

Aiken City Council MinutesREGULAR MEETING

April 22, 2013

Present: Mayor Cavanaugh, Councilmembers Dewar, Diggs, Ebner, Homoki, Merry and Price.

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Charles Barranco, Larry Morris, George Grinton, Kim Abney, Alicia Davis, Tim Coakley, Sara Ridout, Amy Banton of the Aiken Standard, Chad Mills of Channel 12, and about 30 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:03 P.M. Mayor Cavanaugh led in prayer, which was followed by the pledge of allegiance to the flag.

GUIDELINES

Mayor Cavanaugh reviewed the guidelines for speaking at the Council meeting. He asked that those who would like to speak raise their hand and be recognized and limit their comments to five minutes.

MINUTES

The minutes of the regular meeting of April 8, 2013, were considered for approval. Councilwoman Price moved, seconded by Councilman Ebner, that Council approve the April 8, 2013, minutes as submitted. The motion was unanimously approved.

Mayor Cavanaugh announced that Councilwoman Diggs had been out of town, but may be present later in the meeting.

FERAL CATS – ORDINANCEAmend City Code

Mr. Pearce asked if there was anyone in the audience present for the item concerning feral cats. He stated there had been a call from the SPCA this afternoon, and they had requested that the matter be carried over to the May 13, 2013, meeting.

PRESENTATIONGem Lakes ExtensionRoadways

Mayor Cavanaugh stated City Council would receive a status report on the Gem Lakes Estates Extension roadways.

Mr. Pearce stated at the February 25, 2013, Council meeting a petition was filed by residents of Gem Lakes Estates Extension on the condition of the roadways of Huron and Moultrie Streets.

Mr. Pearce stated at our February 25, 2013 Council meeting, Gem Lakes Estates Extension developers Steve Kisner and Todd Gaul--who still own these roads--shared their timetable for further investigating Huron and Moultrie Drive roadway infrastructure conditions. They informed Council they would do so to make a determination of what measures they would take to address the punch list prepared by the City of Aiken regarding these roadways as well as the existing roadway pavement and curbing conditions. They shared with all in attendance they would provide a report this Spring, and complete repairs by the end of this Summer, the season they determined best for doing road repairs.

Council reached a consensus at the February meeting that we would have a formal update on April 22, 2013, about efforts to identify what will be done to determine the source of the road cracks. He pointed out that all of us are concerned about the condition of the roads and what is causing the roads to crack. He said he received last Monday a communication from Tilden Hilderbrand of Hass & Hilderbrand, who is the Engineer of Record for Kisner and Gaul, LLC regarding their findings and plans for work on these roads this summer in the Gem Lakes Estates Extension.

In addition, we have spoken with Rick Toole of Toole Engineering about reviewing this report, inspecting these roads, and providing input as to whether the proposed summer road work will provide what is needed for these roads to provide years of service. His resume and list of qualifications to provide his independent opinion about these roads was provided for Council's reference. Mr. Toole is present to hear the presentation from the developers regarding the streets and a proposed method for identifying what is contributing to the condition of the roads.

Mr. Pearce stated Mr. Tilden Hilderbrand is present to make his presentation and Mr. Kisner is present as well.

Mr. Pearce stated he had sent a letter Thursday, April 18, 2013, to the residents of the Gem Lakes area that contained the items included in the agenda packet, minutes, and report from Mr. Hilderbrand, as well as a proposal from Mr. Toole to conduct an independent investigation of the proposed methods for addressing the road issues in the subdivision.

Mr. Gary Smith, City Attorney, stated Councilman Philip Merry has left the Council Chambers. He is concerned that there may a potential conflict of interest to be involved in the discussions on the Gem Lakes Extension roadways. He has submitted a Conflict of Interest statement for the records.

Councilman Ebner stated he had had some conversations with the City Attorney and City Manager. He said from the February 25, 2013, meeting some of the residents were concerned about the position of City Council in this matter. He asked that Mr. Smith, City Attorney, reiterate the conversation on how the chain of command works in relation to the developer building the roads. The roads belong to the developers until they are accepted by the city. He felt some clarification on how this fits is needed. He pointed out there was a long meeting on February 25, 2013, and some people got a little frustrated. He asked that this be clarified before we get into specifications.

Mr. Smith stated when a new subdivision is being developed a developer has to present plans, etc. to the City of Aiken. Generally those plans are reviewed by the Planning Department and the engineering staff. The Planning Department issues the permit that allows the developer to commence development of the subdivision. Then the developer is expected to build the roads, sewer lines, water lines, etc. All the infrastructure of the subdivision is expected to be developed in accordance with the city's specifications. Once construction of all the development infrastructure is complete and the developer has met all of the city's requirements for development, the developer then can bring what we call a deed of dedication to the city for consideration whereby the city would then become the owner of the roads, the sewer lines, the water lines, etc. At that point in the future the city would be responsible for the maintenance of all the infrastructure. The issue that we are seeing now is whether the roads have been developed in accordance with the city's regulations, and if there is an additional problem, what is that problem. He said he thought that was what Tilden Hilderbrand has been hired to do. That is to help the developers understand what the problem is with the roads and how to fix the problems. The dedication of those facilities would not occur until the city is satisfied that the roadways have been constructed properly, and that the other infrastructure has also been constructed properly. He pointed out that when a deed of dedication is presented to City Council for acceptance, Council always gets a report from the City Engineer as to his review of the construction records, what they have observed, and his satisfaction with the roadway. It is important to remember, particularly with the roads, that once the City

Engineer determines that the roadways are acceptable for city acceptance, at that point the roadways still have to sit for a year and we have to see what happens to them during the course of the year before the developers are allowed to bring the roads to the city for acceptance. He said once Mr. Hilderbrand has done his work, figured out what the problem is and they have been able to approach the city with a workable solution and resolution to the roadways and the roadways are fixed, then the City Engineer will have an opportunity for a period of a year to observe the roadways and see how they are reacting and make sure they are actually fixed before the city accepts them.

Councilman Ebner stated there is one other point of clarification that seems to be an issue now on these and others. He said it says in our specifications that the City Engineer as well as the City Manager has the right to ask for further tests. He felt there are some clarifications needed on that, because in this particular case it is his opinion that maybe we should have asked for tests sooner. He asked if there is any reason that this cannot be done by the City Engineer. He wondered if the City Engineer could ask for additional tests.

Mr. Smith stated he was not aware of that concern. He wondered if Mr. Morris knows whether or not that was a concern that he needed to address. Mr. Pearce stated Mr. Morris could address that.

Councilman Ebner stated he felt this was a point of clarification. He said they have more experience on the roads. If someone is out there and they see something questionable, his interpretation is that the City Engineer can call for additional tests.

Mr. Morris, Engineering and Utilities Director, said what that particular section refers to is that if they do see a problem they can request additional tests. He said as Councilman Ebner pointed out if they see something questionable, they could ask for an additional test. He pointed out the city does not have personnel out on projects eight hours a day all the time that the construction crews are working. He said city personnel does spot checks with the manpower available. He said additional tests would be required if they do see a problem. He said that is kind of where we are now with Gem Lakes.

Councilman Ebner stated in this particular case, and we have had some other cases with some additions, once we know this, does the City Engineer have the right to ask for additional tests under the specifications.

Mr. Morris stated before the city accepts anything, if there is something wrong with it and they have attempted to repair it and that has failed, yes the city can ask for additional tests. He said he understands that the City Engineer does have that authority from the specifications.

Mr. Smith stated he felt that is what is being done now. Mr. Pearce stated that is what we are doing. He said the city has a punch list that the city provided to the developers in November 5, 2009.

Councilman Ebner stated he felt this was an important point of clarification. He said timing is everything. He said when you look back we probably learned some things here that in the future when we see something happening we might want to be a little more aggressive. He said he wanted to get this clarified before we get into specifications that City Council as well as the City Attorney and City Manager are all here to support the citizens and represent the citizens.

Mr. Pearce stated that goes with his initial remarks that he thought everybody in the room knows there is a water problem in Gem Lakes Estates Extension. Then the question becomes how do we address that water problem. He said that is what Mr. Hilderbrand is to speak to at this time. Also, Mr. Toole is the independent investigator who can review the proposed methodology to see if that would address identifying the problem.

Councilman Dewar stated he had two questions. He pointed out Mr. Morris has been with the city for many years. He wondered in the past if the city had had more

inspectors. He said as Woodside and Houndslake were being built he wondered how many inspectors the city had to check on construction work. Mr. Morris responded the city has never had more than two full time persons. Mr. Pearce pointed out that was the reason for going to having an Engineer of Record that Council approved as an amendment to the Land Development Regulations in November, 2007, which was after this preliminary plat was submitted.

Councilman Dewar stated his other question was that we have been dealing with this issue in Gem Lakes for quite a while, yet we continue to issue Certificates of Occupancy for houses. He asked if there was a relationship between dedication of infrastructure and a Certificate of Occupancy. He said we could end up with a neighborhood where everybody lives there, but the infrastructure is not acceptable. He wondered if there was a connection.

Mr. Smith stated he asked the same question after the last Council meeting. He said he did the research. He said he did not see that anywhere. He said the city does not guarantee the kind of access that we are talking about on this roadway by issuing a Certificate of Occupancy. The city has looked at the plans and specifications and says that according to the plans and specifications this subdivision is prepared to be built in accordance with the city's regulations. That is what authorizes the city to be able to issue Certificates of Occupancy.

Councilman Dewar asked if we would have the authority if we had a developer that was experiencing problems with the infrastructure. He wondered if we would have the authority after a continued period to stop building until we get this fixed.

Mr. Pearce stated the Building Official has done that on structures. Mr. Smith stated that typically deals more with buildings rather than infrastructure.

Councilman Dewar stated he was talking about the infrastructure in this situation.

Councilman Ebner thanked the Mayor, Mr. Morris and Mr. Smith for their comments. He felt that would help the citizens understand that the city is behind them. He felt they left in February with an issue.

Mr. Tilden Hilderbrand stated he had prepared a written update and it was included in the agenda packet. He said the written update was not a very extensive, complicated update, but a simple straightforward summary of what they think is going on and what we plan to do. He said he felt Mr. Gaul and Mr. Kisner are open, within reason, to testing and review and recommendations. He said in summary the causes of the failure of the pavement in the subdivision appear to be water. That water appears to have migrated into the base material and subgrade. The specific source of the water has not been determined. In other words, they can't go the middle of lot xyz and dig a hole and pipe the water to a storm structure to get rid of the water in the subdivision. There have been numbers of tests done in the subdivision. A number of borings done inside the road in damaged areas and areas that aren't damaged to try to determine where the water is. As of April 11, 2013, when he visited the site and as of April 22, 2013, there appears to be no water coming up through the pavement in any of the patched or any other areas. There is a pipe which looks like a French drain pipe from a lot that discharges on to a lower portion of Moultrie out onto the pavement, and the pavement is wet there, but he sees no apparent water coming up through patches or through the pavement itself.

Mr. Hilderbrand stated a number of core samples have been done throughout the subdivision inside limits of the pavement and on adjacent lots. That has been done by CSRA Testing and Engineering. They have worked with them extensively to test and oversee and make repairs on the paved surface. French drain systems have been installed on both sides of the road in a number of areas. Those French drain systems have had cameras run through them to see if they function properly. There was noted some minor damage under some driveways, but not enough to cause those systems to fail. However, those French drains when observed on the discharge end inside the storm structures don't appear to be carrying a lot of water. Patches have been made throughout the subdivision,

primarily on Huron and Moultrie, using several different methods. Those methods involved using the original base material and asphalt, using a stone base material to replace the material that was softened due to moisture and then installing asphalt on top of that. Also installed were some full depth asphalt patches. In other words, the material that was soft was excavated and patched with asphalt thicker than the typical asphalt section of road. All of those methods have appeared to work fairly well. There is one area at the bottom of the hill on Moultrie that needs patching now. There are a couple of areas adjacent to some patches that need repairs. The plan of attack is to extend a section of the gravel in the French drain system up to the surface so we can see if any surface water might be coming over the top of the existing French drains and getting out to the edge of the pavement and under the pavement. It is felt that by extending the gravel to the surface that water can move more freely from the surface into the French drain before it gets out to the pavement. They will continue to monitor the existing patches and determine which of those patches appear to be the most effective and the patching method.

Mr. Hilderbrand stated they have consulted with SCDOT. He pointed out the area on Silver Bluff Road in front of Woodside has a road condition similar to this area. He said they have asked SCDOT about the repairs and how they make those repairs. Those repairs are under a current contract done by full depth asphalt patching, which is removing the softer material and patching with an asphalt thickness of 6 inches compacted thickness. That is quicker and seems to be a more effective and more efficient way to patch roadways. He said they will continue monitoring the methods of patching. When it is determined the most effective method to patch these roads, then they will use that method. They will also continue to monitor the irrigation systems and the surface water that comes on to the road and observe along the edges to see if some of the water is going underneath the pavement. He pointed out that in their corings and in their observations, the corings have been moist but the soil underneath the pavement up to a depth of about 3 to 4 feet is not saturated. Where there are problems the soil is just moist, so again they have not determined that specific source. He said now that the bulk of truck traffic is off the road from construction, it appears that the water is no longer coming to the surface. Heavy rubber tire truck traffic has a tendency, if it is repeated, to bring water up to the surface from depths below. Again, there is no water apparent coming up through the pavement.

As the patching season approaches and the weather gets warmer the roads would be repaired. He said they would not want to open up the roadways during the time it is not optimal to patch. After they are repaired they will continue to be evaluated. The schedule is to have the patching done by then end of August.

Mayor Cavanaugh asked about the curb cracks. He pointed out there are cracks in the curbing as you go down the road. Mr. Hilderbrand responded that is a punch list item. He said that is typical, and those will be repaired. He said depending on how extensive they are, it could mean replacement. If the crack is extensive enough, it could involve sawing out a joint and grouting back in. It depends where the curb is settled and how wide the crack is. He said curb cracking is fairly common.

Mayor Cavanaugh stated Mr. Hilderbrand had mentioned something about a patch being made and the depth of the asphalt used for the patch. Mr. Hilderbrand stated he had mentioned some patching the SCDOT had done on Silver Bluff Road in front of Woodside. He said he had talked with the SCDOT Resident Maintenance Engineer and asked them how they had patched the area. He said SCDOT had done patching using a full depth asphalt patch, which means that the loose material or wet material is excavated from the damaged area and replaced with all asphalt. Their contract calls for 6 inches of asphalt thickness to replace the material that is removed.

Mayor Cavanaugh asked what we have on the road in Gem Lakes Extension. Mr. Hilderbrand responded that the pavement section design calls for 1 1/2" which is a city standard and the standard used on the roads. The patches vary in thickness from 1 1/2" to 2" up to 6". He said they had done some different patching methods to make the repairs. The work has all been done in coordination with CSRA Testing.

Councilman Ebner stated in this particular case, he had watched the roads since 2007 and how they were built. It appeared as they were being built that the pumping of the water or the squeezing of the water was coming up when they were getting ready to put asphalt on. He said we have had this problem almost since day one. He said there have been patches on the roads and the patches have been enlarged. He said on this past Saturday there were some Councilmembers out there, and there was still spider webbing from a number of patches. He said the concern is whether this will ever stop. He said he did not hear Mr. Hilderbrand talk about the root cause of this. He said there has to be some root cause. He asked Mr. Hilderbrand what he sees as a root cause.

Mr. Hilderbrand stated it appears that the base and subgrade material is moist. It also appears that the moisture has subsided over time. He said he had not done extensive testing by monitoring corings over time, done continual water table analysis or anything along that line. He said he was basing that on the condition of the patches that have been placed there and visible water on the pavement. He stated Mr. Kisner and Mr. Gaul are concerned, as Council is, about the continuing spidering. He said it does appear that has decreased and the plan is to cut that out, remove the material and make the patch.

Councilman Ebner stated within the last two months you can see migration away from the patches. He said obviously the loading on the road for the last few years due to construction has been very little. He said it has had time to go through some seasonal changes. These seem to keep on migrating. He said if it is moist now, will it ever dry out and hold up any kind of road without some major fixing.

Mr. Hilderbrand stated in looking at the roadway twice in April, he was encouraged. He pointed out that February, 2013, was the fourth wettest February on record. He felt if water was going to be evident, he felt it would be evident now following the particularly wet period.

Councilman Ebner stated one thing not mentioned and that the citizens mentioned at the last meeting, was that the citizens want the road surface to be smooth and not have a lot of patches. He said that was one of the things that the citizens had discussed and asked for. He said in his opinion we owe them that kind of road. He said another amazing thing is that at the end of Moultrie and end of Huron where they meet the old roads which are about 25 years old, as soon as you go over the hump that is where the road issues start. He said he hoped they would look into that and see that obviously there is a difference in the few feet of elevation change going downhill. He point out the roads above that are okay.

Mr. Hilderbrand stated that section is about 25 years old and they did that section. He said there is not patching in that area so it is worth observation.

Councilman Ebner stated he felt it was important to be sure we get the root cause because you don't have to go far coming down the hill and that is where the problem starts. He said he would say it is migration of water.

Councilwoman Price asked Mr. Hilderbrand if he had stated that different methods of patching had been used in different sections to try to come to the root cause of the problem. Mr. Hilderbrand stated that was not to determine the cause, but to make the patches. He said the different methods were used based on the conditions that were found when the bad material was excavated. If the bad material went deeper, then stone would be used underneath an asphalt section. If the soft material were removed up to a six inch depth, then in some cases full depth asphalt was used. The different methods were used based on the conditions that were found when the material was excavated. That was not to determine the cause. He said we are all concerned about the cause and we need to determine that.

Councilwoman Price stated there was an area where crushed rock was used, and based on the assessment she wondered whether that area is working more acceptably than some of the other patches. Mr. Hilderbrand stated it appears that most all the patches are working

effectively. He said he felt the method they are leaning toward is the full depth asphalt patch just based on the conditions they have encountered and the more relative ease to install those.

Councilwoman Price stated based on her observation some of the patches are deteriorating. She wondered how many times they have repatched an area. Mr. Hilderbrand stated he knew that at the intersection of Huron and Moultrie that area has been repatched. He said Mr. Kisner may be more able to answer the question.

Councilman Homoki stated that Mr. Hilderbrand had referred to the SCDOT repairs on Silver Bluff. He wondered if the contractors for DOT do core samples or if they had removed the defective portion and patched it regardless of what was underneath. Mr. Hilderbrand stated they removed the bad material and applied asphalt. He said they don't do sampling and testing, except for compaction testing, but not core sampling or analysis.

Mayor Cavanaugh asked Mr. Hilderbrand if he had been involved from the very beginning with the roads. He said he understood in the beginning there was a question between using clay sand and rock and the decision was made to use sand and clay. Mr. Hilderbrand responded that a portion of the roadway at the lower end of Moultrie, has a stone-based material. That was based on a recommendation from the soil testing folks based on some water that was encountered in that area. That was the end fairly near Lakeside Drive which is the other end from the area being discussed at this meeting. He said water was encountered when a storm drain was installed. The developers installed a serge stone material underneath some gravel and then installed a stone base on top of that for paving. In the area we are talking about it is not uncommon to use a sand clay base depending on the time of year. The sand clay base is a city standard base material. Sand clay base is used when the weather conditions are such that a contractor or owner doesn't expect heavy rain fall. He said heavy rainfall erodes a sand clay base and you have to come back and make repairs. If they don't get it paved in time, then it erodes. A stone base is basically a more stable surface if there is rainfall. In this case sand clay base was used on part of the roadway and stone base was used on another section of the roadway. The intention was to use sand clay base throughout the area, which is a city standard.

Mr. Pearce pointed out that the cover sheet of the plans showed stone base throughout. Mr. Hilderbrand stated that was a note missed on their part. He said initially it was submitted with a stone base detail, but later revised for a sand clay base detail. He said a sand clay base is something they commonly do in the county and the city

Councilwoman Price stated her question was regarding repeated patches and the deterioration of repeated patches. She asked how many times have they patched in the area. Mr. Steve Kisner stated initially, when they saw some areas of the roads were deteriorating, they went back and patched them basically with a sand clay base which was the original method of construction. Some of those patches immediately failed again. It was determined that they needed to change their method of patching. He said they started exploring different methods and immediately went to a rock base patch. Subsequent to that it was recommended because of the ongoing problems that they go to a full depth asphalt patch. He said they would muck out all of the sub base that appeared to be a problem and patch with all asphalt. He said that seems to be the most successful method. Mr. Kisner stated the thickness of the all asphalt was done based on the appearance of the base. It would range from 3" to 6".

Councilman Ebner stated it was his understanding that, as they progressed through the construction, the city did their inspection oversight all the way at each step along the way as the sewer lines were done, the back fill, etc. The city observed it and signed off on it before you moved to the next step. Mr. Kisner stated that was correct.

Mr. Pearce asked if the city were to do any testing would Mr. Kisner or Mr. Gaul have any objections. Mr. Kisner stated they would not have any objections. He said the city had already done some testing for them. He said they had been working with Mr. Morris on this problem for some time.

Mr. Pearce stated Mr. Toole has read the report by Tilden Hilderbrand and heard the presentation at this meeting. He asked Mr. Toole to tell Council what his proposed course of action would be based on the proposal he had given to the city and how he would see this going forward.

Mr. Rick Toole stated he was President of W. R. Toole Engineers, a civil engineering firm located in Augusta, Georgia. He said he was asked by the City Manager to take a look at the proposals brought forth by the developer and his engineering staff to determine whether they would be considered a reasonable approach in repairing the roads and making them structurally sound. He said his proposal was to review the information presented by Mr. Hilderbrand. He said the information he received a few days ago, provides a very good approach in general, a traditional engineering approach. They have identified that moisture is the culprit and that they would remove some of the failed areas and repair them. In highway engineering that would be considered a traditional approach to satisfying that problem. As far as determining the origin of the moisture and the aspects and impact of the moisture as it moves into the future, that is the only part that has not been identified. That is a tricky situation. In order to effectively evaluate he said he would propose to probably go in with fairly comprehensive testing to determine the profile of the material that underlays the roads. That would extend from the existing roadbeds on Moultrie and Huron up near Savannah Drive, where there have been no patches, down through the areas that have been constructed. That would consist of both coring and hand work in the pavement section itself and then actually soil test borings on the outside behind the curb areas on the outside of the roadway itself to try to determine what the profile of the soil looks like to a deeper depth. He said he is proposing 10 feet. A flexible pavement system, an asphalt pavement system, is called a multi-elastic layered system. It is named that because it is elastic. It moves with the structures that are underneath. Both the pavement, the base, and the subgrade under the base all move with the application of loads. Because it moves, it has a tendency to react to whatever the weakest component is in the system. If for some reason the component is a soil profile problem, then the full depth asphalt may work, but it may not work five years down the road. It may deteriorate. He said their proposal depends on the level that City Council would like to have in moving forward. In order to increase the level of confidence, they propose to do borings so they can identify the soil profile and develop a model that will tell how the pavement will react with time and how the moisture in the subgrade will either negatively or positively impact the pavement structure in the future. He said their proposal is to do additional testing, a good bit more than what would normally be accomplished. However, with the extent of the patches that have occurred within the residential area, he felt it would be prudent to do a fairly comprehensive testing program, evaluate that information and provide an alternative recommendation or to justify the recommendation that has been made.

Mayor Cavanaugh asked Mr. Toole if he already had his plan organized and on paper with step by step what they would do. He said he felt it would be good for Council to have copies of his plan as well as the citizens to have copies.

Mr. Toole stated he had contacted a testing firm that has several senior principal partners that he worked with several years ago in Atlanta that have extensive experience in roadway evaluation to provide the testing part and do the soil borings and corings, soil sampling and testing, and a fairly comprehensive laboratory testing as well for support. He said he has a proposal from them for those services and will provide that to the City Manager. Based on that information we can decide if the city wants to move forward. He said he would work in concert with them to evaluate the conditions and the proposed methodologies for solution. He said the other thing he recommended is that once they have that information in hand, solid data that shows the profile and how it impacts the future, is to hold a public information meeting on site with the residents, so they have an opportunity to look at the data and the solution. Hopefully, they can give the residents some type of reassurance that there is an identification as to why this happened so they don't have issues associated with their yards or with the road in the future.

Mayor Cavanaugh stated that communication is so important. He said if we have fallen down anywhere, it is in communication. He said we want to the citizens informed and

Council as well. He asked that Mr. Toole give Council some of his background and highway work.

Mr. Toole stated he is a Georgia Tech graduate and undergraduate. He has civil engineering undergraduate and a masters in Geotechnical Engineering. He said his masters thesis was on the Fatigue Characteristics of Bituminous Paving Materials. He said he spent a year in the lab doing full scale tests on asphalt for what is happening in Gem Lakes. He said he worked in Atlanta for a geotechnical and materials testing firm for five years, heading up their engineering branches of a southeastern regional firm that has been around for some time and purchased by Westinghouse and later sold back and is in operation again. He said he moved to Augusta in 1984 and opened a civil engineering firm to provide transportation and infrastructure design services.

Mayor Cavanaugh stated, concerning the asphalt, is there a chance that some of the asphalt might not be as good or as consistent a quality as other parts.

Mr. Toole stated that some of the core samples they will retrieve and look at may show if there is any obvious evidence of deficiencies. If need be, they could run tests on the cores to determine all of their suitable characteristics to see if they meet current South Carolina DOT standards. He said just looking at the asphalt in general, he did not see any areas that would show deficiency in the actual asphalt component.

Councilwoman Price asked about a timeline for the reviewing the proposal and recommendations of the developer. She pointed out the community is a bit frustrated because they have waited for some time now in terms of identifying the cause of the problem and solutions. She said there are all kinds of factors to consider in giving a timeline. She said we know that a solution to the problem will not be instant, but she wondered about some idea of a timeline in trying to get approval with an estimate of cost and moving forward with the material and soil profile, etc.

Mr. Toole stated once authorization is received for the subsurface investigation, it will take about one week to get set up. It will take approximately 4 to 5 days to complete the coring within the asphalt area itself. It will take 3 to 4 days to complete the soil test borings on the outside in addition to the coring. Then the laboratory work will take about two weeks to complete and another two weeks to prepare the report. It will be about a 5 to 6 week timeframe to have recommendations back. It will be a month to a month and a half to complete the project. He said it is not something you can rush. It is a process and it requires a certain amount of time to complete. He said as soon as the report is ready, he would suggest that they meet with Council first and have the public information meeting immediately thereafter so the residents will know what they have found. He said they want to keep the residents and the developers involved.

Mr. Rich Decker, a resident of Moultrie, stated he had heard discussions tonight about moisture. He said he was a little confused. He said they had been told that moisture is the problem, but then they were told that somehow there isn't really a lot of moisture underneath the road and there is no visible moisture coming up out of the road. He said he would like to correct that. There might not have been moisture on the day that they visited, but on the days that he has gone out there has been plenty of moisture coming up days and days after rains have occurred. He thought there was moisture coming out of the road when the Mayor and two Councilmembers visited the area. He said it is confusing, as in one sense we are saying there is water and on the other hand we are saying there isn't water. He said he did not see that as identifying the problem. He said there had been discussions about patching. He said the residents have watched generations of patches being applied to the road. In some cases there are patches on patches. As Councilmember Ebner has described one section is patched and as soon as that section is completed the adjacent areas begin to break up. He said he did not know how anyone could rest assured that patching another section will take care of the problem when the evidence so far has been that every time a section is patched, it moves to the next section, etc. He said they were told that one of the reasons why the adjacent sections were cracking and breaking was because of the patching activity. Using that logic or rationale we are saying that it can never be done, because if we are patching, that

somehow disturbs adjacent sections and we will patch that and the next adjacent section will need patching, etc. He said he did not think that was viable. He said it was hard to pick up all that was said because there is a lot of information. He asked what is the worst case scenario that can be envisioned with soil testing. Would there be a worst case scenario that you would come back and say the soil was so poor underneath the road that the road will have to be taken up. He said then there is the question of who will pay for the surfacing of the road. Mr. Kisner has stated repeatedly in the past that he is not willing to resurface the road. He asked if Mr. Kisner would be willing to commit to resurfacing the road. He said that would be a "big chunk of change." He said he understood that there had been numerous requests for the compaction testing that went on beneath the sewer lines or the compaction testing that did not go on beneath the sewer lines. He said he understood that they have not been furnished with the test results. He said he thought they have been told that they don't have those test results. Mr. Pearce responded that city staff has furnished the residents with everything we have in our files. Mr. Dexter stated then we don't have compaction test results for underneath the sewer lines. He said he believed that is required. Mr. Pearce stated there is a standard in the Development Regulations.

Councilman Ebner stated we will discuss that in a few minutes. He said that he, Mr. Toole, Mr. Grinton, Mr. Morris, and Mr. Pearce had a meeting prior to this and that will be discussed in a few minutes.

Mr. Dexter stated they measured one section of the road from the top of Moultrie to the bottom. In that section almost 42% of the road was in patches. He said they have pictures of other streets in Gem Lakes where there are a few patches. He said he would expect that a road 20, 25, 30, or 40 years old would have a few patches on them. However, they are talking about a road that is not even 4 years old and has 42% in patches now and needs further work. He said every time he walks the road he sees new cracking going on in the existing pavement. He said he walks the road plenty and he has hundreds of pictures of the roads. He said to say we will patch here and patch here only moves the problem further down the road, but we never get the job completed. He said he believes the approach that Mr. Toole has outlined is the right approach to find out exactly what the problem is. He pointed out discussion about runoff water from the properties and irrigation water running off from the properties is somehow the cause of this dilemma. He said he finds that offensive. He said it is like saying the citizens are watering their lawns too much and that is what is contributing to the problem. He said many lawns in Aiken get watered and all the roads in Aiken are not breaking apart like the ones in Gem Lakes Extension. He said by design, runoff water and irrigation water are to be channeled off the property onto the road. It is in the Development Regulations. That is why the swales are there and why the properties tilt towards the road. Of course water is running off from their properties to the road. He said to tell residents that somehow they are overwatering he finds very offensive. He said the residents of Gem Lakes Extension have three requests of the city. Those are: to find out what the problem is, fix the problem, and resurface the road so it looks like a road and not a conglomeration of patches. He pointed out there are four houses for sale on Moultrie and one has been on the market for almost two years and can't be sold. He wondered if the road is a cause for the houses not selling in the area. He said at the meeting in August Mr. Kisner's partner said the roads were a contributing factor to the properties not selling in the development.

Mayor Cavanaugh stated it is hoped that the city will find out some good information and find out what the real problems are. He said he finds it hard to believe that the irrigations systems are a cause of the problem. He said the key is to find out what the real problem is. He felt that Mr. Toole and his company may be a good help to us.

Mr. Jim Fairchild apologized for his appearance. He said they started a buddy baseball program in town about four years ago. He said he had been with some of the needy children in the area and had a buddy baseball game this evening. He thanked some of the Councilmembers and the Mayor for meeting with them. He said the Mayor had met with three of the residents, and he was quite gracious, understanding and listened to their situation. He said the Mayor came to their neighborhood and that said a lot about the Mayor to him. He said he was proud and grateful that the Mayor came. Also, three Councilmembers met with the residents as well, and they are thankful for them as well.

Councilmembers Ebner, Dewar and Price met with some of the residents. He said it was good to have the elected representatives show such interest in a situation. He said the residents are truly thankful for the Councilmembers. They have shown tremendous leadership in this situation.

Mr. Fairchild pointed out that Mr. Decker had mentioned that 42% of their road is patched at this point. He said at the last Council meeting they felt the only promise they received was that they would receive more patches. He said a tremendous amount of work has gone into getting us to this point in trying to get the roads fixed. He said they are thankful for that as a lot of time has been put into the effort. He said 42% of the road is in patches now and the promise they felt they received from the last meeting was they would get more patches. He said from discussion earlier in this meeting he heard some of the same thing that they will get more patches. He said they measured the roads and the area that is cracked and broken and the area needing patches. He said by the time we are finished, if all we have is more patching, they will have almost 50% of their roads in patches. He said as someone drives down their roads, they will see a quilt that is 50% patched. He said that is unacceptable, and they need the roads resurfaced. He said their desire and the reason they are present is they want the roads repaired. He said he must be very blunt and say they want the roads resurfaced. He said to them anything less than resurfacing is an unacceptable form of fixing the roads. They want the roads resurfaced. Nothing less than repaired and resurfaced. He pointed out the houses in the neighborhood and the roads are brand new and to have 50% of the roads with patches is unacceptable in a new neighborhood. He said he did not know whose fault this is, but that is for Council to figure out. He said he wanted to make it clear and felt that they did not make it clear at the last meeting—they want the roads resurfaced. He said they feel that their housing values have dropped. He said Mr. Gaul had stated at the meeting in August that their housing values would drop or would be affected by the condition of the roads. He said on the situation about water from the sprinklers, the major patching on the road was completed in August and September, 2013, after the meeting at the Gem Lakes Pavilion. Since then we have encountered an extra 10% that needs more patches. That means in six months 10% more of the roads need patching. He said they had patched all the problems and they seemed to be fixed in August or September, but now 10% more needs fixing. If we fix that 10%, then 10% more needs fixing. He said the problem is spreading. He said if the roads had been constructed according to the original plan, which is on the cover page of the plans and calls for the roads to be gravel under the surface is there a better chance that the roads would have with stood and we would not be facing this problem. He asked if there is a way to say that the roads probably would have been better.

Mr. Toole stated there is no way to tell if the roads would have been better if it had been gravel without a lot of testing. He said the standards are used throughout the Southeast—grated aggregated base and/or sand clay are utilized, primarily sand clay in those geologic provinces considered Coastal Plains. He said as far as one operating better than another in a particular instance like this, there is no way to tell.

Councilwoman Diggs entered the Council Chambers at 8:11 P.M.

Mr. Jim Williams, of Moultrie Drive, stated he wanted to mirror Mr. Fairchild's comments in thanking the Mayor and several members of Council for their support and helping them by taking their time to meet with them. He said part of the frustration that some of the residents have is perhaps the lack of continuity that they have experienced. He said even as of today there were some emails that have gone back and forth. Mr. Hilderbrand stated earlier they had done some testing on the French drains to see if they were clear, and yet the city has replied back that they have not found any documents in their files related to the French drain installation. Mr. Pearce stated the city does not have anything in the files regarding French drains. Mr. Williams stated again that is some of the continuity that gets frustrating for them, as they are doing their work on the side to try to find out what went where and why. He said perhaps this is a stepping stone to making sure that we don't come across a similar situation in the future. He said he appreciated Mr. Toole's presentation and professionalism. He asked Mr. Toole in his opinion if it was appropriate to fix a portion of the road that has failed to date when we see it is migrating and we now have 42% patches. He asked if it was fair to say in his opinion

that patching may solve those specific areas and that may just be unique to that portion of the road. He said there may be a 4' x 6' patch but the adjacent 4' x 6' area would not require a patch so there is no need to consider that.

Mr. Toole stated data is data. When you take data and evaluate what is there you can make a reasonable and logical engineering judgment as what needs to happen. He said, as far as the size of a patch or what has to happen, he could not answer that based on what he knows today. He said he does not have enough information at this time to answer.

Mr. Williams stated his question was if we patch a section of the road because it is failing, what they have seen is that now the section that borders it is beginning to fail as well. He said in his eyes he would not buy a house that 42% of it was built incorrectly. The response was they would fix the sheetrock and repaint the walls. He said in his eyes he would want the entire house to be built correctly. He said his question to Mr. Toole as a professional is would it not seem due diligence to not just fix this piece that is visually failing, but to correct the entire thing.

Mr. Toole stated strictly from an engineering standpoint, the idea is to establish a roadway that is structurally sound and that will hold up under traffic. It is more of an aesthetic and a policy position to determine the aesthetics of the road and how that weighs into the value. He said he could not say whether a patch in 6 inches would be an end all. He said he would be able to come up with mechanisms to evaluate the pavement when repairs are made, whether they are in a patch or in a section. He said they will make recommendations to that effect. He said as far as requiring a patch on one side of the road and not on the other, he will evaluate based on the structural integrity of the road. He said they will mitigate the potential for failure in the future, but you should know that it is a roadway. It is subjected to traffic and loadings. Roadways have a tendency under certain loadings that they will fail at some point. There will be failures even in the future. The idea is to mitigate that and minimize the ability for that failure to occur in the future and provide a suitable surface that will have structural integrity such that when loads are applied to it that it will react the way it is supposed to react.

Mr. Williams asked in his professional opinion if he would expect the load and traffic that would be incurred to build such a development that does not include high rise buildings, basements, etc. to deteriorate as quickly as it has in the manner it has. Mr. Toole responded that he would not.

Mr. Williams stated another concern was about sprinkling that had been discussed for a long time. He said it is frustrating to him and many others. He said his neighbor sprinkles his yard year round, and he has been there for 25 to 30 years and his road is okay. He said his house is where the road changes. He said he shuts his sprinklers off because he does not want to waste money in the fall, and he turns them back on at the appropriate time in the spring. He said he has not turned his sprinklers on this year. He said Councilmember Price walked the road with them on Saturday, and there is water coming out from the foot of his driveway on one side. He said he could not see placing judgment on people's watering habits. He said that does frustrate him.

Mr. Ruggles, stated he lives on Huron Drive. He said there had been a lot of opinions from people on Moultrie. He said since he moved here there had always been construction and patching on Moultrie Drive. He said he was at the meeting in February. He said you are being a lot nicer than then. He said all everybody seems to say is testing and patching. He said he has been able to see it come toward him. Other people were seeing it spread out from their front door, but it is coming to him. He said the patches are coming closer. He asked how many tests and patches will we get before it stops cracking. He asked if there was any guarantee that there won't be more patches, and if they could be stopped from spreading. He said the testing and patching are not stopping the cracking from spreading. He said if it is going to spread any way why not repave the road. He asked time-wise when they could expect to stop seeing cracking of the road. He asked what the other tests that had been done proved.

Mayor Cavanaugh pointed out that Mr. Toole had mentioned several times that you need the basic facts before you can determine what you can do and how to do it. He said Mr. Toole has a lot of experience and background, and he will be helping evaluate the situation.

Councilman Dewar stated that the testing will provide the data to help make a decision on what to do to correct the situation with the roads. He said no one can answer his question at this time. He said at this point we should get a solution and an analysis of the problem and hopefully a solution that will satisfy everybody. He said there is still the issue of paving the entire road.

Mr. Pearce stated as far as the other tests the city had done some ground penetrating radar in the fall. This was discussed at the August, 2012, meeting. There was a concern that maybe the city lines were leaking. Those tests did not find any city water lines leaking. He said the developer spoke earlier, and they did some testing when they dug up the road. City staff was involved as well, with some of the patching when as much as a foot to two feet of stone was put underneath the patch. At this meeting we are proposing some methodology for some further testing to see what would be appropriate to patch the roads. Mr. Ruggles asked if the previous testing showed the best way to make patches and solve the problem. Mr. Pearce stated the previous testing showed that the city did not have leaking city water lines in the area. Mr. Ruggles asked when the most recent test was to find out what was the best way to patch the road. Mr. Pearce stated the city did not do testing in February. The purpose of the February meeting was to come back in April to see what the developer was proposing to do. Mr. Ruggles asked when was the last time someone tested the ground to see what the best way is to solve the problem. Mr. Pearce stated the developer looked at the ground when they did the patching in August and September. The city did ground penetrating radar testing last fall.

Mr. Keith Mead stated he lives on Huron and there is a patch in front of his house that has been replaced at least twice. He said he was not concerned about the patch and felt the patch would be there long after the rest of the road has deteriorated. He said he was excited about the fact that we will have Mr. Toole doing some testing and some analysis. He said he was concerned about cost. He said once an appropriate action is determined, who will foot the bill. He asked if it will be that the roads have not been turned over to the city yet and not accepted by the city. He said if it is determined that maybe the subgrade was not done correctly, some incorrect material was used, or a different material needs to be used, who will foot the cost. He wondered if it was a requirement that the city take the roads if Kisner and Gaul don't do anything additional to the roads. He wondered what the city's recourse is as far as holding Kisner and Gaul accountable as far as doing more with the roads. He said his concern is property value. He said roads do impact the property value, and that is a cost to the people that own it. He said if the city owns the roads and they continue to fail, then there is taxpayer cost. He said those were his concerns.

Mayor Cavanaugh stated he felt we all have those same concerns. He said, however, he felt we would not know anything until we get to the root cause of the failure of the roads and start talking about how to fix the root cause. He pointed out that Mr. Toole will be working on the issue as well as CSRA Engineers. He said two groups will be working on the matter. He said Mr. Toole was being brought in as the city's independent engineer.

Mr. Brent Ruggles stated he lives on Huron Drive. He said Mr. Fairchild had compared the roads to the patch work like a quilt. He said his wife is a quilter and would take exception to that. It is a very ugly road. He said he was interested in the presentation that was made at this meeting. He said he was very disappointed in Mr. Hilderbrand's report. It seemed to be very superficial. It did not identify the root cause. We don't know if it is a design problem or a construction problem. He said he had zero confidence in the process he is proposing to take and its ability to create a road that will stand up. He said even if it does not look nice he did not feel that it would stand up. He said there is no understanding of what is going on. He said they are not coming often enough to see the water coming up through the pavement in the cracks. He said he was glad the city was considering using Mr. Toole to do additional testing. He said he would have

expected that to have already been done by Mr. Hilderbrand and the developer. He said he would advocate doing additional testing to determine the root cause and whether the road was designed ineffectively or constructed wrong. He pointed out that roads have been constructed in wet areas for hundreds of years. It should be possible to build a road that doesn't have 40% patches in only four years.

Mr. Sean Derrick stated he appreciated the Councilmembers who came and looked at the road. He said he was the last house on the right on Moultrie and does not have any patches in front of his house, but unfortunately he needs a lot of patches in front of his house. He said since he moved there the road has deteriorated. He pointed out he picked up big pieces of the road bigger than a football. He said that makes it unsafe to walk on the road. He said he had heard Mr. Toole's proposal. He said his wife is a physician so he really related to data information driven conclusion. He said he felt very comfortable with his presentation. He asked if the city was hiring Mr. Toole to do the work. He pointed out after it rains they could clearly see water in the center of the road. He said he believes there is a water problem. He said his concern is that Kisner has been approaching this problem with no data. They have been looking at it, taking a guess and trying to fix it accordingly. He said doing that will never get the road fixed correctly. He felt Mr. Toole's proposal of getting sound information is the way to go. He said once we get Mr. Toole's proposal, and the road is fixed, he feels as a resident, having paid \$301,700 for his house in a brand new neighborhood, that like a car if you took it in to get it fixed, just because it is safe and the fender is not on it does not mean that it is still correct. He said we have laws in South Carolina so that if you buy something and it is fixed three times and it is not right you get a new one. He said he agrees with his neighbors that once the road is safe, sound and secure, that it needs to be fixed aesthetically, because that is what their house value is based on. That is what they pay taxes for to the city. He said he was not saying that the road is not right; my house value is down, I need a reduction in taxes. He said he was saying he bought a new house, expecting a new road, but not 50% patching of the road. He said a road with 50% patches he considered no different than a lemon law in a car. He said there had been ample opportunity, we have given it a go, now let's get it fixed correctly and let's make it look right, because that is what he was paying the city for in his taxes.

Mr. Rich Decker stated he had heard a lot of discussion tonight. He said we don't know what the costs are going to be on this. He has to do the testing he is advocating. He said we have to come up with a bill. He said he had heard the City Attorney claiming that this road is not part of the city system, and therefore the city could not spend funds on it until such time as it was part of the city system. He said we have a scenario here. He said it is difficult for him to comprehend who is going to pay for this. He felt that is an important point to understand before we have reports. He said we can have all the reports in the world, but if the report comes back and says this is going to cost \$300,000, and Mr. Kisner says he is not willing to spend \$300,000, what happens. He said we would have a road for which the City Attorney has said that the city is not responsible. Mr. Kisner has conceivably said he can't go that far. What then. In all of this conversation his understanding was that City Code required financial guarantees. There was supposed to be a financial guarantee on the project—a performance bond. In the Code it specifically says that there should be a financial guarantee. He said Mr. Smith had laid out the scenario of responsibility, but he had neglected to talk about the maintenance guarantee that was supposed to be in place. He said he sees nothing that says somehow we should not have had a financial guarantee on the road. He said they were told because there were no applications for housing that we don't have to have a financial guarantee. That is not what it says. It says conditions of final plat approval that (a) the road will be completed, inspected and approved, or (b) a performance guarantee conforming to the requirements set forth below guaranteeing the completion of the required improvements is accepted by the Secretary of the Planning Commission. He said he sees nothing in there that is an exit door from that. There is nothing in there that says except under these conditions, except we don't have to have it because of this and that. That is the regulation that City Council passed. He asked why the City Council regulations were not enforced. When you come to the maintenance bond part of it, we are told that there is a reputability policy that has occurred. That occurs even though the city development regulations say that the guarantee shall be released within one year unless the City Engineer determines that there is work to be corrected, in which case the applicant shall

be given 90 days to complete the work. If the work is not completed, the proceeds from the guarantee shall be used by the city for such work. The guarantee shall be released when the City Engineer deems the work is complete. In other words the city was to have taken over the road and effected repairs using the maintenance bond. He said they have been told that \$107,000 has been spent by Mr. Kisner without doing proper studies. He said that was a bad business decision. You don't fix a problem without knowing what the problem is. First, you hire someone to ascertain what the problem is and then you spend the money. He said he has asked for the city reputability standard—who is reputable, who is not, who determines that, how somebody that is disreputable gets reputable, who is in charge of that decision, how long a company must be in business before it is deemed reputable. He said Kisner and Gaul LLC were not in business prior to this. They were in business as separate entities. A corporation is an entity. That entity had no record with the city of reputability or anything else. He said he was told there is no formal written policy regarding determining a reputable developer. He said the Engineering and Utilities Director has worked for the city for over two and one-half decades and has become quite familiar with the developers who will do what they say they will do. He asked about the other contractors who have not worked with the city. Are they excluded from working in the city. Will their bonds be called in. He said there is an inconsistency here. The Code is very clear in what it says, and yet somehow we have a regulation and a city code and we just turn our backs and say we don't care about that code. We will get somebody to say that the person is reputable. He said he had seen no definition of what is termed reputable and seen no definition of how that works and he has asked for it. He said if there is to be a policy of reputability it should be a matter of public record that any contractor who wishes to do work within the City of Aiken should be able to look at the policy and say whether or not they are reputable. How do I determine my reputability. How do I get permission to work under the same circumstances that this contractor who is given a favorable break on his bond being called, but my bond might be called because I have never done work within the city. He asked if that is how it works. No one seems to be able to tell him. When the Titanic sailed into an iceberg, there was an investigation. The investigators concluded, and the report concluded, that it would have been standard practice to sail with great speed into fields of icebergs in the past but should be reconsidered in light of the fact that that might not be a good policy. He said, in fact, the Gem Lakes road is not the only road within the city that is having these problems, and in the future he believes that the city really needs to look very closely to how these matters are worked and what we are going to do. He said if the city eventually ends up with a bill for Gem Lakes they will end up with bills for other areas too that have the same sort of problems. He asked if that is what the city wants.

Ms. Sheryl Ruggles stated she lives on Huron Drive. She said as you turn onto Huron from Savannah you go by nine homes that have no patches. As you go around the bend there are thirteen patches with nine more homes. He said there is an obvious discrepancy on how the roads were built. Because the roads are in a U shape any construction vehicles that have been through there have to go on the old area as that is the way out. She said there has been construction going on in the newer section, but all the trucks have had to go on the old roads. She said she would like to know what the old roads are made out of, because they have held up. She hoped that would be included in the testing so that could be compared with the new road versus the old road. She said she was expecting more at this meeting. She said she understood from the February meeting that Mr. Kisner would have the testing done and he would have a proposal. She said it does not sound like we have any results from any testing that we can make a plan.

Mr. Pearce pointed out that in the minutes from the February meeting it says Mr. Kisner would have a plan to go forward. The purpose of this meeting was to see where we are in this process. He said we do have a plan to go forward. The developer has said the repairs would be completed by the end of August. The developer has provided his plan, and that was in the packet provided to the residents of Gem Lakes.

Ms. Ruggles stated she thought it was going to be a report of what was found and what is to be done. She said she also thought the city was supposed to have their testing done as an independent evaluation. She asked if there is a date now for the new testing and the new plan. She pointed out it definitely seems to be a water issue. She said on Moultrie

the base of it is a huge retention pond, so obviously the neighborhood is built to have the water flow there. So there have to be roads that will take water.

Mr. Pearce stated we said the city would have an independent investigator look at the presentation by Mr. Kisner and see what recommendations they would make.

Mayor Cavanaugh pointed out that the city's independent investigator Mr. Toole has a plan and stated that he should have a report in about six weeks from the date the contract is signed. He said the contract still has to be signed, but as far as he is concerned the study will go forward.

Councilman Dewar stated he agrees with the point Ms. Ruggles made. He said he is happy with where we are headed, but he is not sure he is clear on what we were supposed to get for tonight. He said he agreed he thought the developer was going to give Council a plan and then the city would hire someone to evaluate that plan. He said if the April 15, 2013, document is a plan, then he would agree that the plan is not very specific. The specific source of the moisture has not been identified. He theorizes that the moisture near the surface at some point in time was exacerbated by heavy truck traffic. He said the report is not what he thought they were going to get. He said he was very impressed with Mr. Toole, the engineer who will do the independent study for the city. He said it seems that Mr. Toole is going to be tasked with identifying the problem and the solution. He said he thought the developer would identify the problem and the solution and the city's independent engineer would evaluate the developer's proposal.

Ms. Ruggles stated it was like they had heard the same thing tonight. She thought we would have a more definite plan. She said Councilman Ebner had said he wanted the residents to say something at the meeting to let Council know that they are all concerned that it is not just three neighborhood members so that is why she spoke. She said all the residents of Gem Lakes Extension are concerned about the road and want it resurfaced when it is fixed.

Mr. Pearce stated that was the reason for his initial remarks that everybody in the room knows the roads have a problem and we need to get to a resolution.

Mayor Cavanaugh stated he thought a point had been raised and it needs to be clarified. He said that is we know that Mr. Toole is going to do a certain amount of testing, boring, etc. He said we know that Mr. Kisner and Mr. Hilderbrand have done their part. He said to him Mr. Toole has to evaluate what has been done also. He said that is part of the evaluation. He said the developer and the city's independent engineer would be working together as far as looking at data. Mr. Toole would be making his own data, but he will also be looking at what the developer has proposed. He asked Mr. Toole if that was his understanding and Mr. Toole responded yes.

Councilman Dewar stated it is not what he thought was going to happen tonight, but he was very impressed with where we are headed.

Councilwoman Price stated she had known Mr. Toole for a long time and knew that he wants to get data before doing anything.

Mayor Cavanaugh stated when there comes a point in time that his data is different from the other data, that will have to be discussed. He said we all want to work together to solve the problem.

Ms. Brandi Derrick stated she wanted to thank Council for listening to the residents of Gem Lakes Extension. She said they are very concerned about their roads and she wanted to thank Council for listening and taking their concerns into consideration. She said it seems now that there are some definite plans to go forward with diagnostic testing. She hoped they could move forward with the procedure to fix the roads.

Mr. Jim Fairchild stated the important relationship that we have with each other, and the people of this town and the citizens have with Council is that there is tremendous

openness and honesty among all. He said with that situation he heard something that he must have heard wrong. He stated to Mr. Toole that we want honesty and he did not want to think anything bad about anybody that works in our city. He said he wanted to ask Mr. Toole when he was contacted about this situation.

Mr. Pearce responded that Mr. Toole was at the February 25, 2013, meeting. The city did not have a proposal from Mr. Toole until last week, after he had Mr. Hilderbrand's report. Mr. Hilderbrand provided a report on April 15, 2013. Mr. Toole had sat in on the presentation on February 25, 2013. At that time we had no idea if he would have any interest in acting as the independent investigator. Once he had the plan from Mr. Hilderbrand he shared that with Mr. Toole so he could review it and provide a proposal for us if he would act as the independent investigator. The proposal was to include what he would propose to do, what his fee would be, and what the fee would be for the testing he described. He said we wanted to make sure when we came to the Council meeting tonight we had a path forward as suggested by the developer and as suggested by the independent evaluator so we all got the information we needed as far as what is causing the problem with the roads. He pointed out that Mr. Fairchild, Mr. Decker and several of the residents have been very clear that there are three things they want—those being they want to know what the problem is, the problems to be fixed, and the residents believe they want the road repaved. He said identifying the problem was why we had Mr. Toole and Mr. Hilderbrand develop proposals.

Mr. Fairchild stated they don't believe they want the road repaved, they want the road repaved. He said he wanted to make that clear. He said there is different semantics there. He said they want the road repaved, not believe. He said here is the honesty thing. He asked if Mr. Toole was on retainer in February. Mr. Pearce responded no. Mr. Fairchild stated that is where the dishonesty comes in. He said he believes they were not shot a straight line from Mr. Pearce. He said, Mr. Pearce, you told us and told Council and everybody in here that somebody was on retainer by the city. Mr. Pearce responded there was not a retainer for this project. He said Mr. Toole has worked with the city. Mr. Fairchild stated Mr. Pearce stated the city has somebody on retainer. He said check the record, Mr. Pearce. He said there has to be honesty between us.

Mr. Pearce stated, Mr. Fairchild, folks who know him know that he has a reputation for honesty in the community. He said we don't have to have a personal attack here today. He said he felt it was very important when you start raising questions of honesty that he be very straight forward with you. Mr. Toole has worked with the city on other projects. As of February 25, 2013, Mr. Pearce stated he had no idea if Mr. Toole would be interested in this particular project. He said when he is asked if he was on retainer or hired to do the work as the independent engineer, the answer is no. He said what he was trying to share at the February 25, 2013, meeting was that he had somebody in mind who potentially might be interested in helping us. He said if he did not articulate that on February 25, 2013, he would like to articulate that now. Mr. Toole has been very willing to come on his own time on February 25, 2013, and then prepare a proposal to look at Mr. Hilderbrand's suggestion for their path forward and then assess that and see what he sees as the path forward. He said he was not very sure where we are going here, other than to say why we are here tonight is that at Council's suggestion we are here to get a formal update of where we are. He said his take away from the February 25, 2013, meeting is that some time this spring we were going to have the developers suggestion or method for how they wanted to go forward with the roads. The city was going to have an independent investigator. He said he thought it was called a forensic engineer at one point in the discussion on February 25, 2013. He said we knew we wanted an engineer with the experience and background who could go forward and assess what the developer has given us. He said many times when the city does not have particular expertise, we hire a consultant or hire an expert to come in and help us see whether additional testing would be necessary. If additional testing was done what we could gain by that. He said that is why Mr. Toole is present tonight.

Mr. Fairchild thanked Mr. Pearce. He said he felt there needs to be an openness so they can trust what they are told.

Mr. Pearce stated that is fine, he had been in court. He said Mr. Fairchild had talked about a question of honesty. He said he wanted to be very clear as City Manager just as he has treated the residents when we have information he has sent it to the residents. He said he knew he had not been happy with the information we have sent out. Certainly when we had the meeting in August at the Gem Lakes shelter, Mr. Kisner and Mr. Gaul were not invited to that meeting. He said he invited them, as he wanted them there. He said he wanted us to have a dialog. He said what he shared at the meeting and what he shared in his October letter is that we are trying to understand what the concerns of the neighbors are and how we need to go forward. He said he had been in communication February 25, 2013, April 4, 2013, and April 18, 2013. He said for whatever reason, the April 18, 2013, letters did not get to the residents before their Saturday meeting. He said that was why he had shared with Mr. Decker that he would like to be involved in the conversations that are taking place, because we do best when we all work together. He said he had been very above board and very open. He said whatever he has had that has come into his office, he has sent out to the residents. He said he wanted all to work with the same information.

Mr. Fairchild stated he appreciated what Mr. Pearce said at the beginning when he said the residents want the road repaved and repaired. Mr. Pearce stated we want to make sure that we identify what the causes for the failure of the roads are first to see how we go forward.

Mr. Fairchild stated he appreciated Mr. Toole coming to the meeting. He said he has been helpful. He said he was also concerned about what Mr. Decker asked. He said he wanted to get back to that. He said he did not know if we can give an answer to that. He said Mr. Kisner had stated that he did not want to repave the roads. He said emphatically at the February, 2013, meeting that he would not resurface the road. He asked what if that is determined to be the problem. He asked if the city has a plan to resurface the road if Mr. Kisner says no. He wondered if we would have to meet again.

Mr. Pearce stated we do want to meet again because once we have the data that Mr. Toole described we want to have a public information session.

Mr. Sean Derrick stated he was confused on a couple of things. He wondered if the city had signed the contract with Mr. Toole to do the investigation. Mr. Pearce responded we have a proposal from Mr. Toole and that was included in the materials with the agenda. Mr. Derrick stated earlier he had asked the question as to whether the city was going to use Mr. Toole and the answer was yes, but the contract has not been signed so that means it has not been agreed to.

Mr. Pearce stated we have the proposal from Mr. Toole. We had his presentation at this meeting. That is the plan to go forward. He said he wanted to make sure Council did not have any objections before signing the contract. Mr. Derrick stated when he asked the question, it seemed to him there was no objection and that it was going forward and the contract had been signed.

Mayor Cavanaugh responded that it was one person who made that comment and that was him. He said he was one of seven Councilmembers. Councilwoman Price stated she nodded her head when the comment was made.

Mr. Pearce stated there is every intent to sign the contract. He pointed out the fact that he has seven elected officials that he works with and he wanted to make sure all were on board before signing the contract.

Mr. Derrick stated he had specifically asked the question if the city was going forward. He said his next question is whether Mr. Kisner is going forward with repairs without Mr. Toole's report. In other words is Mr. Kisner going to start with his plan before Mr. Toole's report is done.

Mr. Pearce stated Mr. Kisner was supposed to come up with a plan this spring. We have that plan in hand. He said he had a commitment from Mr. Kisner on the record tonight

that he has no objection to the city going into the right of way they own and conducting testing. He said the city did the ground penetrating radar, but that is not invasive. It is a radar signal. If we are looking at coring samples and boring into the soil that is a lot more invasive, so we wanted to make sure there was no objection to that.

Mr. Derrick stated his question was whether Mr. Kisner is going forward with his patch repairs before Mr. Toole's report is submitted. Mr. Pearce responded that he did not hear that Mr. Kisner was going forward with his plan before this data is collected by Mr. Toole. He said there would be a follow up conversation with Mr. Kisner and Mr. Hilderbrand regarding this meeting. Mr. Derrick asked if Mr. Kisner has to abide by whatever Mr. Toole recommends, or can he just do his own repairs. Mr. Pearce stated while Kisner and Gaul own the roads, they have to meet the development regulation standards. He said we need to see what the data finds. He pointed out Mr. Toole had said the set of data will either say that the method that has been proposed by the developer is appropriate or there is an alternative approach based on the data. Mr. Derrick stated his question is not trying to put the cart in front of the horse, his question is to ask if they disagree with each other, does the city have any recourse to force him to use Mr. Toole's recommendations. Mr. Pearce stated he was not sure that Mr. Kisner needs to use Mr. Toole's company. Mr. Derrick stated his question is if Mr. Kisner and Mr. Toole's recommendations disagree with each other as far as the data collected and whatever is surmised as the problem and how to correct the problem, does the city have any recourse to force Mr. Kisner to use Mr. Toole's recommendations. He said if Mr. Kisner does not agree to take Mr. Toole's recommended process to fix the road, but wants to fix it his own way, does the city have recourse to say Mr. Kisner has to follow Mr. Toole's recommendation to fix the problem or can he fix it any way he sees fit. Mr. Pearce stated the city has the development standards and every developer is told when they construct infrastructure it needs to meet that standard. He said the testing is to see whether the construction meets that standard, whether the repairs will meet the standard for what the roadways need to be to be acceptable under city development regulations. As far as the specifics of that, we can have the City Attorney look into that matter. He said there is recourse because developers are supposed to build to city standards when they build infrastructure. Mr. Derrick stated his concern is that the LLC is very small and he wondered what happens if he decides he is just going to fix it his way, but that is not the standard, so Mr. Kisner just walks away from the project. Mr. Pearce stated that has come up before. He pointed out that Mr. Kisner and Mr. Gaul had been in Aiken a very long time. He pointed out the City Engineer actually released the Letter of Credit that was discussed earlier back in 2010. What our staff has experienced is that the developer does want to continue to work through this problem. He said he knows what has been shared tonight does not meet the satisfaction of several residents. However, they have stayed on the job and said publicly that they will have repairs finished by the end of August. He said we are aware of a problem. He said everybody in the room and those who had said something on the record have said water is the cause. The question is what exactly is the water that is causing the problem and what is the best method for addressing that. He said he felt the residents in the area had raised a legitimate concern at the February 25, 2013, meeting that whatever is suggested needs to be independently verified as the best approach and that is what the city is pursuing. Mr. Derrick said his concern is the enforcement of the independent assessment of the problem. Mr. Pearce stated that is a very fair concern, and the city will use everything at our disposal to make sure that the roads are fixed the right way, based on what the data shows. Mr. Derrick stated it seems to him that the only thing the city has going for them in this aspect is that Kisner and Gaul LLC want to continue working with the city. He said at the moment that the "want" stops happening then the residents have a serious issue, because the city does not own the roads and Kisner and Gaul could claim Chapter 7 and 13 and walk away. Mr. Pearce stated we don't have any indication of that, and hope that would not be the case. The city does have standards in place for roads that are constructed and they are to be built to meet those standards and that is what the testing will show. Mr. Derrick stated he was just worried about the safety net behind that.

Councilwoman Price stated we all know there is a problem. She said she does not like what the residents are experiencing nor does she think any Councilmember, including the Mayor, and staff want to see the residents experience the problem. She said we don't have all the answers tonight. She said we know that we are hiring a reputable person to

do an assessment. She said if she had a magic wand she would somehow say we are going to pay for it, but we don't know that yet. She said that is an honest answer in terms of where the funds will come from. She said we don't know that yet. We don't know whether the city will pay for it or who will. Mr. Derrick made the comment that if the city pays for it, he pays for it. If Mr. Kisner and Mr. Gaul pay for it, he would not be paying for it. He said that is a huge difference.

Councilwoman Price stated the city does not want to see continuous patch work. We want to see a new road. She said she did not know how that was going to happen. Mr. Derrick stated his question was not that the city is not on the same page as they are. He said his concern was protecting his tax dollars as a citizen of the City of Aiken. Councilwoman Price stated the Gem Lakes Extension is a beautiful neighborhood, with beautiful homes and well kept lawns. However, the roads are about 50% patched in less than four years and she feels that is unacceptable in her opinion.

Mr. Pearce asked Mr. Toole if he had a cost for the proposal for his work and also an estimate for the cost for the sampling. Mr. Toole stated he does have the cost figures. He said the estimate for his cost for the proposal was \$12,000. The sampling fees, including the borings, laboratory testing, and the coring was \$26,621. Mr. Pearce stated then the investigation evaluation will cost about \$38,621.

Councilman Dewar asked if any of the cost would be transferred to the developer. Mr. Pearce pointed out the developer and his Engineer had left the meeting, but he would have a conversation with them. Councilman Dewar stated Council was not being asked to approve anything at this meeting. It was just a presentation. Mr. Pearce stated Mr. Toole had indicated he had that information so he wanted to get it on the record with everyone in the room.

Councilman Dewar stated he would be concerned if we are going to take city funds to do what the developer should pay to have done. Mr. Pearce stated the \$12,000 for the independent investigation would be something that the city would anticipate paying out of Professional Services. Councilman Dewar stated we are paying because we almost have to satisfy the residents. He pointed out the other amount for the sampling is questionable on the city's part. Mr. Pearce stated he would have a conversation with the developer and bring that back to Council on May 13, 2013. Councilman Dewar stated he thought the developer was going to do the core samples and boring and the city was going to hire Mr. Toole to evaluate the results of the testing to make sure Council agrees with the course of action to fix the roads. Mr. Pearce stated he thought that was fair. He said with the costs that are involved we do have the presentation from the developer. We have some comments from the citizens about how they have received that suggestion. We know there is other methodology for testing to gain more data.

Councilwoman Price stated there is another point also. The city selected Mr. Toole so the developer could say that was not his choice.

Councilman Dewar stated that is why there needs to be a conversation with the City Manager, the developer and Mr. Toole. He said he had no problem paying for Mr. Toole's expertise which is what the city wants, but if he is going to do what the developer should have done he has questions about that.

Mr. Pearce stated the developer is not in the room so he would like to be given the opportunity to have a conversation with the developer, and he will report back to Council.

Councilman Ebner pointed out that as stated in earlier discussion, the professional services being requested are for the city. The specifications which had been discussed earlier do say that the city can require the developer to do more tests. He said that would be up to the city to enforce that. He said that is in the specifications, and the city has the right to enforce that. He said the city can require other tests if there are issues, and that was discussed at the beginning of the meeting.

Mr. Ruggles asked if there was another way to get the data information that Mr. Toole is to gather besides coming to a Council meeting. Mr. Pearce stated Mr. Toole had mentioned holding a public information session in the neighborhood with the residents in the area. The developers would be invited to attend as well. He said the report could be put on line as information for the residents.

Councilman Dewar asked if there was a date for Mr. Toole's report. Mr. Pearce stated Mr. Toole had stated the report would be ready in about six weeks after the contract is signed. Mr. Pearce pointed out that the matter regarding the payment issue has to be settled before the contract is signed. Mr. Pearce stated he would like to have a conversation with the developer regarding payment to Mr. Toole for the core and boring services before setting a date for the next meeting.

BOARDS AND COMMISSIONS

Appointments

James Archibald

Building Code Board of Appeals

Mayor Cavanaugh stated Council needed to consider appointments to the various boards, commissions, and committees.

Mr. Pearce stated Councilman Dewar has recommended that James Archibald be reappointed to the Building Code Board of Appeals. If reappointed, his term would expire May 12, 2015.

For City Council consideration is approval of one appointment to the Building Code Board of Appeals.

Councilman Dewar moved, seconded Councilwoman Diggs, that James Archibald be reappointed to the Building Code Board of Appeals with the term to expire May 12, 2015. The motion was unanimously approved.

Councilwoman Diggs stated she would like to nominate Ben Lott for appointment to the Design Review Board. Mr. Lott is an engineer at SRS and a former builder in the historic district. He would replace the position of Philip Merry on the Design Review Board.

Councilman Merry returned to the Council Chambers at this point in the meeting at 9:16 P.M.

MUNICIPAL BUILDING RENOVATIONS – ORDINANCE 04222013

214 Park Avenue SW

Renovations

Conference Center

Feasibility Study

Capital Projects Sales Tax

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance to approve advancing certain CPST III funds for the Municipal Building first floor renovations project feasibility study.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AUTHORIZING BORROWING FROM CITY OF AIKEN GENERAL FUND RESERVE ACCOUNTS AS OUTLINED IN THIS ORDINANCE FOR THE PURPOSE OF FUNDING PHASE TWO OF THE MUNICIPAL BUILDING EXPANSION PROJECT.

Mr. Pearce stated we have received a great deal of positive feedback about the new Administration and Finance Building at 135 Laurens StreetSW. As part of this project, City Council approved advancement of Capital Sales Tax Project III [CPST III] funds to

repurpose the former bank building at this location. When we discussed the potential purchase of the bank building, we discussed the potential uses for the first floor of City Hall on Park Avenue.

The next phase of this project is determining the feasibility of renovating and repurposing of the first floor of City Hall on Park Avenue potentially by enhancing the Conference Center space, featuring a more modern caterer's kitchen, constructing break-out rooms, building pre-function space, and determining the feasibility of an entrance into this potentially enhanced meeting space from Newberry Street.

In order to more accurately do so, we need Council approval to advance funding for a feasibility study of this potential project. Preliminary discussions with area business leaders, the Chamber of Commerce, Aiken Downtown Development, representatives from state agencies, caterers, event planners, and others show continued interest in meeting space for at least 300 people in our downtown that will be convenient to area shops and restaurants.

For Council consideration is second reading and public hearing of an ordinance to advance certain CPST III funds for planning potential renovations to the first floor of the Aiken Municipal Building at 214 Park Avenue SW. At first reading Council expressed a desire for feasibility study and approved on first reading up to \$15,000 to fund a feasibility study and come up with a proposed plan for the use of the first floor of the Municipal Building.

Councilman Ebner moved that Council authorize up to \$15,000 to conduct a feasibility study for the proposed renovations of the Conference Center and the first floor of the Municipal Building. He also proposed that Council amend the ordinance to read that the funds are to be repaid as the funds come in, rather than paid later in the process. Councilman Ebner stated when the request came up about the purchase of computers for the Public Safety cars, there was discussion about delaying repayment of the loan. He said he was really concerned about pushing money too far into the future. He said he would like for Council to revise the ordinance to require that the money be repaid to the City funds when the CPST funds come in from Aiken County. He said he would like help from the City Attorney in wording the motion.

Mr. Pearce stated funds will start coming to the City in the fall of 2013.

Mr. Gary Smith, City Attorney, pointed out that a \$15,000 loan was not a significant amount of money compared to the revenue that the city would expect to receive from CPSTIII. He pointed out the loan to the City for the computer purchase was a much larger loan.

Councilman Ebner stated he was concerned about the city not paying the loans off as CPSTIII money is received.

Mr. Smith stated his concern was that when the money starts coming in and projects present themselves as being ready to move forward, Council will have imposed the obligation to go ahead and pay this loan off as quickly as possible. He said in essence what you would have done is said that this project we borrowed money for has to be done right now. He pointed out that all the ordinances he had seen have said that the loans have to be paid off no later than seven years.

Mr. Pearce said there was nothing in the ordinance which would prevent the loan from being paid off when the money starts coming in. He pointed out, for example, if we are finishing up Round 2 projects, such as securing appropriate space and design for the Senior/Youth Center, work at the landfill, the splash park at Citizens Park, etc., we have those projects to finish. He said we should have money starting to come in the fall of 2013, with a significant amount to come in the first quarter of 2014. He said there is nothing under the current wording that prevents the city from going ahead and repaying the loans to minimize the interest being paid on the loan. He pointed out we still have some CPST II projects to finish.

Councilman Ebner stated the ordinance says that if we have started another project the money would go to that project. He said his concern is mortgaging the future for seven years.

Councilman Dewar stated he would raise a point of order. He said Councilman Ebner had made a motion and Council is discussing the motion without a second. He said he would second the motion so Council could discuss the matter.

Mr. Smith pointed out that Councilman Ebner had asked for help in forming the motion and the discussion was to help understand what the situation is.

Councilman Dewar stated he understands what Councilman Ebner wants to do. He pointed out that at the last meeting he had referred to the wording in a document, but the wording was not in the document. He said when Council approved the loan for the Public Safety computers, it was clear at the time that the intent was to approve the purchase of the computers and pay the loan off as soon as the money came in. He said in his thinking that set the stage as to how they were going to treat money that was borrowed in advance. He pointed out that about \$3.4 million had been advanced for projects already from CPST III. He said he appreciates the City Manager asking for the flexibility so if something comes up we can wait later to pay the loan. He said he felt the desire of Council at the time was to pay back the loan for the computers first and then the other loans in the order that they were granted.

Mr. Pearce stated the next loan after the computers was the accessible playground equipment, etc.

Councilman Dewar stated the objection is the wording of the ordinance—"the funds shall be repaid by the conclusion of the CPST effective period, but in no event later than seven years from reimposition of a capital projects sales tax and use tax in Aiken County." He said he would like for the ordinance to say that the loans will be paid back first before other projects are done.

Mr. Smith stated he would suggest that the motion state that Council is seeking approval of the ordinance as presented with a change in the ordinance that the funds shall be repaid no later than two years from April 22, 2013.

Councilman Dewar stated Councilman Ebner's motion was that the loans would not be paid until the money starting being received from the CPST III.

Mr. Pearce stated he could guarantee that the \$15,000 could be repaid this fall if that is what Council would like to do. He said Council could ask that the loan be repaid from the first payment received from the CPST III funds.

Councilman Homoki asked if there had been a discussion that when the money comes in from the Capital Projects Tax that it is earmarked to a certain project and that the projects are to be done in a certain order. He said if the projects are not addressed in the order listed, how do we know that the money that we get is actually designated for the next project on the list if we are working on something else.

Mr. Pearce stated in passing the list of projects, Council reserved the right to determine the order of the projects. He said that is why staff brings the projects to Council for approval. He said there is an original list that Council voted on, but Council reserved the right to prioritize other projects depending on what project may be ready or what may be a priority at the time.

Councilman Homoki stated then the first million dollars received will not necessarily go toward the first project on the list as Council can apply the money to any project on the list.

Councilman Dewar stated in this case the first \$500,000 will be applied to the first project as Public Safety computers was the number one project on the list.

Councilman Homoki pointed out, however, Council could change that. He said while the funds are earmarked, they are not really earmarked. Mr. Pearce stated Council reserved that right. It would take a vote of Council to change the priority. He said the projects are listed, and Council reserved the right to reorder the list.

Councilman Dewar stated he never thought Council had the authority to change the order.

Councilman Ebner stated Council does have the right by the referendum to change the priority of the list. He said he had talked to the County Attorney and the County Administrator and they agreed Council could change the order of the projects.

Mr. Pearce stated specifically the language is: "\$44,600,000 for the following projects within the City of Aiken which projects shall be completed in the order determined by Aiken City Council." He said there is an original list, but Council reserved the right to determine the order that the projects will be completed.

Councilman Merry stated he felt Council would hog tie itself to the point of ridiculousness if Council did not have that right. He pointed out if it said we could not do projects 3, 4, or 5 until 1 is done and for some reason project 1 will be delayed for two years, then Council could not fulfill the promise made to the citizenry for doing 3, 4, or 5 projects.

Councilman Ebner stated the issue is when do we start paying off the loans for the projects we borrowed money to start the projects. Councilman Merry stated he understood, and that is a different issue from the order of the projects. Councilman Ebner stated the listing has nothing to do with the payoff. He said Council had already changed the order of the list. He said the issue is if we push the pay off of the loan to the end of the tax period. He said presently the interest rate is extremely low, but the interest rates could increase.

Mr. Smith suggested the motion set the date for repayment of the loan as December 31, 2013.

Councilman Ebner moved, seconded by Councilman Dewar, that Council approve the ordinance on second reading to advance \$15,000 from CPST III funds for planning potential renovations to the first floor of the Aiken Municipal Building at 214 Park Avenue SW with the modification that the funds shall be repaid by December 31, 2013, or as soon as the funding becomes available if there is a delay in receiving the funding.

Councilman Merry stated he would like to add to the motion. He noted that from the discussion at the last meeting Council talked about a lot of different aspects of the study beyond just a feasibility study. He said they talked about studying the parking, determining what size space is really needed, how many people it would serve, the level of service in terms of what type kitchen whether it would be just a warming or prep kitchen or a full service kitchen, whether there was direct competition and if so with whom. Council talked about the overall size of the space, access to the space, and projected cost of the space. He said he would like the record to show that the study should address those aspects as well as a feasibility study.

Councilman Ebner stated that information was in the previous minutes so it should be included in the study.

Councilman Dewar stated he would support what Councilman Merry said. He said he felt the approach should be that we will not necessarily do this until Council gets the feasibility study that says it is a good thing to do. He said with the discussion on parking, that was a major red flag. He said he did not see how we could consider it with the parking situation we presently have. He said we are approaching this idea that we are going to look to see if this is something we should do.

Mayor Cavanaugh called for a vote on Councilman Ebner's motion to approve the ordinance for \$15,000 as amended. The motion was unanimously approved.

FERAL CATS – ORDINANCE

Amend City Code

Mr. Pearce pointed out that the SPCA had suggested the proposed ordinance regarding feral cats, but he had received an email this afternoon from the SPCA asking that the item be continued to the May 13, 2013, meeting.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council continue the item regarding feral cats to the May 13, 2013, meeting. The motion was unanimously approved.

MUTUAL AID – RESOLUTION 04222013A

Town of Lexington

Police Department

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to approve a mutual aid agreement with the Town of Lexington Police Department.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE AIKEN DEPARTMENT OF PUBLIC SAFETY TO ENTER INTO A MULTI-JURISTICTIONAL MUTUAL AID AGREEMENT WITH THE TOWN OF LEXINGTON POLICE DEPARTMENT.

Mr. Pearce stated under South Carolina State law, local law enforcement agencies can contract to provide mutual aid in crises or other times of need to fellow law enforcement agencies. We currently have agreements in effect with the Aiken County Sheriff's Office, North Augusta Public Safety, Barnwell County, Saluda County, Edgefield County, USC Police Department, Town of New Ellenton, Town of Jackson, Town of Burnetown, SRS, and also through a Statewide agreement.

The Town of Lexington Police Department has requested our renewed participation in a mutual aid agreement with them. A copy of the agreement was provided for Council's review. Chief Barranco has discussed it with City Solicitor Paige Tiffany, and believes it is in our best interest to renew our agreement with them.

For City Council consideration is approval of a Mutual Aid Agreement with the Town of Lexington Police Department.

Councilman Dewar stated he thought mutual aid was if a city, town, or county had a bad situation and they needed help they could call Public Safety and we would send someone to help. He said, however, the way the agreement is written is that mutual aid seems to relate to a transfer of a Public Safety Officer at their request to the Town of Lexington. He wondered if the City of Aiken would continue to pay the officer that would be transferred to the town. He said that works both ways, so the City of Aiken could ask for an officer as well. He said this is not an issue beyond our loaning them people on a regular basis. This is not mutual aid where we would do their police work unless they requested we transfer bodies to them.

Mr. Pearce pointed out that the agreement lists the kind of situations where assistance could be requested for temporary transfer of law enforcement officers. He stated all the mutual aid agreements have very similar language to this agreement.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the Mutual Aid Agreement with the Town of Lexington Police Department. The motion was unanimously approved.

SPLASH PADCitizens ParkCapital Projects Sales Tax

Mayor Cavanaugh stated Council needed to consider approval of splash pad equipment purchase for the proposed splash pad at Citizens Park.

Mr. Pearce stated our Parks, Recreation and Tourism staff has finalized the design and components for the splash pad at Citizens Park that the voters approved as part of the second round of the Capital Projects Sales Tax. Copies of the materials were included with the agenda for Council's review. Council was previously notified of the bid for the parking lot adjacent to the splash pad. The other component will be restrooms to be built near the facility. Since this is a Capital Sales Tax Project, staff wanted to keep Council informed that staff is prepared to go forward with the purchase of the splash pad equipment and having it installed.

Assistant City Manager Stuart Bedenbaugh is our designated purchasing agent. He has reviewed this purchase and believes that our continued participation in the US Communities purchasing cooperative serves the best interests of the City under the procurement code requirements. They provided the equipment for the accessible playground at the ABBE Library.

The total cost of the splash pad will be \$119,062.04. After our staff review, we believe using a company selected through US Communities, a non-profit national purchasing cooperative, to provide the splash pad equipment is appropriate. US Communities provides access to a number of national suppliers at reduced costs. We have this money on hand as all CPST II revenue has been collected.

For Council approval is the purchase of equipment for the Citizens Park splash pad for \$119,062.04, using Capital Projects Sales Tax II revenues, which are already received.

Councilman Dewar stated Council typically has not done this before. He wondered if there was a reason why Council would be approving the splash pad.

Mr. Pearce stated in the past Council has approved bids for projects such as the Accessible Playground equipment. He pointed out that Council advanced funds from the Capital Projects Sales Tax III for the playground equipment. He pointed out this project is under the Capital Projects Sales Tax II, and funds are available for the purchase. He said because Council reserved the right to reorder projects, it needs to be approved by Council. He pointed out this project will be done before the landfill project and the splash pad project was further down the list. He said in effect the project is being moved up the list.

Councilman Ebner stated another reason is that the auditor has said that City Council is in charge of the projects and is supposed to know what is going on. That is the real reason.

Councilman Dewar stated then every time there is a Capital Projects Sales Tax project it will be brought to Council for approval. Mr. Pearce stated that is what has been done in the past.

Councilman Ebner stated there is \$250,000 in the Projects Sales Tax funds for the splash pad. He wondered if the remaining \$130,000 would cover the installation of the pad.

Mr. Pearce pointed out there is \$100,000 in the sales tax for restrooms, \$150,000 for the parking lot and landscaping, and the splash pad for \$250,000.

Councilman Ebner stated there was \$250,000 for the splash pad, which he assumed would be turnkey. He pointed out most of the time you buy the equipment and then someone else installs it by specifications.

Mr. Pearce stated the city will have the pad ready for them to deliver the equipment and hook it up.

Councilman Ebner asked if the remaining \$130,000 of the \$250,000 would install the equipment and put water and electricity to the facility. He wondered if staff would be bringing something back to Council for the pad and water and electricity to the facility. Mr. Pearce responded that information would be on Council's May 13, 2013, agenda. He said it takes about six to eight weeks to get the equipment.

Councilman Dewar asked where the facility would be located. Mr. Glenn Parker, Recreation Director, stated the facility would be located off Barry Johnson Boulevard between two fields. He said the splash pad will be near the Stewart Field and the batting cages. He said people using the walking track will be able to use the restrooms, which will be near the splash pad. In response to a question, he said the facility will primarily be used by children ages 12 and down.

Councilwoman Diggs moved, seconded by Councilwoman Price that Council approve the purchase of equipment for the splash pad to be located at Citizens Park for \$119,062.04 using Capital Projects Sales Tax II funds. The motion was unanimously approved.

WATER BILL

James Starnes
901 Wheeler Drive

Mr. James Starnes, of 901 Wheeler Drive, appeared before Council regarding his water bill. He said about three years ago he purchased a home in Aiken Estates and returned to live in Aiken. He said he had experienced difficulty with his water bill over the past couple of months. He said he had made contact with the Water Department and received the most professional assistance. They were unable to give him what he wanted, but they were professional. He said he had distributed copies of his water bill since purchasing the home in 2010. He said his highest bill had been around \$90 when he filled the swimming pool. He noted that the past two months his water bill was \$436 plus. He said the cost was his fault. He said there were three sources of leaks in the house. He said during those two months he was not at the house very much. He said he had made a request that the water bill be adjusted, and the Water Department did make an adjustment, but said they were not able to make any further adjustment. He said he had submitted the request hoping that Council could make some further adjustment. He pointed out his bill for two months was exorbitant and previously had never been anywhere near that amount. He pointed out the leaks had been fixed. He said his problem seemed so insignificant after hearing the other items discussed by Council.

Mr. Pearce asked Mr. Starnes if he had a copy of the bill from the plumber for fixing the leaks. He said this was the first he had heard about the bill and he would like to look at the account and talk to Mr. Starnes later.

Mr. Starnes again commended the city employees in the Water Department, the Finance Director, and Assistant City Manager. He said they were all professional.

Councilman Dewar stated he would like to see the Finance Department have the flexibility to deal with the issue without necessarily being 60 and on fixed income. He said there are people of all ages that need help.

Mr. Pearce stated he understands there is a policy of handling accounts which was developed over a number of years based on problems over the years. He said he would look into this matter and be in touch with Mr. Starnes.

HUMAN RESOURCES REPORT

Councilman Ebner stated he had a question on the Human Resources Report. He pointed out the report shows the city hiring a City Councilman. He said he did not think the

Councilmembers worked for the city. He said the Councilmembers get paid by the City, but do not work for the City or get insurance or benefits.

Mr. Pearce stated that will be corrected on the report.

Councilman Dewar thanked staff for the Human Resources Report. He said the information on terminations and new hires was interesting information. He said there were 68 terminations versus 48 hires which is a loss of 20 employees which he felt was pretty high.

TRAFFIC SIGNALS

Councilman Dewar stated he had some comments on traffic signals. He noted that the signal at Whiskey and Berrie had been recalibrated. He said he had been asked if we could recalibrate the signal at Whiskey and Hitchcock at Aiken Estates. He said it takes a long time to get out of Hitchcock onto Whiskey Road.

Mr. Pearce stated Chief Barranco would have someone look at the Hitchcock intersection. He pointed out the problem was more an issue with some of the software at Berrie Road.

Councilman Dewar stated he was delighted that we don't seem to have a traffic issue at South Park with the location of the new Fresh Market.

EMPLOYMENT

Councilwoman Price stated some students had been inquiring about summer work, and she had told them to look online for job listings.

EXECUTIVE SESSION

Mayor Cavanaugh stated Council needed to go into executive session to receive a legal update.

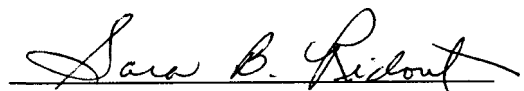
Councilman Dewar moved, seconded by Councilman Ebner, that Council go into executive session to receive a legal update. The motion was unanimously approved. Council went into executive session at 9:53 P.M.

After discussion Councilman Dewar moved, seconded by Councilwoman Price, that Council come out of executive session. The motion was unanimously approved. Council came out of executive session at 10:52 P.M.

Mayor Cavanaugh stated in executive session Council received a legal update and no action was taken.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:53 P.M.


Sara B. Ridout
City Clerk