

Aiken City Council MinutesWORK SESSIONApril 9, 2007

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

Absent: Councilwoman Clyburn

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Richard Pearce, Sara Ridout, Tony Baughman of the Aiken Standard, Michelle Guffey of the Augusta Chronicle, and about 14 citizens.

Mayor Cavanaugh called the meeting to order at 6:49 P.M. He stated Council had one item to discuss in the worksession – safety issues on Marlboro Street.

MARLBORO STREETSafetySouth Boundary AvenueGrace AvenueTwo Notch RoadTrafficEquestrianHorses

Mr. LeDuc stated traffic on Marlboro Street was a long standing issue. He stated that staff had met with several residents and property owners along Marlboro Street between South Boundary and Grace Avenue who had contacted the City concerning safety issues. Currently many motorists drive through this horse area at excessive speeds and do not stop at the 4-way intersection of Marlboro/Grace/Two Notch. A large number of individuals on horseback, carriage and foot also are in this area. Although it is presently controlled in all four directions by stop signs, most individuals roll through this intersection and do not stop or proceed through at excessive speeds, even though this is a dirt road. On more than one occasion, individuals have gone through Rhett Riviere's fence where Marlboro Street turns into Two Notch Road. Mr. LeDuc state a few weeks ago Larry Morris, Pete Frommer and he met with several citizens at that location. It was determined at that meeting that the best way to resolve this problem is for the City to take over the maintenance for the one block section of Marlboro. This would allow the City to install several speed humps and to lower the speed limit to 15 mph. Since Public Safety can only spend a limited amount of time at this particular intersection, we feel the speed humps will help control the speed and force traffic to come to a controlled stop at this intersection. Mr. LeDuc pointed out because of the horse traffic in the area, the City will have to work with the citizens in the area to make sure the speed humps can slow the traffic down, but can also allow the horse trailers to get over the humps. If Council agrees we will present a resolution at the next meeting a resolution asking the State Highway Department to give the City of Aiken maintenance responsibility for this one block section of Marlboro Street from South Boundary to Grace Avenue.

Robert White, 435 Orangeburg Street, stated his paddocks back up to Marlboro Street and his neighbor is Mike Rubin. who has had two instances with traffic wiping out his fencing in a paddock. He pointed out speeding is a safety problem with horses going to the race track in the morning. He pointed out horse traffic is heavy in the area from December to April. He stated the intersection is very dangerous for horses and other traffic. He said the issue is safety for horses and people in this area. He asked that Council consider doing something to help the situation and slow the traffic down in the area. He said the neighbors in the area had signed a petition asking Council to take appropriate steps to protect the safety and welfare of those in the horse district who traverse the intersection at Marlboro/Grace/Two Notch on horseback, by carriage and by foot. He pointed out Public Safety did a traffic survey for a few days, and it showed over

600 cars per day on Marlboro Street. He said the traffic just needs to be controlled for safety reasons.

Council briefly discussed the matter, and it was the general consensus of Council that the City ask the Highway Department to give the City maintenance responsibility for the block of Marlboro Street from South Boundary to Grace Avenue.

VISITOR

Mayor Cavanaugh introduced Mico Marconi, from Brooklyn, New York, a niece of Councilmember Clyburn. He said she is 14 years old and in the 9th Grade and visiting Aiken.

Mayor Cavanaugh also introduced Michelle Guffey, a new report for the Augusta Chronicle.

Aiken City Council Minutes

REGULAR MEETING

April 9, 2007

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

Absent: Councilwoman Clyburn

Others Present: Roger LeDuc, Gary Smith, Bill Huggins, Ed Evans, Richard Pearce, Pete Frommer, Glenn Parker, Anita Lilly, Larry Morris, Sara Ridout, Tony Baughman of the Aiken Standard, Michelle Guffey, of the Augusta Chronicle, and about 21 citizens.

Mayor Cavanaugh called the meeting to order at 7:01 P.M. Councilwoman Price led in prayer, which was followed by the pledge of allegiance to the flag.

APPROVAL OF AGENDA

Mayor Cavanaugh stated Council needed to approve the agenda. Councilwoman Price moved, seconded by Councilman Sprawls and unanimously approved, that the agenda be approved as presented.

MINUTES

The minutes of the work session of March 19, 2007 and the work session and regular meeting of March 26, 2007 were considered for approval. Councilman Sprawls moved that the minutes be approved as submitted. The motion was seconded by Councilman Wells and unanimously approved.

BOARDS AND COMMISSIONS

Appointments

Newton, III, Charles W.

Environmental Committee

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

Mr. LeDuc stated Council has 8 pending appointments to boards and committees of the city and 1 appointment is presented for Council's consideration.

Councilman Wells has recommended the reappointment of Charles W. Newton, III to the Environmental Committee with the term to expire December 31, 2008.

Councilman Wells moved, seconded by Councilman Smith and unanimously approved, that Charles W. Newton, III be reappointed to the Environmental Committee with the term to expire December 31, 2008.

Councilman Smith stated he would like to recommend reappointment of Channing Jones to the Aiken Housing Authority for a five year term, Julie Adams to the Arts Commission, and Joan Schisler to the Accommodations Tax Committee.

Mr. LeDuc reminded Council that one of the Election Commissioners' term will expire this year, Mr. H. A. McClearen, and that Council might wish to consider an appointment since there will be an election this year. He pointed out this appointment is an at large appointment by Council.

Councilman Sprawls moved, seconded by Councilman Wells and unanimously approved, that Mr. H. A. McClearen be reappointed to the Election Commission for a six year term with the term to expire August, 2013.

Councilwoman Vaughters asked if the Building Code Appeals Committee had met, and Mr. LeDuc responded that they usually meet once a year. It was pointed out that they had met, but they usually only meet if there is an appeal, which does not happen very often. It was pointed out the City uses the International Building Codes, which are pretty much universally used. It was stated by law the city must have such a committee.

ZONING ORDINANCE – ORDINANCE 04092007

Bed and Breakfast Facilities

Rose Hill Estates

Mueller, Steve

Mueller, Eva

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

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 3.3.4.C OF THE CITY OF AIKEN ZONING ORDINANCE REGARDING BED AND BREAKFAST/ MEETING FACILITY.

Mr. LeDuc stated that last year Steve and Eva Mueller, the owners of Rose Hill Estates, asked City Council to consider several new operations for their Bed and Breakfast (B&B) facility.

After several discussions with them, it was decided that the Zoning Ordinance for B&B should be changed to reflect these considerations under a Special Exception. This would require any requested changes to go before the Board of Zoning Appeals with a public hearing before they could be granted. Bed and Breakfasts would still be allowed by right in General Business, Planned Commercial and Downtown Business and through a Special Exception in RSS, RML, RMH, Limited Professional, Limited Business and Office. Furthermore, the facility needs at least 50 parking spaces on site, and off-street parking not in front of another home or business. The amendments would allow meals to be served to non-guests between the hours of 10 A.M. and 11:00 P.M. with a maximum seating capacity set by the Department of Public Safety. All events held at the facility would need to end by 11 P.M., and amplified music would be allowed at a maximum of two outdoor events per month and would end no later than 10 P.M. Item Number 7 has been modified by Ed Evans to reflect the changes discussed at the last meeting.

Mr. LeDuc pointed out that there had been some discussion and some e-mails concerning the Special Exception being allowed in the RSS, RML, RMH, Limited Professional, Limited Business, and Office zones. He pointed out the property at Rose Hill is zoned Limited Professional. He said Council could consider approving the changes for Bed & Breakfasts for the LP, LB and Office zones and not the Residential zones. He said there was only one other property that is on 4 plus acres, a single family residence and that is

listed on the Historic Register that staff could think of—Joye Cottage. He said if Council wishes they could consider the changes for Bed & Breakfast by Special Exception to be limited to the Limited Professional, Limited Business and Office zones. He pointed out if the ordinance is approved by Council, it still does not allow a property to do the operations in the proposed ordinance, but they have to make application for Special Exception to the Board of Zoning Appeals. He said that is important, as there will always be a public hearing.

The public hearing was held.

Ms. Jenne Stoker, 331 Kershaw Street SE, stated she was concerned about the expansion of the Bed & Breakfast in the residential areas. She asked that Council consider only allowing the changes in the LP, LB and Office zones, even though at this time there is only one other property that might fit the criteria in the Residential areas.

Councilwoman Vaughters suggested that the changes only be allowed in the Limited Professional zone. She also asked if the square footage of retail sales area is limited in the LP zone. She was concerned about the amount of space that could be used for retail sales and for gallery or exhibition space.

Mr. Evans responded that there is no limit on the amount of retail space in the LP zone. He stated the current regulations limit the retail sales to things directly associated with the particular property. The proposed ordinance would also allow the sale of retail items associated with Aiken.

Mr. Steve Mueller, 221 Greenville Street NW, stated the general idea was to make available a gift shop with items for use by guests at Rose Hill such as a toothbrush. The gift shop would be to meet the needs for commemorative items of Aiken. He said he wanted the wording limited so the retail was limited to use of guests at Rose Hill or for commemorative items of Aiken. A guest would be someone visiting Rose Hill for dinner or for a concert, not necessarily overnight.

Ms. Jenne Stoker stated she had a question about retail sales. She pointed out there is no retail sales allowed in Limited Professional, and she was concerned about changing zoning to accommodate one business. She was concerned about other areas in LP being able to have a restaurant or retail sales other than a Bed & Breakfast. She also expressed concern about there being a limit on a certain percentage of the property being able to be used for retail sales. She was concerned that the sales area might grow and there would be a retail shop.

Mr. Gary Smith pointed out the uses are limited to a large tract of land, and it was felt this was a reasonable way to limit activities. He said his understanding is that the retail sales would be limited to something like post cards that would have Rose Hill's picture or Aiken memorabilia.

Mr. Steve Mueller stated he felt with the limit on the type of retail sales that the retail shop would not mushroom. He said he had two buildings that could potentially be used for the retail sales, with one being 1,500 square feet and the other 1,000 square feet. He said 2,500 square feet would be a high ceiling for the retail.

Mr. LeDuc pointed out Council could limit the size of the retail space, such as 1,000 square feet, etc. He said with the gallery the space could expand.

Council continued to discuss the retail sales and the concern about the sales expanding, including a gallery with pictures for sale. It was pointed out by Councilmembers Price and Wells that there are limitations which would be difficult for other properties to meet, so it was felt there are controls.

Councilwoman Vaughters stated she was not concerned about the gallery space, but the retail sales area.

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Ms. Jenne Stoker stated it was not the current owners that people were concerned about, but what might happen in the future. She felt that if the intent in LP is not to have retail sale, then the amount of space used for retail sales should be limited, even with a Bed & Breakfast.

Mr. Mueller stated he would be willing for the retail space to be limited to 1,500 square feet not including the gallery.

Councilwoman Vaughters moved, seconded by Mayor Cavanaugh and unanimously approved, that Council pass on second and final reading an ordinance to amend the Zoning Ordinance regarding Bed and Breakfasts/meeting facilities, Section 3.3.4.c., limiting the changes to only the Limited Professional zone and limiting the retail space to a maximum of 1,500 square feet, which can be located in more than one space within the property, with the retail space not including the gallery.

REZONING – ORDINANCE 04092007A

South Boundary SE 1129

Pezzano, Anne

TPN 121-10-18-005

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to rezone a portion of the property at 1129 South Boundary SE from RS-15 to Horse District (HD).

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY OWNED BY ANNE PEZZANO AND LOCATED AT 1129 SOUTH BOUNDARY AVENUE FROM RESIDENTIAL SINGLE-FAMILY (RS-15) TO HORSE DISTRICT (HD).

Mr. LeDuc stated the owners of the property at 1129 South Boundary Avenue SE would like to rezone the rear portion of their lot consisting of .159 acres from Residential RS-15 to HD Horse District. This would be combined with a .95 acre lot to the west which is already zoned HD and occupied by a stable and paddocks. The properties cannot be combined without common zoning between each of them.

The Planning Commission felt this was a reasonable request and approved this rezoning unanimously on the condition that a plat be recorded at the RMC Office dividing Parcel A from Parcel B and combining Parcel B, with the property to the west zoned HD.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Smith and unanimously approved, that Council approve on second and final reading an ordinance to rezone the rear portion of property consisting of .159 acres at 1129 South Boundary Avenue from RS-15 to HD.

REZONING – ORDINANCE 04092007B

Charleston Street SE 303

Legacy Design, LLC

TPN 121-11-15-002

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to rezone property at 303 Charleston Street SE from General Business (GB) to RS-8 Residential.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO REZONE A LOT CONSISTING OF 0.36 ACRES OF LAND, OWNED BY LEGACY DESIGN, LLC FROM GENERAL BUSINESS (GB) TO RESIDENTIAL SINGLE-FAMILY (RS-8)

Mr. LeDuc stated the owner of the property at 303 Charleston Street SE consisting of .36 acres desires to rezone this property from General Business (GB) to Residential Single Family (RS-8).

The adjacent property at 305-307 Charleston Street was rezoned from GB to RS-8 in December, 2006. This lot was formerly occupied by a dilapidated commercial building which was recently demolished. He said this is what Council had asked to happen in the neighborhood in the Old Aiken Master Plan.

The Planning Commission at their March 13, 2007, meeting unanimously voted to rezone this property at Charleston and Colleton Avenue from General Business to RS-8.

The public hearing was held and no one spoke.

Councilman Wells moved, seconded by Councilwoman Price and unanimously approved, that Council approve on second and final reading an ordinance to rezone property at 303 Charleston Street SE from General Business to RS-8.

ANNEXATION – ORDINANCE 04092007C

Concept Plan

Powderhouse Road

Old Powderhouse Road

McLean, Mary Taylor Unified Credit Trust

Brandenburg Properties

TPN 122-07-12-006

TPN 122-11-02-001

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to annex and approve a concept plan for property at Powderhouse Road and Old Powderhouse Road.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 57.83 ACRES OF LAND, MORE OR LESS, OWNED BY MARY TAYLOR MCLEAN UNIFIED CREDIT TRUST AND BRANDENBURG PROPERTIES AND TO ZONE THE SAME PLANNED RESIDENTIAL (PR).

Mr. LeDuc stated that in August, 2006, the City granted city services to the developer of a 42.35 acre tract of land at Old Powderhouse Road and Powderhouse Road. At the time this tract was separated from the city limits by a 15.4 acre tract just to the north. They have now been able to acquire this property and are requesting annexation of the two parcels. They are also asking for approval of the Concept Plan for the entire 57.83 acre tract under the PR zoning.

The development would consist of a maximum of 225 single family detached homes, or a density of 3.8 units per acre. Under the PR zone a development can have up to 8 units per acre, or on the subject property 462 units. Within this development a community pool and building and a retention pond will be its major focal points. The entrances to this development would be through a non-monitored security gate to restrict access into the development. A traffic study for this area is not required because the level of service on Powderhouse Road is at a B level, which means that the proposed development would have to generate at least 3,000 trips per day, and we anticipate no more than 2,250 trips.

The Planning Commission reviewed this request at their March 13, 2007, meeting and voted unanimously to recommend the Concept Plan and annexation with conditions.

At the last meeting City Council discussed the proposed development at length and asked that the developer consider as one of the conditions, Condition 9, some stacking lanes or left-hand turn lanes off Powderhouse Road. That condition was not one of the conditions recommended by the Planning Commission, but was a recommendation by the City

Engineer. When the developer started thinking more about the condition, he was concerned and asked to meet with staff concerning the matter. Mr. LeDuc pointed out that traffic on Powderhouse Road was not enough to require a traffic study. However, to comply more with the Traffic Management Ordinance, the developer is willing to do a traffic study of the development. If the traffic study shows that a stacking lane or left hand turn lane is needed, the developer will provide the turn lane and execute a Developers Agreement as a means to pay for the turn lane. However, if the traffic study is completed, and the traffic engineer says the turning lane is not needed according to South Carolina Highway Department standards and that is verified by the city's traffic engineer, the developer does not want to be required to provide a left hand turn lane on Powderhouse Road. The developer provided a letter giving 8 reasons why he feels he should not have to provide a left hand turn lane. One of the main reasons the developer feels a turn lane is not needed is that they will be providing two entrances to the development. He said the developer is asking that City Council consider changing the language for Condition 9 (c) to the following: "that there be stacking lanes on Powderhouse Road if determined necessary by the South Carolina Department of Transportation, and if required, to be built to those specifications. If a stacking lane is required by SCDOT, then Powderhouse Development and the City of Aiken shall enter into a developer's agreement for the payment of the required stacking lane."

The conditions required at the last Council meeting were as follows:

1. that the annexation be contingent on the sale of the properties to the applicant;
2. that the frontage along Old Powderhouse Road be planted with a dense evergreen buffer complying with the buffer provisions of the Zoning Ordinance;
3. that the following waivers be granted:
 - a) to allow one section of road near the northwest corner of the project to be 16' back-of-curb to back-of-curb with a right-of-way of 32';
 - b) to allow the entrance median on Powderhouse Road to be 170' in length and that no median be required at the secondary entrance at Old Powderhouse Road; and
 - c) that the project not be required to show a future right-of-way connection to the east since this is a gated community.
4. that the building separation required by the PR zone be provided unless a variance is granted by the Board of Zoning Appeals;
5. that the project be landscaped as described in the narrative and that a landscape plan be approved by the Planning Director including tree selection from the City's Approved Tree list;
6. that the development comply with the latest approved Concept Plan and Narrative on file with the City's Planning Department;
7. that the elevations of proposed buildings including depictions of building materials and colors to be used be submitted to City Council for approval;
8. that a landscaping plan for the perimeter common areas be submitted;
9. that the following items raised by the City Engineer be addressed:
 - a) that the roads be 27 feet wide back-of-curb to back-of-curb instead of the 26 feet requested by the applicant;
 - b) that the sidewalks meet the ADA requirements, including five-foot width and ramps; and
 - c) that there be stacking lanes on Powderhouse Road in accordance with the requirements of the South Carolina Department of Transportation.
10. that all applicable conditions be met within 180 days of approval by City Council; and
11. that any conditions of annexation be recorded at the RMC Office.

Mr. LeDuc stated the developer is asking that Council consider rewording Condition 9 (c). He said the developer is willing to pay for a traffic study to determine if the stacking lanes would be required due to the size, demographics, and other considerations concerning their development. A traffic study has not been completed for this development, since our Traffic Management Ordinance did not require it. It's currently listed as a condition based on comments by our City Engineer, who felt a turn lane would be helpful. If Council agrees with this change, we would ask Roger Dyar, our on-call Engineer, to verify the data developed by their traffic engineer as to whether or not a turn

lane is necessary. If the traffic study shows that a turn lane is not needed and is verified by the City's Traffic Engineer, then the developer would not be required to pay for a turn lane. The developer is requesting that Council approve the ordinance with this change.

Mr. Todd Bailey, Evans, Georgia, stated at the Planning Commission meeting the interpretation was that if a stacking lane is needed on Powderhouse Road, the developer would provide the turn lane. He said, however, at the Council meeting it was interpreted that the stacking lane would be required. He said the development would be an age restricted community, targeting active adults 55 and older. He said the previously approved development was a combination of townhomes, duplexes, and some single family homes. He said that development would have been for ages 20 up and would have been a higher volume of traffic than the now proposed development. He said with the 55 and older development it is felt the traffic pattern will be a lot different, and there will be less traffic than with the previously proposed development. He said the homes would have to be purchased by persons 55 and older. He said they were willing to pay for a traffic study, and if the study showed the lanes were needed, they would provide the turn lanes. However, if the study showed the lanes were not required, he would not be willing to provide the turn lanes. He pointed out there is a possibility that the SC Highway Department will widen the road. Mr. Bailey stated he did not want to do a traffic study just to spend the money, but the point is to do a traffic study, and if it does not show the turn lane as needed, then he not be required to provide a turn lane.

Councilwoman Vaughters pointed out she had looked at the area, and Powderhouse Road is very narrow in that area and she is concerned about that. She said she had found that retirees have more than one vehicle and do not sit at home, but go out into the community frequently. She stated she felt a left hand turn lane would be an amenity for the proposed development. She felt that a turn lane would be needed for the area soon with development in the area, and she felt the developer should pay for it not the other taxpayers.

Councilman Smith stated he felt the development would be within a quarter of a mile of Pine Log Road, and that Pine Log Road should be included in the traffic study. He said it is already known that Pine Log Road is at its capacity. He felt the traffic study would show that the turn lanes are needed including the Pine Log Road area. He suggested that rather than pay for a traffic study and then have to pay for the turn lanes, that the developer consider going ahead and providing the turn lanes, since he felt the traffic study would probably show the lanes as being needed sooner or later. He said he voted for the development at the last meeting without a traffic study with the understanding that the left turn lane was to be a condition for the development. He said he would like to see a traffic study, but was not willing to say that a left turn lane not be required. He said he would like to see a traffic study and then decide what to do. He was not willing to make a commitment not to require the turn lane.

Mayor Cavanaugh stated he also felt there needed to be a turn lane into the development. He stated there is a lot of traffic in the area, and the road is narrow. He said if it is not needed immediately, it will be needed soon as there is going to be more traffic on Powderhouse Road.

Council continued to discuss the condition of a left turn lane for about an hour.

Councilman Smith stated he felt the proposed project was a good project. He said he was opposed to the previous project. He said he would be against having the condition that the turn lane not be provided if the traffic study does not show the need. He said we all know intuitively that the turn lanes will have to be done at some point in the process. He felt Mr. Bailey could save money by not doing a traffic study and going ahead with the turn lane.

Mr. Bailey stated he felt he was being penalized, since about six months ago he had a different project approved which he felt would produce more traffic than this project, and turn lanes were not required. He said this project actually reduces the density and is a different type project, but Council is wanting turn lanes. He also pointed out that he has a

second entrance for this project. He said he did not want to do a traffic study, and the results be overridden. He said he would be building the houses in the development.

Councilwoman Price asked if the traffic study does not show that the turn lanes are needed at this time, can Council legally require the turn lanes because they feel they are needed.

Mr. Gary Smith, City Attorney, stated Council has the right to approve or not approve the project, because the developer is asking for annexation and wants to receive city water and sewer. He said Council is not obligated to annex any property if they do not want to. He said if the developer does not agree to provide the left turn lane, that is a valid reason to turn down the annexation request. He did point out, however, there is a Traffic Ordinance which gives the guidelines for traffic management in the city and gives certain guidelines to follow for purposes of determine whether certain roadway improvements are necessary or not. He said the developer is not obligated to do the traffic study and has volunteered that if the roadway improvements are necessary according to the study, then he will comply with the traffic study. He said Council may want to consider amending the Traffic Ordinance if they feel it does not meet the city's needs.

Mr. Bailey pointed out if the property is annexed the city will be receiving taxes on the property which they are not presently receiving. He said the project will not be a tax burden on the city. He pointed out the roads in the development will be private. He stated the houses in the project will start in the low \$200,000.

Councilwoman Vaughters asked how the city could be sure this would be a retirement community. It was pointed out a requirement of the PR zone is a narrative, and the narrative states it is to be a retirement community.

Mr. LeDuc stated Condition 7 requires elevations of the proposed buildings to be submitted, and he had not seen the elevation. Mr. Bailey stated they were presented at the last Council meeting, and he gave a copy to Mr. LeDuc. Mr. LeDuc pointed out under the PR zone Council does have leeway to ask for various conditions that they want in a project before approval. He did point out that the previous development was approved for 200 units in the area with no left hand turn lane. He pointed out the new proposal is 225 homes with a larger land area. He also pointed out that there is a Traffic Management Ordinance which has certain requirements, and the requirements need to be followed or the ordinance needs to be changed.

Councilman Wells suggested that the city could enter into a development agreement with the developer and charge a fee such as \$500 per unit as a traffic enhancement fee to help provide the left turn lane. With an agreement, the developer would not have to pay all of the money up front but could pay for the improvement as houses are built. This would allow the city to have some money available for the improvements when the left turn lane is needed or other traffic improvements needed. He said this would be splitting the cost rather than having to put up \$200,000 for the turn lanes or having to do a traffic study. It was pointed out this would only provide \$100,000, but in the meantime the properties being built would have generated some tax revenue for the City of Aiken. He said he was trying to compromise. He said many factors need to be considered. He said he feels that projects in the future will have to provide funds to help improve the roadways so the roads can handle the traffic the projects are generating. He did point out, however, that people other than those in the project will be traveling the road also.

Mr. Bailey pointed out a development agreement is in the conditions if a left turn lane is needed. He said his problem with the development agreement is the question as to whether the turn lane is needed.

Mr. LeDuc stated when staff talked to Mr. Bailey a developers agreement was discussed, and if the annexation is approved, staff would bring a developers agreement to Council at the next meeting. He stated a developers agreement had been proposed, and Mr. Bailey had been told that the fee would be approximately \$900 per unit. That was when Mr. Bailey offered the suggestion for the traffic study and to let that be the determining factor for whether the turn lane is needed. Mr. LeDuc stated staff was trying to recover the cost

for the turn lanes in the fee. He said Council could set the fee at whatever rate they wished. He did point out that Council should take into account the inflationary factor when determining the cost of road improvements. Mr. LeDuc pointed out there are a lot of unknowns for the development. He pointed out the plans approved by the Powderhouse Connector Committee and where the connector is to terminate on Powderhouse Road. He said one of the locations is the entrance to this development. He said there could be a traffic signal at this location for the connector. He said he had heard that the Highway Department has indicated they are looking at widening Powderhouse Road, but he said there is no way to know if and when that may happen.

Council then discussed what the amount should be for the developers agreement for traffic improvements. After much discussion regarding the proposal for a traffic study, the general consensus of Council was that they did not want to commit that a left turn lane not be required as they felt the turn lane is needed or will be needed very soon.

Mr. Bailey stated the only issue he had with the developers agreement was whether a left-hand turn lane was an absolute requirement. He felt the terms of the proposed developers agreement were fair for each side.

Councilwoman Price stated that asking for a traffic study was going through hoops. She said she knew that Council was going to want a turn lane on Powderhouse Road and that a lane is going to be needed. She said Mr. LeDuc had mentioned \$900 for each unit as a traffic enhancement fee, and she felt that was the amount that should be considered in the developers agreement rather than \$500.

Mr. Ed Giobbe was concerned that a traffic study may be done, considering a senior housing development which may show that lesser traffic will be produced, but what happens if the development does not continue to be a senior community. He felt that would change the area and traffic in the area. He asked what assurance is there that this will be a senior community.

Mr. Bailey stated there would be a deed restriction for the project for active adults 55 and over. He pointed out the present discussions are because he changed his project and wanted to develop a nicer community than the original project which included townhomes and duplexes. He felt the new project would sell better and over the long term would be a better product for the community. He said his intention is to have a nice project, and he does not want to have a problem with traffic issues, but he believes there is some serious validity to the eight items he had outlined in his letter regarding reasons why he felt a left hand turn lane should not be required. He felt having two entrances to the project and it being an active adult 55 and over project would make a difference in traffic. He asked that Council give some consideration for the fact that he is asking for annexation of the property, and developing the property will be increasing the tax base substantially and will not put a tax burden on the present taxpayers, as the roads inside the project will be private.

Mayor Cavanaugh stated when the Powderhouse Connector is installed there is a likelihood that the traffic will be even denser. He said he felt the best way to get the turn lanes installed is through a Traffic Enhancement Fee through a developers agreement. He said the fee needs to be high enough to cover most of the cost for the lanes. He said going ahead and agreeing to a developers agreement for the turn lanes could eliminate the need for a traffic study. In response to a question from Mr. Bailey as to whether he could be reimbursed for part of the money he had put into the fund if the Highway Department comes in and puts in the turn lanes, Mayor Cavanaugh stated the matter had been discussed. It had been pointed out that the money paid would be used for any areas where traffic improvements are needed.

The public hearing was held.

Mr. Mark Tierney, 146 Spring Stone Court, stated the builders pass along the cost for various charges to the homeowner. He said he did not feel that the taxpayers should have to pay for the traffic improvements for the development, but that it should be passed on to the homeowners in the development. He said he felt the people who will benefit from the

turn lane would be the homeowners in the project, and they should be the ones to ultimately bear the cost. He said he travels Powderhouse very often, and he did feel there will be additional traffic and construction traffic to get to the project.

Councilwoman Price moved, seconded by Councilman Smith and unanimously approved, that Council pass on second and final reading an ordinance to annex 57.83 acres as Planned Residential at the intersection of Powderhouse and Old Powderhouse Road and that the submitted Concept Plan for single family detached homes be approved subject to the conditions in the ordinance and staff preparing a Development Agreement for a Transportation Enhancement Fee for funding construction of the left hand turn lane to be constructed when necessary.

Mr. LeDuc stated a developers agreement will be brought to Council at the next meeting for Council's approval.

CLOSE RIGHT OF WAY – ORDINANCE 04092007D

South Centennial
Corporate Parkway
Bonnieview Estates
Whiskey Road

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to close an unopened right of way in exchange for new road right of way.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO CLOSE AN UNOPENED PORTION OF THE RIGHT OF WAY OF SOUTH CENTENNIAL AVENUE.

Mr. LeDuc stated a group of investors would like to construct a two-story office building at the corner of South Centennial and Corporate Parkway. When this area was originally planned, the 60' right of way of South Centennial Avenue continued in a southwesterly direction to the Bonnieview Subdivision. Since that time the City has recognized the need for a parallel roadway to Whiskey Road from this intersection south to the new Powderhouse connector. To facilitate the building that is being proposed for this location, the developer is proposing the closure and the transfer of the current 60' right of way in exchange for a 100' right of way directly south to intersect the property below this proposed development. This exchange will allow the city in the future to build a four-lane road through this unopened portion of property, which will be more appropriately aligned with the proposed connector roadway. Mr. LeDuc pointed out the first phase of the proposed Powderhouse connector will be opening up the section opposite East Gate Drive for approximately 3/4 mile to the east, and then there will be a north-south connector going directly north that would tie into the unopened portion of the right of way at Corporate Parkway at South Centennial Avenue. Making the exchange of property as proposed would actually give the city the right of way that will connect with the new proposed roadway.

We are in full agreement with the proposed exchange of property and recommend its approval.

The public hearing was held and no one spoke.

Councilman Smith moved, seconded by Mayor Cavanaugh and unanimously approved, that Council approve on second and final reading an ordinance to close an unopened portion of the right of way of South Centennial Avenue and to accept the new right of way as shown on the site plan.

SIDEWALK SALES – ORDINANCE 04092007E

Sales
Sidewalk Sales
Downtown Area
Signs
Merchandise on Street

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to amend the Code regarding sidewalk sales in the downtown area.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING CHAPTER 36 OF THE CITY CODE OF AIKEN, SOUTH CAROLINA REGARDING RIGHTS OF WAY AND MERCHANDISE DISPLAYS.

Mr. LeDuc stated that for the last year we have been discussing the display and sale of items in the downtown area. We asked the ADDA to investigate and to give us their thoughts concerning these sidewalk sales. Currently ADDA can apply for a permit three times a year from Public Safety for sidewalk sales. Otherwise, it is understood that no other sidewalk sales would be allowed during the year. However, some merchants want to display merchandise at all times of the year for public sale. The ADDA feels this should be discouraged and only a limited number of times, with a limited number of days allowed for these types of sales. They do not want to see merchants continually displaying merchandise on the sidewalk areas and request that the City allow up to six sidewalk sales each year.

Mr. Pearce has revised Chapter 36 of the Code concerning these sales and what type of merchandise can be placed out during these times of the year as approved by the Public Safety Director. Although ADDA is appointed as the organization that would request the sales through Public Safety for up to six times a year, individual merchants can now request up to two individual sales a year. The references in the previous ordinance concerning commercial signs, sandwich boards, or other temporary directional signs has been removed from this ordinance. This will be reviewed and the existing Zoning Ordinance modified once we have further direction on signage in the downtown area.

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

The public hearing was held.

Mr. Dennis Fitzgerald, owner of Aiken Antiques & Auction at 106 Park Avenue SW, stated he was not concerned about the number of sidewalk sales or the sales sponsored by ADDA. He said his concern about the ordinance is that at no other time, except for the designated sidewalk sales, will merchandise be allowed on the sidewalks for sale. He asked why amend the ordinance when there have been no complaints about merchandise on the sidewalks. He pointed out no other merchants are present at this meeting, and he was concerned that they have not shown up at the meeting. He stated most merchants do put some merchandise out for sale at times, but maybe not every day as he does. He pointed out his business is located on Park Avenue, and he does not get the walking traffic that is on Laurens Street. He said he relies on people seeing the merchandise he puts on the sidewalk to call attention to his business. He stated he does not block the sidewalk and does not put tacky things on the sidewalk. He pointed out tables and chairs for restaurants are allowed on the sidewalks, and they do block and obstruct the sidewalk. He felt it was not fair to allow some businesses to put things on the sidewalk and not allow others. He pointed out allowing the tables and chairs on the sidewalks allows people to drink alcohol on city owned property. He stated he understands that the news boxes will soon be removed from the streets. He was concerned there would be no one or anything on the streets. He stated if the tables and chairs for restaurants can be on the sidewalks why can't merchandise be on the sidewalks.

Mr. Ed Giobbe, 541 Grace Avenue, stated he understood Mr. Fitzgerald's concerns. He said however, he felt there is a clear distinction between selling merchandise on the sidewalks and outdoor cafes. He said every great city in the world, London, Paris, Rome, New York City, has outdoor cafes. It is part of a cityscape. It is not part of a cityscape for every business to have merchandise for sale on the sidewalks.

Councilman Sprawls pointed out that Warneke's puts a rack of clothes on the sidewalk for sale frequently. He said they had been doing this for 25 years or longer.

Mr. LeDuc stated according to the proposed ordinance no items could be placed on the public sidewalks for sale unless it is the designated sidewalk sales permitted through ADDA.

Councilwoman Vaughters stated she agreed with Mr. Fitzgerald. She could see nothing wrong with some merchandise on the sidewalk for sale. She said if it becomes a problem, then the city can do something about it. She stated it is hard to see what is in that store the way it is situated. She said she wanted that store to be occupied. She felt it was kind of interesting to have things on the sidewalk from time to time. It may not look so perfect, but it does look vibrant and alive. She pointed out with all the professional offices coming downtown, she does not see a lot of merchants having merchandise on the sidewalks. She said we can keep all the work on file, and if it becomes a problem, then something can be done. She said she did not see that it is a big problem now.

Mayor Cavanaugh stated he felt we were talking about setting a standard for what we want the downtown to look like. He said because there is not a lot now, does not mean there won't be more on the sidewalks. He pointed out there is a sign on the antique store and there are parking spaces available in the area. He said he did not understand why Mr. Fitzgerald would not be getting traffic if people really want to come in the store.

Mr. Fitzgerald stated because of the trees, people cannot see his sign when they pass along the street, so having merchandise on the sidewalk calls attention to his business. He said he does not have the advantage of walking traffic that is on Laurens Street. He said nothing was said about the merchandise on the sidewalk for the first two years he was in the building. He said if the city wants to restrict the merchandise, then restrict the amount of space that can be used for merchandise in front of the building.

Ms. Carla Cloud, Executive Director of ADDA, pointed out that the matter of sidewalk sales was prior to her becoming director of ADDA. She said she has heard both sides of the issue, and she does understand Mr. Fitzgerald's points. She said she also understood that we don't want the downtown to be tacky. She pointed out she did send out notices to the ADDA members and board that this matter would be discussed at this meeting and invited them to come to the meeting.

Mr. Wade Brodie, Chairman of Aiken Corporation and on the Downtown Development Association Board, stated that there has been an ordinance prohibiting merchandise on the streets for many years. He said that is not a change in what is being proposed. He said he felt the limitation of sidewalk sales by ADDA was enhancing the ability annually to have sidewalk sales. He said he felt that if the City does not want to enforce the prohibition of merchandise on the sidewalks for sale, then that needs to be deleted from the ordinance. In response to a question that if the prohibition of merchandise on the sidewalks was deleted, Mr. Brodie stated he felt there would be an increase of merchandise on the sidewalks.

Councilman Smith stated he does not mind the merchandise presently downtown. He said we have a lovely downtown. He said he agrees with Councilwoman Vaughters that it adds to the character of the town. He said he had visited a lot of cities around the world and has seen a lot of merchandise on the streets.

Mr. LeDuc stated if Council decides not to approve the proposed ordinance, then staff will need to bring back the existing ordinance and allow merchandise to be on display on the sidewalk. Otherwise we will be violating the laws on the books.

Mayor Cavanaugh suggested maybe there could be a compromise and have more sidewalk sales during the year, such as one a month.

Councilwoman Vaughters suggested that the ordinance only apply to the two blocks on Laurens Street and one block on either side of Laurens on Richland Avenue.

Mr. LeDuc pointed out some of the issues are appearance and safety. He said if there are no restrictions he felt the concern is what the future appearance will be. The other issue is safety, and there needs to be enough sidewalk area open so people can walk safely in the area. He suggested if Council wants to allow merchandise on the sidewalk area then perhaps it could be restricted to within two to three feet in front of the building so it will not be scattered across a large area. He also pointed out that the proposed ordinance encompasses the DB area, which is a large area reaching to Union Street in one direction and to Greenville Street in the other direction.

Mayor Cavanaugh stated he had a problem with not doing something. He felt if there are no restrictions there will be a lot of merchandise on the sidewalks.

Mr. Henry Krippner, 144 Crane Court, pointed out he felt there is a problem with flags hanging out over the sidewalks and obstructing the walk way. He stated there are several such areas downtown.

It was pointed out this matter is a different subject and comes under the sign ordinance.

Councilman Smith stated he understood why there might be a problem. He felt the present ordinance Sec. 36-7 is vague, as it talks about obstruct or blockade.

Mr. Gary Smith pointed out the reason it has come to Council is that the city was trying to enforce the ordinance, but the Judge was having a problem interpreting the ordinance with the cases being brought to court because of a vagueness in the ordinance.

Mr. Wade Brodie suggested that if Council does not want to prohibit merchandise on the sidewalks, then compromise and limit merchandise to no more than 24 inches from the store front so the City officer does not have to interpret whether the merchandise is a safety hazard or blocking traffic.

Mr. LeDuc stated staff would like for the ordinance to be defined so they can know what to do. He said there are three options—do nothing, allow merchandise on the sidewalks, or limit merchandise to a certain area.

Mayor Cavanaugh stated he felt allowing merchandise on the sidewalk should be on a trial basis. He felt if merchandise is allowed that the amount on the sidewalks is going to increase.

Mr. LeDuc stated if Council wants to compromise and allow merchandise on the streets, he would suggest that they keep the proposed ordinance as it is, except in Sec. 36-7 add that merchandise will be allowed in an area two feet from the store front.

Mr. Richard Pearce, Staff Attorney, suggested that the wording for Sec. 36-7 be "It shall be unlawful in the Downtown Business (DB)-zoned area of the city for any merchant or other person to place upon any public right of way, street, or sidewalk within the corporate limits of the city articles of merchandise or other things for display or sale of any kind beyond two feet of a store front." He said he needed the words "obstruct or blockade" removed from the ordinance.

Councilman Smith moved, seconded by Councilwoman Price and unanimously approved, that Council pass on second and final reading the proposed ordinance with the following amendment to Sec. 36-7 concerning display of merchandise - "It shall be unlawful in the Downtown Business (DB)-zoned area of the city for any merchant or other person to place upon any public right of way, street, or sidewalk within the corporate limits of the city articles of merchandise or other things for display or sale of any kind further than two feet from the store front."

RETIREMENT PLAN – ORDINANCE 04092007F

Amendment
Pension Committee
City of Aiken Retirement Plan
City Council

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to amend the City of Aiken Employee's retirement plan.

Mr. LeDuc read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 11 OF THE CITY OF AIKEN
 EMPLOYEE'S RETIREMENT PLAN TO AMEND THE RETIREMENT BENEFITS
 OF THE MAYOR AND THE MEMBERS OF COUNCIL.

Mr. LeDuc stated the City's Pension Committee recently met to discuss an amendment to the City of Aiken Employee Retirement Plan. This plan, under Article 11, provides pension benefits for the Mayor and City Councilmembers who have served for at least 12 years and a lump sum benefit for Councilmembers who have served 8 years or two full terms but less than 12 years. The plan was established in 1997, and there have been no increases or modifications to this plan for 10 years. Our actuary, Warner Anthony, reviewed the plan and, based on his calculation, feels it is appropriate to increase the benefits for Councilmembers by 50% to take into account inflation and cost of living increases for the past 10 years. This is approximately a 4.1% compound annual interest.

For the Mayor who serves over 12 years, the plan provides an increase from the current \$200 to \$300 per month retirement, plus an additional increase from \$5 to \$7.50 per month for each full year of service on City Council in excess of 12 years. Likewise, for the City Councilmembers who serve more than 12 years their benefit will increase from \$100 per month upon retirement to \$150 per month, plus an increase from \$5 to \$7.50 per month for each additional year of service over 12 years. These benefits are available upon retirement but the Councilmember also must have reached the age of 60 and have served 12 years or more on Council.

The public hearing was held and no one spoke.

Councilwoman Vaughters stated she believed that elected officials should not have retirement plans at the Federal, State or local level.

Councilwoman Price moved, seconded by Councilman Wells, that Council approve on second and final reading an ordinance to amend the City of Aiken Employment Retirement Plan for the Mayor and City Councilmembers. The motion was approved by a vote of 4 in favor and 2 opposed. Councilmembers Smith and Vaughters opposed the motion.

DEVELOPMENT AGREEMENT

Woodside Phase IV
Hollow Creek at The Reserve
Anderson Pond Road
Silver Bluff
Whiskey Road
Chime Bell Church Road

Mayor Cavanaugh stated Council needed to consider approval of a Developer's Agreement for Woodside Phase IV.

Mr. LeDuc stated last August City Council approved the annexation of Woodside Phase IV known as the Hollow Creek at The Reserve. One of the conditions stated that any required traffic mitigation measures be paid for or sufficient funds posted with the City by the developer prior to the issuance of any building permit.

According to the Planning Commission's memo to City Council, the traffic mitigation measures included left turn lanes onto Anderson Pond Road from Silver Bluff and from Whiskey Road onto Chime Bell Church Road. In addition, our Traffic Management Ordinance states that the developer only needs to pay their prorata share for the improvements not adjacent to the project. Since these two left hand turn lanes are not adjacent to the project, our Traffic Engineer determined an estimated cost for each of them.

In a letter to Pat Cunning, we are proposing that Woodside enter into a Development Agreement that states Woodside would pay the City of Aiken \$210 per lot on a quarterly basis for each lot sold. The \$210 Transportation Enhancement Fee would be set aside in our Transportation Fund to be used for any future road improvements. We feel this is a fair and equitable way to pay for transportation improvements that are going to be needed in our community, and in this case are associated with the Woodside development. He said this is the first Developers Agreement for a Transportation Enhancement Fee. He pointed out that each Development Agreement will be different and will be based on what is felt to be a fair cost for that development and their contribution traffic wise to the needed improvements.

Council briefly discussed the proposed cost for Woodside's Traffic Enhancement Fee with it being pointed out the cost was figured on a prorate share with a percentage of traffic being associated with the left hand turn lanes off Silver Bluff Road and off Whiskey Road that would be going to Woodside.

Councilman Smith moved, seconded by Mayor Cavanaugh and unanimously approved, that Council approve the proposed Developer's Agreement for Woodside Phase IV.

RAILROAD DEPOT – RESOLUTION

Union Street
Park Avenue
Richland Avenue

Mayor Cavanaugh stated a resolution had been prepared for Council's approval to accept Union Street from Richland Avenue to Park Avenue and the proposed Railroad Depot.

Mr. LeDuc read the title of the resolution.

A RESOLUTION AUTHORIZING THE CITY OF AIKEN TO ACCEPT RESPONSIBILTY FOR THE MAINTENANCE OF A PORTION OF UNION STREET

Mr. LeDuc stated that at City Council's last worksession Tim Simmons presented the Railroad Depot Committee's plan for the proposed Railroad Depot. He stated that the future work will be completed in phases, consisting of closing Union Street northbound from Park to Cumberland, laying some additional tracks, buying two dining cars, placing them on the tracks, and refurbishing them. They will also be working with Model Builders to construct interactive railroad displays and dioramas which will all be featured on the mezzanine. He stated their committee feels this will be one of Aiken's finest components which includes the Aiken Center for the Arts, the Thoroughbred Hall of Fame, the Washington Center for the Performing Arts, the African-American Cultural Center, and that the Railroad Depot will soon take its place amongst these civic treasures.

They are requesting Council's approval to accept maintenance responsibility from the State for Union Street from Park Avenue to Richland Avenue. The current southbound lanes would be converted to a two lane roadway. The northbound lane would be closed to traffic from Park Avenue to Cumberland and then become a two-way roadway from Cumberland to Richland. In addition to the closure of this road, they are also asking that City Council accept the railroad depot, the two dining cars and other associated improvements upon their completion.

Upon City Council's approval of this resolution, a letter would be sent to the State asking that the South Carolina Department of Transportation give the City of Aiken maintenance responsibility for this section of roadway.

April 9, 2007

Council briefly discussed the proposed project, with it being pointed out that the facility would be turned over to the city for maintenance and for rental. It was pointed out the maintenance and rental of the facility would be about a break even if the facility is rented about 50 times a year. It was pointed out that from old records it had been determined that the city owns the property where the facilities would be placed. The property that the city does not own is Gyles Park. There has been some discussion with Norfolk Southern about acquiring that property. It was pointed out there is a possibility that the City Tourism Office may be located in the building.

Councilwoman Price pointed out that in 1987 Gyles Park was not a good place, and the city has made that property much better.

Mr. LeDuc stated a price cannot be put on the economic impact of the proposed project in that area. He said the project would change that area and draw more business and more development in the area.

Mayor Cavanaugh stated the good thing about the project is the economic impact on the area and also the historical value of the project.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that Council approve the resolution asking the State Highway Department to authorize the City of Aiken to accept responsibility for the maintenance of a portion of Union Street from Park Avenue to Richland Avenue and also accept responsibility of the railroad depot and its associated improvements upon its completion. The motion was approved by a vote of 4 in favor and 2 opposed. Councilmembers Smith and Vaughters opposed the motion.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:53 P.M.



Sara B. Ridout
City Clerk