, etc. The third priority is connectivity. The

fourth priority is what you are doing to your neighborhood. He said this has to be balanced. He said it gets back to what you want and what you can afford to do. There are some areas where turn lanes would be very beneficial. He pointed out the turn lane at Silver Bluff and Dougherty Road had helped traffic tremendously. He stated again the Access Control, the Impact Studies and the Traffic Management Ordinance are tools to be used in trying to keep the number of access points as few as possible, spread out, aligned with others across the street, consolidated, and closed in some cases. He said a lot can be done with Access Management and Access Control. There are things that can be done short of adding another lane in each direction. Eventually for some streets and roads you will get to the point where they can't handle any more traffic.

Councilwoman Price stated she felt having two Walmarts in Aiken had reduced the amount of traffic on Whiskey Road and the bypass with people having access to Walmart on the northwest side of town. She said she also wanted to mention balancing economic growth. She pointed out the south side of town is very attractive for businesses, and many businesses want to be on the south side because they want to be where the high traffic flow is. She said it is incumbent on us to look at other areas, and if we are serious about traffic flow we have to look at offering incentives for businesses to go to the east, north or west of Aiken in order to create a greater balance in the growth of Aiken.

Mr. Dyar stated there were some segments of Whiskey Road where the traffic volumes went down after the new Walmart was opened on the west side of town. He said there may be some areas where development could be encouraged, and the impact in that area would not be as great as it would be if the development occurred somewhere else. He said that is back to Planning, using the Traffic Management Ordinance to your benefit, and using the information you have to do the best job possible with planning and with the funds available to make improvements.

Mr. Dyar stated every other year he does the Level of Service Study, and there is more work in that year doing the data collection and the analysis. He said in looking back over the past 7 or 8 years, he had spent about 20% to 25% of his time doing work for the City of Aiken. He said he had plenty of time available, and he would be more than glad to come back and do other things and spend more time in Aiken.

Councilwoman Price stated Mr. Dyar was highly respected in his field, and Council appreciates what he has done in terms of informing Council.

Mayor Cavanaugh stated when he looks at the numbers and the C, D, E and F in the LOS Report there is some concern. He felt there are certain times of the day when congestion occurs. He said if there was a way to spread the congestion over the 24 hour period perhaps there would not be an E or F. However, that can't be done. He stated he lives close to the Walgreen's on Richland Avenue, and he had never had a problem in this area or in the Walmart area. He said he had just received a letter from SCDOT. He said there are plans to widen University Parkway to three lanes and to widen Richland Avenue to have three lanes to turn into University Parkway. He said the letter from SCDOT states the widening in this area is not warranted. He said the city is up against some things like that. He said he had not had a problem on Hitchcock Parkway unless he gets behind a school bus or 18 wheeler. He said he sees the numbers in the report, but he does not run into this traffic when he is driving. He pointed out the right turn lane on Dougherty Road had made a great improvement on Silver Bluff Road. He stated at certain times traffic may be heavy in some areas. He felt Whiskey Road at the new Cracker Barrel would be congested at certain times. He pointed out people sometimes can schedule their time to avoid the heavy traffic times. He said he appreciates the work that Mr. Dyar has done for the City of Aiken.

Mr. Pearce stated the city has Mr. Dyar taking a look at the University Parkway area. In his report the area of University Parkway at Richland showed 14,000 AADT and a LOS of F. However, in looking at the SCDOT letter they say their studies show the area as C or better. He said Mr. Dyar can look at the SCDOT data and see what the difference is.

Mr. Dyar stated he was going to be working with SCDOT on the questions about University Parkway traffic and the proposed improvements. He said he would also be working with Aiken on some traffic signal issues.

Councilman Dewar pointed out the LOS report indicates that Dougherty Road between Silver Bluff and Whiskey is an E level. He felt that roadway will continue to get worse with increased traffic. He was concerned that left turns on to Fabian to the Walmart area will stop traffic on Dougherty Road. He felt this was a major area for work to lower the level of service on Dougherty.

Councilman Ebner stated he felt we need more definition for the intersection of University Parkway and Richland Avenue. He pointed out this is a problem intersection, with left turns onto Richland Avenue. He felt something needs to be done at this intersection.

Councilman Wells stated he felt the level of service on the roadways will consistently be a work in progress. He stated city staff and Council over the past 8 to 10 years have made some great strides with interconnectivity between shopping centers, closing curb cuts on Whiskey Road, the Pawnee/Neilson connector, and the roadway behind Walmart going to Dougherty Road. He said one property is keeping us from making a connection from Dougherty Road to the back of Publix Shopping Center. He pointed out we are also working on the Powderhouse connector road across from East Gate. He pointed out we want to be sure we have right of way before that property develops. He said there is also a proposed connector road from East Gate Drive extension to Centennial Parkway, which should help ease traffic on Whiskey Road. He said great strides have been made to try to help the traffic issues and reduce the level of service on Whiskey Road. He said we are also working on widening Silver Bluff Road to try to improve traffic flow. He said the city had made great strides, and he felt we would continue to see City Council and staff working through these problems. He said he did not foresee any time in the future where we would have a level of service of C or less on every roadway in the City of Aiken. He said this is something we will have to continue to work on. He said when it to the point that the city is paying Mr. Dyar as much as it would cost for us to have a full time Traffic Engineer he would like to see someone with their time devoted to the City of Aiken and looking constantly at these projects and issues.

Mayor Cavanaugh thanked Mr. Dyar for being present and making the presentation to inform Council on traffic matters.

Councilwoman Price moved, seconded by Councilman Wells, that Council accept the traffic Level of Service (LOS) report as prepared by Roger Dyar as information. The motion was unanimously approved.

#### BOARDS AND COMMISSIONS

##### Appointments

Tina McCarthy

Accommodations Tax Committee

Alton Johnson

Community Development Committee

Mark Tatusko

Recreation Commission

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

Mr. Pearce stated Council has seven pending appointments to boards and commissions of the city, and three appointments are presented for Council's consideration.

Councilman Ebner has recommended that Tina McCarthy be reappointed to the Accommodations Tax Committee. If reappointed Ms. McCarthy's term would expire March 25, 2013.

Councilman Homoki has recommended that Alton Johnson be reappointed to the Community Development Committee, with the new term to expire September 2, 2012. He has also recommended that Mark Tatusko be reappointed to the Recreation Commission. If reappointed Mr. Tatusko's term would expire September 1, 2012.

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

Councilman Dewar moved, seconded by Mayor Cavanaugh, that Council approve the reappointment of Tina McCarthy to the Accommodations Tax Committee, with the term to expire March 25, 2013, the reappointment of Alton Johnson to the Community Development Committee with the term to expire September 2, 2012, and reappointment of Mark Tatusko to the Recreation Commission, with the term to expire September 1, 2012. The motion was unanimously approved.

Mayor Cavanaugh stated he would like to recommend that Royal Robbins be appointed to the General Aviation Commission to fill the unexpired term of Bear Woodrum, who has resigned.

### BUSINESS LICENSE

Revised Renewal Form

Income Tax Return

Verification

Due Date

Weekends

Holidays

Mayor Cavanaugh stated Council needs to consider the revised City Business License renewal form.

Mr. Pearce stated, after our March 21, 2011, work session regarding our gross business receipts verification process, staff has revised the business license renewal form as recommended by City Council. As Council directed, our Business License Official will no longer require gross receipts verification as part of the renewal process, but the city will be on the honor system. The form will have a place for the gross receipts figure and a certification.

In addition, Council should note that we have alerted business owners inside the city in the renewal form that any business license fee paid in another jurisdiction will be treated as a deduction from the business license fees owed to the City of Aiken. This is on the front of the renewal form as well as on the back of the form.

To address one other concern from last Monday's meeting, since July 31 falls on a Sunday this year, business license payments will be accepted through 5:00 p.m. Monday, August 1, 2011. As a policy, we will allow the license fee to be paid on August 1, 2011. That is explained on the back of the renewal form.

This revised form represents staff's modified approach to renewing city business licenses. It also represents a shift back to businesses stating their gross receipts on an honor-system basis.

For Council consideration is review of the revised business license renewal form that removes the requirement for income tax form verification of gross receipts. He said staff will not require anyone renewing their business license to provide income verification. As discussed at the last meeting, under the ordinance the city would keep in effect the right when identifying irregularities or anomalies in filing business license tax, the authority to review and audit as necessary.

Councilwoman Clyburn pointed out that this year the businesses will have until August 1, 2011, to pay the license fee without penalty, since July 31 is on a Sunday. She asked if the policy could be revisited and made general so it becomes due on the next business day versus giving a specific date. In other words, if something is due July 2 and this is on

the weekend and July 4 is a Monday it could be worded so the payment is due the next available business day.

Mr. Pearce stated that could be done. He said the current ordinance talks about the deadline being July 31. If Council feels it is appropriate, Council could amend the ordinance in the event the 31<sup>st</sup> fell on a Saturday, Sunday or a legal holiday that the payment would be due the next business day. As a practical matter, the ordinance does not need to be amended, as staff will allow a grace period to August 1. He said he wanted to be clear about the renewal deadline since it was mentioned at the last meeting. That statement is on the back of the renewal notice.

Councilman Dewar stated that is being said at this time, but there were testimonies at the last meeting that that was not always the case. He wondered if that policy could apply to all monies due to the city regardless of the purpose so that if the due date falls on a non-business day or a holiday that it can automatically be due the next business day. He said he did not feel it was fair if payment is due on a Saturday or a Sunday and someone has to pay a penalty on Monday, the next business day.

Mr. Gary Smith, City Attorney, stated an ordinance could be prepared to that effect. He said he would want to check with the Finance Department to be sure there are not some items that would have a specific due date that could not be changed.

Councilman Dewar stated he had initially expressed concern with the contractor decals because he had never heard of them until these issues came up. He said he understood they are only required for subcontractors.

Mr. Pearce stated that about eleven years ago, the business licenses inspectors had to go out and check on all the contractors on the job. They worked in collaboration with Jerry Tindall to come up with a way to easily identify who was on the job and to make sure that all the businesses working on the job site had a business license. A general contractor would get a decal. Typically a general contractor would get the decal for the general contractor vehicles for the people who worked for the general contractor. However, if the contractor gets a sub-contractor to do work, that contractor would have to have a decal because that is a separate business. The cost for the decal is \$5. The decal is for convenience so the inspectors can ride by and see if the contractor has a license. When there are no decals on the trucks the inspectors stop and make inquiry. A general contractor is not required to, but they could buy decals for all the people who work for them to prevent any inconvenience or having to answer questions about who is the employer. Each business must have a decal.

Councilwoman Price asked Mr. Pearce to address the issue regarding completing forms electronically and accepting payments online.

Mr. Pearce stated the matter of being able to pay a business license fee online is an issue of cost. He stated there are some issues to work through on this matter. Some of the business license fees are large, and the cost for paying on line is based on the amount of the payment. Therefore, some of the transaction fees would be significant. He said we have to work through a fair and equitable way to allow payment on line.

Mr. John Wade asked for some clarification in the notices sent out and wanted to know if there was a difference in the wording for the in-city and out-of-city notices.

Mr. Pearce stated there is a difference because an in-city business may have deductions for gross receipts on which they pay a license to another city. An out-of-city would only pay a business license fee on the gross receipts earned inside the City of Aiken. Mr. Pearce pointed out the information is on the front and back of each of the applications.

Councilman Dewar asked for clarification on the audit wording. He said he would assume that the city has reason to go to a business to verify numbers because of a question. When we say audit he hoped we would liberally define that term. He said in some cases he felt it would be showing the monthly reports or the income tax form if the owner wanted to, as opposed to the typical definition of audit where an in depth review is



done. He said he assumed staff would have the flexibility to decide what they need to do to verify gross income.

Mr. Pearce stated if there is an irregularity or an anomaly would be the only reason to make contact. He said to the extent that we can get it resolved very simply that is in everyone's best interest.

Ms. Debbie Nix stated she is a small business owner. She and her husband Harry of 35 years own Southern Plumbing, Electrical, Heating & Air. She said she owns Butterbean Properties, which is a vacation rental company. She is also a realtor with Aiken Properties. She said she has no political aspirations. She is only compelled to do this for the people. She said we had spent over eight months talking about the need to change the gross receipts verification policy. She said the Mayor had voiced his concern that he had not heard from other business owners. She said a worksession was called to get input from the businesses. The City did not inform the businesses of the meeting. City Manager Pearce admitted that he only sent out 13 letters to inform the businesses. There was no mention of the worksession in the newsletter issued in the monthly water bill. There was no ad in the newspaper that she was aware of. She said she took her money and notified 1,400 businesses. How would they have heard if she had not done that? To us that is an indicator of the attitude of the City Manager towards small businesses in Aiken. The cost of the 1,400 letters being mailed was almost \$1,000. She said she was requesting that she be reimbursed for this money plus the \$90 that she was charged. She said the City of Aiken charged her \$90 for a listing of addresses so she could mail notices to small businesses. She said she did request a breakdown on the charges but had not received one yet. She said she also made hundreds of calls as well as emails which cost money as well. She said she trusted the Mayor to keep his word on the intent of the meeting. The Thursday before the meeting the agenda was sent out. It was plain that someone's intention was to intimidate the small businesses by bringing in staff and attorneys of the Municipal Association and by placing the businesses at the very end of the agenda. We were of the understanding that the entire time and the purpose of the meeting was to hear from small businesses. She felt they should have been at the beginning of the meeting. We appealed to you to allow the businesses to speak first. Your concern was whether the Municipal Association and Mr. Crowe had time to wait. Where was the concern for the small businesses ability to wait? We asked for a motion for a vote to allow the small businesses to speak and not one of Council made a motion. After the small businesses showed their disapproval the Mayor capitulated and allowed the small businesses to speak. It took from 6:30 p.m. until 11 p.m. before this discussion ended. It was very clear and evident that this was not won on merit nor the amount of businesses that called, emailed or showed up for the meeting. It was not even won on Council realizing how egregious the treatment doled out by the City Manager and his staff towards the small business was. The change only came when our attorney stood and informed you that you were perilously close to a class action law suit. I see no change in your attitude toward small business, just fear of litigation, which is a very real fear. So here we are again. You want to give us a policy change. Why has Mr. Pearce repeatedly throughout the discussions said this would take an ordinance change. Yet, when it was clear that words were changed to benefit the small businesses it suddenly became possible to do this with just a policy change. I believe if the City Finance Department had not been stopped there would have been an ordinance change to solidify this egregious treatment of small businesses. A policy change can occur at a whim. It is an in-house deal. In essence it can be changed without input from the people. In fact, next year or next month, if you decide to revert to the present policy that you were advocating, it would put the small businesses right back where we are now. We want an ordinance change so if you decide to make a change to revert we will have input. Again, treating it as a policy makes it subject to change for any reason at any time. She said the Mayor constantly complimented the staff even to the point he said that he did not want them to take the blame for this taking so long. Yet, what do you plan to do about their willingness to win this battle at all costs, even to the point of leaving the City Council and the City of Aiken open to a legitimate and serious class action law suit. Mr. Crowe's statement to City Council and the small business community present mentioned that one of his favorite quotes was from Ronald Reagan but he felt certain that none of the businesses loved and appreciated it. That quote was "Trust but verify." Ronald Reagan did make that statement, but at the time he was standing next to Communist Mikhail

Gorbachev. This has been what we have experienced with the adversarial relationship between the City Manager, Finance Department, and the small business community. She asked the Mayor and members of City Council to please tear down the wall and give us a statute, an ordinance, that prevents the usurpation of power by a small handful of bureaucrats who have been entrusted by City Council, who in turn have been entrusted by the taxpayers of the City of Aiken, so they cannot betray us and which cannot be jerked out from under us in the dark of night. The Aiken small business roundtable and all the businesses in Aiken deserve a public apology posted in the Aiken Standard from City Council, City Manager, and staff as well as a statement of intent that you are here to serve all the people of Aiken and continue striving to make Aiken, South Carolina a truly small business friendly city.

Mr. Pearce stated he wanted to make some comments to clear up some misunderstandings. Last Monday night's work session was advertised in the Aiken Standard. It was posted on the city website, facebook and twitter, which is available to the public to sign up if they want notices of the different meetings and events of the city. He said there was no attempt not to give notice. He said he does need for his file those people who would like notices of the various meetings. He said he did send out an email to the persons who signed up at the Business Forum that wanted to be notified when business issues were to come before Council. He said there was a signup sheet at the March 21 meeting, and he received two additional email addresses. He said the packet of information was sent to those as well. He said the notice of the special meeting was the notice given to any Council meeting. He said the notice was in the legal notices section.

Ms Nix stated they would never have thought to look in the legal ads section or the website. She said the best way to get in touch with the small businesses would be by mail or by phone.

Mr. Pearce pointed out that when the meeting was held last November with Councilmembers Wells and Ebner that they encouraged Ms. Nix to provide the information, and we would be happy to send out notices on anything we felt affected small businesses. He pointed out the meetings are public. The information is on the website. He said that is what is done in the normal course for any City Council meeting.

Mr. Pearce stated that 2,000 letters were sent out for the Small Business Forum and approximately 35 people came to the meeting. He said that is why, at the event with those people being the most interest in small business issues, there was the opportunity for people to share their email address so we could contact them. He pointed out a survey was placed online and emails were sent out. There was extensive coverage in the newspaper and there were no additional people to sign up. He said we don't mind providing notice. He said the forum coverage was in the newspaper and the events calendar. He said they met with Ms. Nix in November, and he heard nothing from her until Horizons on January 29, 2011. He said Ms. Nix felt compelled to present her side of the story. He said his side of the story is that there is no intent to betray anyone. He said we want to treat people fairly, and we want people to know about Council meetings and provide them the opportunity to speak. He said he worked with the list he had.

Ms. Nix stated she worked with the list for which the city charged \$90. Out of that list there is a stack which she intends to give to the city of addresses that no longer exist and about 50 emails that are no longer good. She felt it was unfair to think that anyone would think to look in the legal section of the classified ads or to go to the website every day. The best way to notify the small businesses would have been to send out a letter.

Councilman Dewar pointed out he had sent out a special email on the meeting from his list, which is over 300 people. He said he highlighted the fact that if you are a business owner it was important to come to the meeting. He said he thought Councilman Ebner sent out an email to his list also. He said he felt there was a good faith effort to get the word out. He said he would like for Council to seriously consider reimbursing Ms. Nix for the business license data that she paid \$90 for. He felt her purpose was noble. He said they know what her reason was. It was not for personal gain. It was to make sure she got as many businesses as possible notified of the meeting. He said he would appreciate Council's support to reimburse Ms. Nix for the \$90. He said we would hope

that under similar circumstances for other people the city would do the same thing and consider reimbursing them if they are acting in the public interest and not for any personal gain.

Mr. Pearce stated he would like for Ms. Abney to explain why the amount was charged. He pointed out we get many requests for Freedom of Information. There is no intent to make it burdensome. We are just trying to recoup the cost of compiling the information and putting it in the form that Ms. Nix asked, which was an excel spreadsheet, which is not the normal format for the data. He said there is no profit for providing the information. We get a lot of requests, and we have to be sure we are covering the cost of the data retrieval.

Mr. Gary Smith, City Attorney, stated state law allows the city to provide the information if you find the request is in the public interest. The concern is how many of the requests would you get, knowing that Council has developed a new policy about reimbursing special requests which may or may not be in everybody's public interest.

Councilman Dewar stated this is the first time since he had been on Council that such a request has been received. He said he would not want to make it a regular thing, but this was clearly in the public interest in this case.

Mr. Pearce pointed out the City had never reimbursed anyone who had made a Freedom of Information request.

Ms. Nix stated the business owners were furious that she was charged for the addresses and that she had to pay it from her pocket to inform them. She felt that was wrong, and she did not know how any of them could think that was right. She said if Council chooses for her to pull \$1,000 out of her savings account and pay the bill that is what she will have to do. She, however, felt it was the city's responsibility to notify the businesses if the intent was for people to come. She pointed out the city only had the notice in the classified ads, on the website and 13 emails.

In response to Councilwoman Price's question as to the amount being requested to be reimbursed, Councilman Dewar stated his intent was for the \$90 she paid the city.

Ms. Nix stated her cost was \$1,038. The bill for printing was \$948.82 plus \$90 for the information from the city. The printer printed, folded and mailed the sheet of paper to the businesses. She passed out a copy of the information to Council. Ms. Nix asked if the City had a formal written policy for providing Freedom of Information that City Council has approved. She said she was told by her consultant that City Council actually needed to verify how the charges would be calculated. She wanted to know if the city had such a policy. She said all she was told was the cost which was not broken down for the charges.

Mr. Pearce stated the city charges for staff time and that is what was calculated in the charge. He pointed out that under state statute the city can charge reasonable charges for producing a requested document in the form requested.

Ms. Kim Abney, Finance Director, stated the \$90 was calculated for staff time. She said they try to provide exactly what the person is asking for in the request. She said if the location of a business is requested, the street address is provided. If mailing address is requested that is provided. She said the city can only provide the information which is in the AS400 computer system. She pointed out when mailings are sent out many times we get some of them back, and staff has to review these to determine if the business has closed, moved, etc. She pointed out when a request is received for information, a query has to be written to gather the information. Only certain people can do a query. If the request is for information they have not queried before, it could take from 30 minutes to 2 hours to gather the information, depending on the information requested. She then explained some of the problems involved in providing the information requested by Ms. Nix. Initially Ms. Nix's request was for location of businesses, and then a follow-up request was received for the mailing address. The charge was not for the additional mailing address, but only the initial request for location of businesses. She said for long

reports the city charges \$.25 per page for the report, in addition to staff time. This request was for the information to be provided electronically. The City has entities that ask for regular reports of new businesses that sign up in a month, and they are charged \$25 each time for the report.

In response to a question by Councilman Dewar regarding requesting a list of businesses, Ms. Abney stated one needs to be specific as to what they want in the list. She said if they are not specific she does not know what to provide. She said if one asks for names that is what she provides. If one asks for names and location, that is what she will provide. Councilman Dewar stated if he asked for a list of businesses he would expect to have a list of businesses, the name and the address, phone number, etc.

Ms. Nix asked what she was being charged by the hour for staff time. She said as a consumer she deserved to know the amount per hour and how many hours were charged. She said this is a great display of the difference between a small business. She said she has thousands of customers on her data base, but in a second she can put that information in excel or a word document and do anything with QuickBooks. She said it was not time consuming for her, and she could not imagine it taking so long, except the city has such a convoluted computer system. Mr. Pearce responded that the charge was for time spent in preparing the inquiry for the information.

Councilman Dewar stated the law specifically at every level of government allows the originating agency to compute the cost of getting the data together and giving it to you. It might cost \$90 in one place, \$70 in another, and \$100 in another. The wages, time and equipment are different in each location. He said he has to accept what Ms. Abney says is the cost. He said he would not use Quicken for a \$40 million operation.

Ms. Abney stated someone has to create a query to gather the information. It could take 30 minutes or several hours. Sometimes with Freedom of Information they have to actually do the work before they can tell someone how long it will take and the cost. Sometimes the actual cost could be a lot more than they estimated it would cost, but they have to charge what they told the people it will cost. She pointed out the query has to be reviewed to be sure they are giving accurate information. She continued to review the process of staff and gathering information for requests. She pointed out the cost for Ms. Nix's information was based on the time to develop, review and create the spread sheet. The cost was staff time and included some time from Lex Kirkland, Al Cothran and her time.

In response to a question from Councilwoman Price regarding the cost incurred by Ms. Nix, Mr. Gary Smith stated the city as a public body is obligated to provide a document that you have in your possession to any member of the public who requests it. You are allowed to charge appropriately in accordance with the statute for the production of the document. If there is a document listing the business owners and addresses the city is obligated to present that and charge for the preparation of the document. There are differences in how the document is presented and prepared as to whether or not you actually have it on hand.

Councilwoman Price stated she understood Ms. Nix to say that she helped to advertise the worksession. In her effort to advertise she incurred these charges. She wondered whether this dealt with the city asking Ms. Nix to help advertise or whether she could do it on her own if she felt the word was not getting out and then ask that the city reimburse her. She wondered how this might apply to other people who may feel that proper advertising is not being done. She wondered what effect this might have in the future.

Mr. Smith pointed out one thing the City Manager was wrestling with was that the city sent out 2,000 notices last summer and 30 people showed up. One of the things Council has to evaluate is whether it is cost effective to send out that many personal notices on an item that a small amount of people are involved in, and whether it is in the public interest. He said that question is a policy decision for City Council. He said his recollection is that the city was asked at a work session not to send out a notice, but that Ms. Nix wanted to send the notice out. She did not want to rely on the city to send out notices.

Mr. Pearce stated as far as trying to contain costs, when we have had some broad sweeping Freedom of Information requests the documents have been made available for inspection and the city did not charge \$.25 per page for hundreds of pages. The documents are public and made available. In this particular instance the request was a specific format for the document to aid her purpose, which incurred additional staff time.

Ms. DeeDee Vaughters stated in the interest of transparency, perhaps the city wants to establish whatever the hourly rate is.

Mr. Pearce stated that is typically what is done based on the staff that would be involved in responding to the request. The person knows the cost upfront before the document is produced.

Councilman Wells pointed out the cost varies according to who is involved in gathering the information. If computer program people are involved that cost will be charged at a different rate from a clerk gathering information. He said the cost will vary according to the person's position in the city and their hourly rate, so it would be difficult to set a certain rate.

Ms. DeeDee Vaughters stated she felt they made great strides at the last meeting. It took a long time to get there, but she felt some pretty good strides were made. She stated, however, she would like to ask that Council look at putting the change in the form of an ordinance, rather than just changing a policy. She wanted the change to have a first and second reading to make the change so there is plenty of public notification before a change is made. She said everything City Manager Pearce had suggested she would like to see in an ordinance, so it can't just be a policy change at a whim. She stated this Council had agreed to the change, but Councilmembers can change. She asked where is the protection for the businesses without an ordinance. She pointed out an ordinance can be amended, but it has to have a first and second reading and public notice, which is different from a policy change which can happen internally without Council's knowledge. She said she liked most of the proposal, but she would like to see it as an ordinance change.

Mr. Smith stated there was no problem, but the consensus last week was that Council wanted to get the change done quickly and an ordinance takes two readings which will be about four weeks. He pointed out an ordinance can be amended any time in the future.

Councilman Dewar pointed out we are getting close to time for staff to send out the notices for business licenses. He asked if the change could be done by resolution at this meeting and then come back at the next meeting with an ordinance for the change.

Mr. Smith stated in his opinion the ordinance is flexible enough to allow the presentation of an income tax return or not. In his opinion Council did not have to modify the ordinance. He said if there is a consensus of Council that they want the policy changed to not require the verification by income tax return, they could let Mr. Pearce know that at this meeting and that is what the policy will be. Then an ordinance can be prepared to amend the business license ordinance for that change.

Councilman Dewar stated the ordinance right now does not require tax forms to be presented by anyone. The ordinance says it can be required. Some years ago (2002) it became the policy that staff wanted to see the tax form from those inside the city to verify the gross receipts. He said it was not specifically required in the ordinance, but it can be done. It is modeled after the model business license ordinance.

Ms. Vaughters asked if the ordinance could be modified to state that the city may not require the tax form to verify the gross receipts. She said she wanted some protection that any change would have to be made public and hold a public hearing with a vote by Council to change the policy. She said she wanted the ordinance for first and second reading and the highest level of protection for the businesses represented.

Councilman Wells pointed out even when City Council changes a policy it has to be placed on the agenda for action by Council and advertised. He said for an ordinance

change there are two readings, but a policy change has to be in a public meeting and voted on by Council. This only takes one meeting.

Mayor Cavanaugh asked if Ms. Vaughters did not want a vote on the policy change at this meeting, but wanted Council to work on changing the ordinance. He said he would like for Council to vote on the policy change and then work on changing the ordinance.

Councilwoman Price stated she felt Council wants to do what is right. She also stated Council is trying to protect the citizens of the community. She said her motion was that Council approve the policy change and not require a federal or state tax form to verify gross receipts, but accept the figure for gross receipts on the honor system and prepare an ordinance for first reading to amend the present ordinance so an income tax form is not used for verification of gross receipts. She said she wanted to stop giving doubt by the citizens that there is something to be hidden by the City of Aiken. She said we are trusting the businesses to give the city the correct information for their gross receipts. She said if agreed upon Council will approve the change in policy so the businesses will have that protection, and then Council will have first reading of an ordinance to change the ordinance at the next meeting of Council. The motion was seconded by Councilman Wells.

Ms. Vaughters stated she also wants to move on, but she is always fearful of what this body approves. It may not always be this particular body. She said things change. She plans to have her business for 30 years and she did not think all the present Council will be on Council that long. She said she wants protection moving forward. She said we all change and we will all move on. She said whatever businesses come after them and whatever City Council votes on in the future, we need protection that there are some levels that have to be overcome to make any changes. She would appreciate approval of the change in policy at this meeting, but wants to move forward with an ordinance that will require first and second reading to make any changes. She felt that may work towards rebuilding some of the lost trust that we have for each other.

Councilman Ebner asked that the motion be restated. He stated Council had talked about several things for the last 20 minutes.

Mr. Smith stated he understood Councilwoman Price's motion to be to approve the forms as presented by the City Manager, with direction to the City Attorney to prepare an ordinance for the next Council meeting to delete the requirement that income tax returns be produced when applying for a business license to verify gross receipts.

Councilman Dewar asked if Councilwoman Price would accept an amendment to the motion to reimburse Ms. Nix for \$90 for the Freedom of Information material.

Mr. Smith stated he felt that matter should be a separate item.

Mayor Cavanaugh called for a vote on the motion made by Councilwoman Price that Council approve the policy change and the forms presented by the City Manager and not require a federal or state tax form to verify gross receipts, but accept the figure for gross receipts on the honor system and prepare an ordinance for first reading to amend the present ordinance so an income tax form is not used for verification of gross receipts. The motion was seconded by Councilman Wells. The motion was unanimously approved.

Councilman Dewar moved that Council reimburse Ms. Nix for the \$90 she paid for Freedom of Information material.

Mayor Cavanaugh stated he has a concern about that. He said the policy had been in effect for many years. He said we had talked a lot about fairness, and Council needs to be fair. For many years the city has been charging people for the work city staff has to do to provide information. Now we are saying not to charge Ms. Nix for this information. He asked what is fair.

Councilman Dewar stated there is a difference in someone getting a report every month and using it for business purposes and Ms. Nix getting information for the public

purpose. He felt it was appropriate to charge for getting information every month. He said in this particular case Ms. Nix was acting in the public interest to get the word out. There was criticism from Council that there were not enough business people in the audience to support her requests. Ms. Nix heard that and made a concerted effort to get more businesses present, and she was successful. At the last meeting there were more business people present to support Ms. Nix's concerns. She was successful because she had the report, or listing from the city. He said he did not feel that she acted for personal gain, but acted in the public interest, and that was the reason he made the motion to reimburse Ms. Nix for \$90. He felt it was appropriate to reimburse her.

Councilman Wells stated his concern was that there may be an issue affecting another segment of the citizens. He said the city advertised as required and tried to notify people of the meeting by placing the information on the web and by emails. He said some other citizens may feel that they need to print a flyer and mail it to a list of our citizens because we didn't do it properly. He felt we would be opening a Pandora's box by reimbursing Ms. Nix. This has not been done in the past, and he felt we don't need to start this now.

Mayor Cavanaugh stated in listening to Mr. Pearce it sounded as though we did try to notify as many people as possible and went overboard with all the things he did compared to the norm. Mr. Pearce did go to a lot of effort with the email and an advertisement in the newspaper. He said he was dealing with fairness and what we will tell other people when they ask for information through the Freedom of Information.

Councilman Dewar asked if anyone could recall the last time someone requested to be reimbursed for Freedom of Information requests. Councilman Wells responded he felt to reimburse Ms. Nix would be opening the gate. Councilman Dewar asked "can't we be reasonable and rational?" He said he did not think Council had been reasonable. He said Council had been given a specific situation. It is not a personal gain thing. It will not help her do her business better. It was simply in the public interest. He said Council took 12 months to respond to the businesses and a number of meetings. He felt it was fair to reimburse Ms. Nix.

Ms. Nix asked how many Councilmembers had made phone calls or sent letters out. She said it was to the point that it was ridiculous. She said this was a meeting that Council called. She said she had inquired as to how the city would be contacting the small businesses. Mr. Pearce's response was that it would be on the website and in the paper.

Mr. Pearce stated that was not correct. He said we would notify this meeting of Council as we do all meetings of Council.

Ms. Nix asked did he really think that the small businesses were going to find the ad in the classified ad section. She felt that was not reasonable. She said did you think they had nothing else to do so they would look at the City of Aiken website. There had to be someone that said this night, this place, be there, and this is why. This is ridiculous, and this is part of the problem you have with small businesses. You are talking about fairness. Last week you asked the people who were coming to intimidate us if they had time to wait for the small businesses to speak first, when the small businesses were the ones who left their businesses and came to speak because that is why they thought they were coming. She said what is \$90 bucks, but an indicator of what you feel for small businesses. She said small businesses are already upset that this has occurred. You did not show good faith Richard in what you did. Even though that is what you have done in the past, it was not enough. The businesses would not have been present if she had depended on the city, and she understood that. So she took it upon herself and paid for the list. Not only did she pay for the list, but she spent two weeks out of her business so the small businesses could come. The Mayor wanted to hear them, so the Mayor was going to hear them whatever it took so that is what she did. She said if Council thought the small businesses would have shown up last week because the ad was in the legal section of the classified ads and because you had the information on the website, that is wrong. They would not have known about the meeting. She did not care if that is the policy. If your true intent was to let the small businesses know and the concern was that they would be present, then there would have been a letter mailed.



Mr. Pearce stated he had discussed with Ms. Nix the notice that was to be provided. The regular notice was provided that would have been provided for a regular Council meeting and to the extent of emails available for small businesses who came to the forum and who responded to the online survey. He said to the extent that he had the knowledge of those people who were specifically interested in this issue over and above our normal advertisement, we contacted those people and gave them a copy of the agenda.

Ms. Nix asked if that was not discrimination that the other people did not deserve to get an email. She felt he discriminated.

Mr. Pearce stated he and Ms. Nix were not going to agree on the matter. He said we provided the notice of Council meetings that is always provided. The matter was discussed at Horizons. We originally were going to have the meeting on March 7, but Ms. Nix asked that the meeting be changed. He pointed out he met in November with Ms. Nix and had understood that she would provide a list of interested parties who were particularly interested in this issue. He said he took exception that we had made people wait a year. We had a meeting in the summer. We followed that up with an online survey. We presented a report to Council. We had a one on one meeting. Ms. Nix was going to organize, and we were more than anxious to get that information. We put in the Strategic Plan that the City of Aiken is going to work with small businesses. He said we have been taking action. He said Ms. Nix had mentioned that she had been out ill for some time, which was unfortunate, but he said staff is always happy to provide notice to people who express an interest. He said he had to take exception with the assertions that Ms. Nix is making, because over and above how we normally notify for Council meetings, specific small business entities that said they were interested in this issue were given notice with the information.

Ms. Nix stated in the past when a meeting was called letters were sent out to the businesses. No letter was sent out for this meeting. Regardless of what you say about this the businesses would not have known about the meeting, and the turnout would not have been the same. She said that is the truth. She said because letters were sent out people came.

Mr. Pearce pointed out he did not see it the way Ms. Nix does. The meeting held in the summer was a public forum. It was not a Council meeting. That meeting was publicized. There were two separate meetings in the Council Chambers about what the city could do. The consensus was to have a public forum focused on small business, just as was done for the Strategic Plan Update. That is the reason for following the format. We did send out 2,000 invitations and about 35 people came to the meeting and provided their email address. He said he understood from Ms. Nix tonight that she was not satisfied with the notice that was given. He said he used the list in the past, and it had been said that was a good thing to do. He said he would give notice. He said his office is open and the phone is answered. He said for anyone who had expressed interest in this issue we had made an effort to contact them.

Ms. Nix stated when Council is discussing something as important as a business license that is different from putting dots on a paper. She said she had polled and talked to the business people, and they said they were not coming to the meeting because they were not being recognized at the meeting. She said they got to stick dots on a chart. That is why they did not show up. A letter was sent out for that. She said the people who were present last week would not have been present due to a notification in the legal section of the newspaper and on the website. She said that would not work. For the public and everyone to understand, Mr. Pearce was not willing to send out letters. She said he could hide behind the Freedom of Information Act, but the attorney had said the city could reimburse the money. She said she was out untold amounts of money out of her own pocket. If a group like small businesses are treated this way by City Council what chance does an individual in the community have standing before Council alone? She said that is why she does what she does and why she puts the money and work into the effort. You have got to recognize that we are the people that voted you in and we are the people that you should be listening to and helping. What you are doing right now is so indicative of how they are treated as businesses every day by you and your administration. I hear it on



the phone. I see it in the emails. I see it in letters from people who are business owners. This creates a lot of friction between you and small businesses.

Mr. Pearce stated he appreciated Ms Nix sharing that. He said he had heard nothing from Ms. Nix. He pointed out Councilmen Ebner and Wells, and Ms. Vaughters, Ms. Lipscomb, Ms. Nix and he had met and talked about ways to establish contact with the small business community. He said he had to take exception to what Ms. Nix is saying into the record tonight. He said the attitude in the November meeting is the attitude he has today. He said he remains very open to the business community. He said he and his wife shop locally in Aiken. He said he had used Southern Plumbing & Electrical to do electrical work at his mother's house in North Augusta. He said he stays very open to the business community. The business community in Aiken does a great deal towards the success of Aiken. He said he could not sit at this meeting and have Ms. Nix paint him into the corner of being someone who is promoting friction or some kind of distance between himself and small business. He said he spends a lot of time talking with a lot of business owners and goes to several meetings a month that involve business owners from all across Aiken. He said he talks with them every week. He said in meeting with Ms. Nix last fall, he encouraged Ms. Nix to provide suggestions about how to establish that contact with the small business community. He said he still has that same open willingness to discuss attitude. He said he felt it was a disservice to come and lambast him personally, just as she lambasted the staff on March 28. He said he and staff are here to help, but we have to be given an opportunity to help. He said he hears that Ms. Nix does not see it that way, but, hearing the concerns that she has expressed, he would love to have the opportunity to sit down with people. He said he gets calls from people every week with different concerns. He said he tries to address the concerns and handle the problems. He said he had not had anyone in his office expressing the concerns that Ms. Nix had. He said if they come into the office he will work with them. If there is an opportunity to have a meeting and discuss this, he would welcome the opportunity to discuss it. He said he would be willing to set up a meeting to hear the issues just like what was done in the fall with Kati Lipscomb, DeeDee Vaughters and Debbie Nix.

Councilman Dewar stated to Ms. Nix that he felt they had gone about as far as they could on this issue. He felt there would be a disagreement. He said he had a motion to reimburse Ms. Nix. He said he would like to get on with the meeting. He felt they were going to have to agree to disagree. He said he supports Ms. Nix's request for \$90. He may be the only one, but it is time to move on. He said Ms. Nix is a good fighter.

Mayor Cavanaugh stated he wanted it to be understood that if this is approved, it is approved because this is a special situation in the public interest. He pointed out the other requests for Freedom of Information has not been like this request. He pointed out the request is for \$90. Mayor Cavanaugh stated he would support the request because he felt the request is different. He felt the reason could be explained.

Mayor Cavanaugh stated he would second the motion made by Councilman Dewar to reimburse Ms. Nix for \$90 for the Freedom of Information she had requested from the city. He called for a vote on the motion to reimburse Ms. Nix for \$90. The motion was approved by a vote of 6 in favor and 1 opposed. Councilman Wells opposed the motion.

Councilwoman Clyburn stated at the beginning of the discussion she asked the City Manager and the Mayor if an ordinance could be drafted regarding payment of all city fees on the next business day when the due date falls on the weekend or on a holiday. She stated the City Manager and City Attorney had agreed to draft such an ordinance. Mr. Pearce stated the ordinance would be on the agenda for the April 11 meeting of Council.

Mayor Cavanaugh stated during the course of the discussion there have been some references to him not caring about small businesses. He said it had been mentioned several times at different meetings. He said that is not true. He said a member of his family has had a small business for 11 years. He said he shops small businesses every week in some fashion. He said to say he does not care for small businesses is so "far out" that it is hard for him to explain why someone would say that. He said he wanted to clear the record and tell everybody that he does care for small businesses. He said Council

gets a lot of issues, and many of them are not easy. Many of them take a lot of time to think through. Just because a person may not say a whole lot does not mean they don't care. It doesn't mean they are not thinking. He said for the record, he likes small businesses, and he supports small businesses.

Councilwoman Price stated she has to say something about some issues that have lingered with her since the last meeting. She said we had personal attacks on our staff at our last meeting and personal comments about one of our elected officials' spouse. She said she would like to go on record for Council to consider having an exercise of decorum in the Council Chambers and that for any personal attacks made on someone in the audience a person will be given two warnings. Following those warnings they have to cease from making any comments. For any personal attacks made on someone's spouse the speaker will be given two warnings. She said while Council wants to do what the citizens request and wants to listen to them, they have to consider what is fair and what is right. She said it is just not right to attack and personally call staffs' names out and attack them. She said that is going below the belt. She said attack Council, but when you start attacking staff and spouses personally that is below the belt.

Mayor Cavanaugh asked that Council take the comments under advisement and work up something that possibly Council could agree on. He pointed out perhaps a comment regarding that could be said at the beginning of each meeting and also printed on the agenda.

Mr. Smith stated Council does have the right to require disruptive discussions to be conducted outside of the Council Chambers. He said what Councilwoman Price has described could be done. He said he was not sure Council needed to adopt a new policy, as it is already within the parliamentary procedures.

Mayor Cavanaugh stated for many years we have not had to worry about that kind of thing, but for some reasons, perhaps the economy, we will have to remind people to be respectful and treat others like they would like to be treated.

Mr. Harry Nix stated after the last Council meeting there was a discussion on the sidewalk with Councilman Homoki. He said Councilman Homoki had mentioned in the meeting something about three years to try out changing city policy regarding renewal of business licenses not requiring submittal of income tax forms for verification of gross receipts. He said as they were talking outside, Councilman Homoki made a comment that we did not have to have a trial period because this was a change in policy and it was something Council could change any time they wanted to. Mr. Nix stated he wanted to mention that to Council and provide his support for DeeDee Vaughters and his wife in requesting an amendment to the business license ordinance to change the renewal of business licenses so an income tax form is not needed for verification of gross receipts. He thanked Council for moving forward on an ordinance to amend the business license ordinance.

Ms. Debbie Nix pointed out that Council needs to be very careful about freedom of speech.

Mr. Davis Cheek stated since Council will be working on the business license ordinance he wondered if Council could change other components in it other than the part regarding presenting an income tax form for verification of gross receipts.

Mr. Gary Smith stated it was not Council's motion to change any other parts of the ordinance at this time. The motion was to delete the requirement to present an income tax return to verify gross receipts.

Mr. Cheek stated he was concerned about the penalty and enforcement device within the ordinance. He asked that Council consider changing that portion of the ordinance also. He said there were several sections that were not working for him. He pointed out the penalty for operating without a license is a stiff penalty. He pointed out the form states that the gross receipts reported should correspond with the tax return reported to the federal and state governments. He said he files as a sole proprietor, so his total gross

income, no matter where it is from has to be reported as a total gross. There is no clause for sole proprietorships. He said he has other income in his business as a manufacturer's representative. Because of the way he has to file as a sole proprietor there is no provision for him to deduct it without having a business license. He said he gets a check from his employer. He said he has to include the income in his return. He said he would like to get that adjusted. He pointed out investment income should not have to be report as gross income for a business license. He said the only deduction is for gross receipts earned in another municipality and on which a license is paid in another municipality. He said he felt there should be a provision in the ordinance for sole proprietorships to be able to deduct income that is not related to doing business in the City of Aiken. He said he has to include all income from working with other companies in his total gross. He said he has to pay the City a partial tax on that income because of the way the city asks him to report his earnings. Mr. Cheeks said if he deducts the income for his business license the gross receipts will show a drop in his gross receipts. He said he does not believe the City of Aiken is entitled to tax him on earnings that he gets as an employee of another company.

Mr. Pearce stated that is based on the state statute that requires the business license fee to be levied on gross receipts. He said that is a complaint for the state level. He said the city has to go by the state statute.

Mr. Cheeks stated as far as the enforcement device of the ordinance, he felt the city needs to be more business friendly. He felt the city needs to get rid of the word audit, as that is a very ugly word.

Councilman Dewar stated he had mentioned earlier in the meeting about defining audit more clearly. He felt that an audit is not necessarily going in and looking at all the books in detail. He felt it was simply a verification of the numbers by a staff person. He pointed out the city should always have the right to audit, as there may be times when an audit is necessary. He felt the city has to maintain the right to audit. He said in most cases he would expect the Finance Department to have a question about numbers, and it would be resolved very quickly. However, if there is a business that does not want to pay and do it the way it is supposed to be done, then he felt the staff has to have the right to audit to whatever degree needed to make sure that it is a fair program. He said everybody should pay on the same gross receipts.

Mr. Pearce stated unfortunately, the city has had to perform an audit in the past.

Mr. Cheeks apologize to the Mayor for comments he made about his wife and her business last week.

Councilman Ebner stated some of the business owners are retirees and possibly receive Social Security. He asked if that would be considered gross receipts.

Mr. Smith responded that it would depend on how the income tax return is filed. If they file as a sole proprietorship, probably all gross receipts would be included for the license. He said they could file differently, and the gross receipts for the business would be separated from their personal income. He said if they file as a sole proprietorship, whatever income they are deriving will show up on their income tax return.

Councilman Dewar pointed out again he had made a comment about the information on the form for renewal of a license being sufficient to help the businesses to comply with the rules. He felt it was a challenge to make sure that whatever we create to give to a business to help them comply with our requirement for a business license tax should be in simple language, easy to understand, very clear, etc.

Mr. Smith also pointed out that the income tax regulations are very complicated. He said he was not qualified to give someone tax advice.

SPCA  
Society for the Prevention of Cruelty to Animals  
Landscape Plan  
Willow Run Road  
Animal Shelter

Mayor Cavanaugh stated Council needed to consider approval of the landscape plan for the SPCA building on Willow Run Road.

Mr. Pearce stated the Aiken Society for the Prevention of Cruelty to Animals (SPCA) had submitted their Tree Survey and Landscape Plan for their new building project on Willow Run Road. On October 13, 2008, Council approved the annexation and concept plan of a 10-acre parcel on Willow Run Road for the construction of a new SPCA building. One of the conditions of this annexation was that a building permit would not be issued for the new building unless they first submitted a landscape plan for Council review and pre-approval.

A copy of the SPCA's letter providing the details of their plans had been provided to Council.

The Planning Department has reviewed these plans. Director Evans has determined these plans appear to meet City requirements, but the plans should be considered conceptual, and approval by City Council should be conditioned upon Planning staff being authorized to approve any minor changes that may be necessary after any grading and utility plans are submitted. He said Barbara Nelson and Tilden Hildebrand were present to answer any questions.

For City Council consideration is approval of the Landscape Plan for the SPCA building project on Willow Run Road, upon the condition that Planning staff be authorized to approve any minor changes deemed necessary once grading and utility plans have been submitted.

Mr. Tilden Hildebrand, of Hass and Hildebrand, stated there were a few questions that came up during the review process of the landscape plans. He said one of the primary questions was the square footage of the building. He said when the plan was submitted initially the label of the square footage of the building was initially 20,000 square feet. Over the course of the design of the building, the footprint has been revised somewhat. The current footprint shows 25,000 square feet. He pointed out this is not correct either. He said the initial submittal was 22,615 square feet. The newest and final footprint for the building is 22,560 square feet.

Mr. Hildebrand stated a statement was made at a previous presentation by Ms. Nelson that discussed removal of trees. That statement was made based on the footprint of a 22,000 square foot building with approximately the same parking area, which encompasses about one acre, which is roughly 40,000 square feet. In the process of designing the site which has a variation in grades from approximately a 12 foot cut or removal of soil in the front area to a 7 foot fill in the back area, that roughly one acre, or 40,000 square foot footprint, has grown into a 4.5 acre disturbance. In the disturbance is additional trees that need to be removed. He said there was earlier discussion about a number of trees being removed. He said that number has grown as the site has been graded. That was explained by Ms. Nelson in her letter.

Mr. Hildebrand stated the plan has evolved into the plan shown in the Council package, which is the final landscape plan for the site. He said they had met with the Planning staff several times to get to this point, which involves a number of small trees under a power line on two sides, a number of large trees that line the driveway and surround the site. He said they basically focused on the area of the site that was being developed for the final plan, which is about 86 inches short of the required planting, which will be compensated for by making contribution to the tree bank. He said they did this by working with the staff. He said trees could have been planted in the open area, but felt it would be best to concentrate the plantings into the developed site with larger trees, thus the final plan. He said the plans meet the regulations.

Ms. Barbara Nelson stated in looking at the plans, she felt that it will be a beautiful facility when it is completed, the building and the landscaping. She pointed out the trees along the driveway are live oaks. She stated the SPCA is trying to be good citizens. She said they are building something which they think will be a contribution aesthetically to the City of Aiken as well as improving the animal control.

Councilman Ebner moved, seconded by Councilwoman Clyburn, that Council approve the Landscape Plan for the SPCA building project on Willow Run Road, with the condition that Planning staff be authorized to approve any minor changes deemed necessary once grading and utility plans have been submitted. The motion was unanimously approved.

ANNEXATION – ORDINANCE

Dent Moore  
Jane Moore  
127 Cedarwood Park  
Westwood Hills Subdivision  
TPN 105-18-10-003

Mayor Cavanaugh stated an ordinance had been prepared for Council’s consideration to annex property at 127 Cedarwood Park.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 0.7 ACRES OF LAND, MORE OR LESS, OWNED BY DENT AND JANE MOORE, AND LOCATED AT 127 CEDARWOOD PARK AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS-15).

Mr. Pearce stated Dent and Jane Moore, owners of a 0.7 acre lot at 127 Cedarwood Park, are requesting annexation of a single family dwelling under the RS-15 zone. The owners are interested in the lower in-city rates and other city services. The proposed RS-15 zone is compatible with the size of the property, and the zoning in the area meets or exceeds the minimum standards.

The Planning Commission voted unanimously to approve the annexation of this property at their March 16, 2011, meeting.

For City Council consideration is first reading of an ordinance to annex property at 127 Cedarwood Park under the RS-15 zone. Upon City Council consideration a second reading and public hearing will be held at the next regular meeting

Councilman Dewar moved, seconded by Councilwoman Price, that Council pass on first reading an ordinance to annex property at 127 Cedarwood Park under the RS-15 zone and that second reading and public hearing be set for the next regular meeting of Council.

PEDDLER – ORDINANCE

City Code  
Permit  
Background Checks  
Criminal History

Mayor Cavanaugh stated an ordinance had been prepared for first reading to amend the City code regarding issuing permits to peddle or solicit in the City of Aiken.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE REVISING CHAPTER 28 OF THE AIKEN CITY CODE TO REQUIRE THE DEPARTMENT OF PUBLIC SAFETY TO CHECK CRIMINAL HISTORIES PRIOR TO ISSUING A PERMIT TO PEDDLE OR SOLICIT IN THE CITY OF AIKEN.

Mr. Pearce stated staff is recommending that Section 28-1 of the Aiken City Code be amended. This section requires persons not having an established place of business in the City of Aiken to register with the Director of Public Safety before they may go upon private property in the city for the purpose of peddling or selling goods, services or soliciting donations for any purpose. The current ordinance does not give the Public Safety Director the authority to deny the issuance of a peddler/soliciting permit, regardless of the criminal history of the person seeking a permit.

The only change to the proposed ordinance would allow the Department of Public Safety to check criminal histories of applicants prior to issuing any peddling or soliciting permits. Our Director of Public Safety would have the right to deny a peddler/soliciting permit to applicants who have been convicted of a felony or violation of any law or ordinance involving dishonesty. The proposed revisions are geared toward the safety of our neighborhoods and to keep known felons from going on private property in our city to sell merchandise, services, or to solicit donations for any purpose.

For City Council consideration is first reading of an ordinance to amend Section 28 of the Aiken City Code allowing the Department of Public Safety to check the criminal history of all persons prior to issuing them a permit to peddle or solicit in the City of Aiken. Upon City Council consideration a second reading and public hearing will be held at the next regular meeting of Council.

Mr. John Wade stated he was not opposed to background checks on people going door to door, but he had some questions for clarification of the ordinance. He said it seemed the ordinance would affect any business outside the City of Aiken that wants to do any type of service inside the city. He said his question was whether the proposed ordinance would affect every business outside the city or just affect the one time peddlers that go from door to door.

Mr. Pearce stated that is not the intent. Any one that has an established business has a business license and could conduct business inside the city. The peddlers do not have an annual business license, but they come in for a few days and go from door to door selling items such as books.

Mr. Ben Moore, Staff Attorney, in answer to a question stated the ordinance would affect the Girl Scout cookie door to door sales. He said the only change to the ordinance is to allow Public Safety to do criminal checks on peddlers. He said the ordinance does not apply to a business outside the city that has a license to do business in the city. Those people are invited to do business in the city. He said the ordinance applies to people who are uninvited and choose to peddle door to door trying to get business.

Council discussed the various things the proposed ordinance already includes as a peddler. The only change to the ordinance is to do background checks to check on the type people who will be in the neighborhoods. In the past the Public Safety Director issued a permit to peddlers, but did not have the authority to do background checks and to deny the issuance of a permit. Chief Frommer pointed out there is no fee for the permit. The permit can also be applied for online.

Mr. Moore stated the intent of the ordinance is to check on the persons who are going to the citizens, not on the people that the citizens have called to come to their home.

Mr. Gary Smith, City Attorney, stated the persons who have an established place of business in the city do not have to get a peddler's permit.

Councilwoman Price asked what precipitated the proposed ordinance. Chief Frommer pointed out there have been a lot of people from out of state applying for peddler's permits to go into the neighborhoods. He stated from what he knew the residents would

not want those people in their neighborhoods. Many of them have criminal records. He pointed out under the present ordinance he has to issue the permit and does not have the right to deny a permit.

Councilman Dewar asked if the ordinance needed to address the issue that it does not apply to political solicitations.

Mr. Moore stated he could look at that issue before the next meeting.

Mayor Cavanaugh asked if you have an established business, but you want to solicit for some other product or service would that be allowed.

Mr. Moore responded that the person would have to be soliciting for the current business, and if they were soliciting for something else they would probably need another business license.

Mr. Pearce pointed out that a person can have several business licenses because they have different businesses. All the businesses could be located at one location, but if they are different type businesses each must have a license.

Councilwoman Clyburn stated she felt the change in the ordinance should be publicized so people are aware of the change.

Councilwoman Price pointed out that small businesses have to do things to market their business. They can't afford TV ads, newspaper ads, etc. so they may want to distribute flyers in neighborhoods to notify people of their business.

Ms. Susan Debruhl expressed concern about requiring everyone to have a background check to be issued a peddler's permit. She said she understood the concern about having strangers in the neighborhoods. She said some people reform their lives, and they don't want their past dredged up. She said she could understand letting the public know that we do have a peddler permit law, and if someone comes to your door you should ask for their permit. She felt an awareness of the peddling policy would be good, but felt that running a background check on everyone that applies for a peddler's permit is draconian. She said she would not be in favor of it.

Council continued to discuss the proposed ordinance and the reasons for wanting to do background checks to protect the neighborhoods.

Councilman Dewar moved, seconded by Mayor Cavanaugh, that Council approve on first reading an ordinance to amend the City Code regarding the issuance of permits to peddlers to solicit in the City of Aiken to allow the Public Safety Department to conduct criminal checks on persons prior to issuing a permit and that second reading and public hearing be set for the next regular meeting of Council.

#### DUNBARTON OAKS

##### Parkway

##### Entrance

##### Patio

Mayor Cavanaugh stated a request had been received from Ginny Murphy of Dunbarton Oaks to add a mini-garden area to the entrance parkway to Dunbarton Oaks Subdivision.

Mr. Pearce stated that in 2006, City Council approved the installation of an irrigation system in the Dunbarton Oaks entrance parkway. Since that time, long-time resident Ginny Murphy requested, and received, approval and SCDOT permission for the placement of two concrete benches in the Dunbarton Oaks entrance parkway [Boardman Road].

Ms. Murphy has again contacted us to see if 36 square blocks and 24 round blocks could be placed in the parkway, immediately adjacent to the two approved benches. Photos of the proposed patio were provided to Council to show the concept idea for this area that

Ms. Murphy is requesting after consulting with our Horticulturist, Tom Rapp.

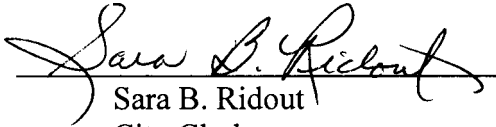
As was done for the benches, should Council approve this installation, Ms. Murphy would also need SCDOT approval for this installation. City staff is prepared to provide this assistance to her should Council approve this request.

For City Council consideration is approval of 36 square and 24 round blocks in the Dunbarton Oaks entrance parkway [Boardman Road].

Councilwoman Clyburn pointed out residents of Dunbarton Oaks had worked hard to beautify the entrance to Dunbarton Oaks Subdivision. She moved, seconded by Councilman Dewar, that Council approve the request for a block patio in front of the benches in the entrance parkway to Dunbarton Oaks. The motion was unanimously approved.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 10:10 P.M.

  
Sara B. Ridout  
City Clerk