

Aiken City Council MinutesREGULAR MEETING

September 23, 2013

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

Absent: Councilmember Price.

Others Present: Richard Pearce, Stuart Bedenbaugh, George Grinton, Kim Abney, Ed Evans, Tim Coakley, Charles Barranco, Glenn Parker, Alicia Davis, Sara Ridout, Maayan Schechter, of the Aiken Standard, and about 40 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:01 P.M. Councilman Dewar 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 September 9, 2013, were considered for approval. Councilwoman Diggs moved, seconded by Councilman Ebner, that Council approve the September 9, 2013, minutes as submitted. The motion was unanimously approved.

PRESENTATIONSCumbee Center to Assist Abused PersonsPurple RibbonsDowntownDomestic Violence Awareness

Mayor Cavanaugh stated the presentation would be by Barbara Sanders, of the Cumbee Center to Assist Abused Persons, requesting permission to place purple ribbons in the downtown in observance of Domestic Violence Awareness Month.

Mr. Pearce stated Barbara Sanders, of the Cumbee Center to Assist Abused Persons, had written us again this year to request placement of purple ribbons in our Historic Downtown as a reminder that October is Domestic Violence Awareness Month. In addition, she seeks to place silhouette displays at Park and Laurens and Richland Avenue and Laurens Street.

Ms. Barbara Sanders, of the Cumbee Center to Assist Abused Persons, stated each year they commemorate victims of domestic violence. She said they do this year after year to reduce the incidents of domestic violence and to increase awareness. She said awareness does not stop violence, but it helps. She shared some facts of what happens in families. She said 60% of Americans know a victim of domestic violence; 3 out of 4 or 73% of parents with children under the age of 18 said they have not had a conversation about domestic violence or sexual assault with their children. Sixty-seven percent of Americans say they have not talked about domestic violence with their friends. Seventy-three percent have not talked about sexual assault. Even though 75% of Americans say they would step in and help a stranger being abused, the reality is that most would not. She pointed out that among the 73% of women who experienced domestic violence and then told someone about it, more than half, or 58%, said no one would help them. She said 64% of Americans say if we talk about domestic violence and sexual assault, it would make it easier for someone to get help and to help someone. The numbers for the

City of Aiken last year were a little lower. In 2012 the City of Aiken received 962 domestic complaints. Of those the Victim Advocate for the City received 79 as domestic violence cases with one listed as a homicide. From January 1, 2013, to August 31, 2013, the City has received 499 domestic complaints. Of those the Victim Advocate for the City has received only 45 as domestic violence cases. She said awareness does work and help. She pointed out the Cumbee Center can't help everybody. The victims have to be in a position that they are ready to receive help. When they are ready, it works. They get letters and reports back from their clients. She then read a letter she had received in June, 2013, from a client that the Cumbee Center helped in 2011, thanking them for the help she had received from the Cumbee Center.

She pointed out the letter was written to thank the Cumbee Center for the work they do, but it is not about them. It is about the citizens of Aiken and how they rally around the Cumbee Center and how they help support the Cumbee Center in their awareness campaign to get the word out to let people know they don't have to live in silence in a world of violence. She said they are requesting permission to place purple ribbons in the downtown area like they did last year along with the silhouette displays. They are also requesting use of Newberry Street in the fountain area on October 17, 2013, for a domestic violence rally for one hour beginning at 6 p.m.

Councilwoman Diggs stated she appreciated the work that the Cumbee Center does in the community and believes in their mission and has seen the fruits of their labor. Councilwoman Diggs moved, seconded by Councilman Dewar, that Council approve the request by the Cumbee Center to Assist Abused Persons to place purple ribbons in the historic downtown area, the silhouette displays in the areas requested, and use of Newberry Street on October 17, for a rally. The motion was unanimously approved.

#### BOARDS AND COMMISSIONS

##### Appointments

Royal Robbins

General Aviation Commission

Robert Aaron

Recreation Commission

Ray Visotski

Election Commission

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

Mr. Pearce stated Council has 15 pending appointments to fill vacancies on different City boards, commissions, and committees. Two appointments are presented for Council's consideration and vote.

Mayor Cavanaugh has recommended that Royal 'Zipper' Robbins be reappointed to the General Aviation Commission. Mr. Robbins' new term would expire September 1, 2015, if reappointed.

Councilmember Diggs has recommended that Robert Aaron be reappointed to the Recreation Commission. If reappointed Mr. Aaron's term would expire September 1, 2015.

At the September 9, 2013 meeting Councilmember Ebner submitted the name of Ray Visotski as a possible member of the Election Commission to fill the position of H. A. McClearen. Councilmember Price stated she would have a name for this position also. This position is not an individual Councilmember appointment, but an at-large appointment by all of Council. Mr. Pearce stated Councilmember Price called today. She had planned on being at this meeting, but her work has taken her out of state. She indicated that she wanted to submit the name of Vice Chancellor Deidre Martin for the Election Commission. She asked that Council carry the matter over to the October 14, 2013, meeting.

Mayor Cavanaugh stated Council may need to discuss that matter.

Councilman Ebner pointed out that Mr. Pearce had sent out a notice about two to three weeks before the September 9 meeting asking for names for appointment to the Election Commission. He said at the last meeting, since there were no other names submitted, he recommended Ray Visotski for appointment, and Mr. Visotski is present at this meeting. He said there are some semantics, but Mr. Visotski was recommended at the last meeting. He said he felt Council should go ahead with the appointment at this meeting.

Mayor Cavanaugh stated the nomination is on the record for the last meeting.

Mr. Pearce stated he was just passing along the information. He had a conversation with Councilmember Price and at the September 9 meeting she thought she would be at this meeting. It was unforeseen that she would be out of town.

Mr. Gary Smith, City Attorney, stated Council could consider continuance of the appointment if Council desired to do so. The matter is also properly before Council, and if Council decided they wanted to vote on the matter at this meeting, it would be proper for Council to do that as well.

Councilman Homoki asked if there were two nominees, how Council would select an appointee. He wondered if the majority vote would determine the person appointed.

Mayor Cavanaugh stated that is the way Council does business.

Mr. Smith pointed out that most of the boards and commissions have the same number of appointees as there are Councilmembers—seven—so appointments are not usually a problem, as each Councilmember has an appointee on a board or commission. The procedure in the past has been to either vote on the first motion to see how that vote went or Council put the rules aside and vote by a paper ballot. Under the normal rules someone would make a motion to appoint a particular person; it would be seconded and voted on and either pass or fail.

Councilman Ebner stated Mr. Visotski was his recommendation, and he made the recommendation at the last meeting. Appointments to the Election Commission are from any Councilmembers rather than by a designated Councilmember.

Mayor Cavanaugh pointed out that Council had known about the vacancy for several weeks, and Councilman Ebner had talked to Councilmember Price several weeks ago and at that time she did not indicate that she would have an appointee.

Councilman Ebner stated there is a rules issue to deal with. He said he assumed since he made the recommendation at the last meeting, and there were no other names submitted, that it would be confirmed at this meeting. He said he understands Councilwoman Price's predicament also.

Mr. Pearce pointed out the minutes from the last meeting where Councilwoman Price stated she had a name, but wanted to confirm before submitting the name. She indicated that Council consideration on September 23, 2013, would be fine for the appointment. Mr. Pearce stated he did not have the name from Councilwoman Price until today. At the time Councilwoman Price did not know that she was going to be out of state.

Mayor Cavanaugh asked if there was a motion either way.

Councilman Ebner asked if Council would do the appointments individually or all together. Mayor Cavanaugh responded Council could do them separately if they wished.

Councilman Ebner moved, seconded by Councilman Dewar, that Council approve the reappointment of Royal Robbins to the General Aviation Commission with the term to expire September 1, 2015, the reappointment of Robert Aaron to the Recreation

Commission with the term to expire September 1, 2015, and the appointment of Ray Visotski to the Election Commission with the term to expire August, 2019.

Councilwoman Diggs asked then if Council would consider continuing the appointment to the Election Commission as requested by Councilwoman Price because she is out of town.

Mr. Smith stated that was not the motion that Councilman Ebner made. Mayor Cavanaugh stated the motion on the table was to make three appointments.

Councilman Homoki stated to continue the appointment to the Election Commission would Council vote on the reappointments of Royal Robbins and Robert Aaron and take Ray Visotski out of the motion or would Council go forward with the appointment of the three appointees together.

Mr. Smith stated typically when Council does appointments to boards and commissions the names are usually grouped together and typically there is not a lot of discussion about the appointees. Council has typically approved the appointments as a group, but Council does not have to. They can be voted on individually or on one, two or all three. The motion before Council is to consider all three appointees for approval.

Mayor Cavanaugh asked Councilman Ebner if he would be willing to change his motion to separate the appointments to vote on two reappointments and then one for the Election Commission.

Councilman Ebner stated this puts him in an odd position to do that, but he does understand being called out of town. He said he has missed getting some things on a Council agenda for being late. Mayor Cavanaugh stated the choice was up to Councilman Ebner.

Councilman Ebner stated he would withdraw his motion if Councilman Dewar would agree. He pointed out since there would be more than one appointee to the Election Commission then would the vote be by secret ballot.

Councilman Ebner stated he would change his motion that Council approve the reappointment of Royal Robbins to the General Aviation Commission with the term to expire September 1, 2015, and reappoint Robert Aaron to the Recreation Commission with the term to expire September 1, 2015.

Mr. Smith pointed out that a secret ballot does cause him some concern. He pointed out that Council's votes have to be public.

Councilman Ebner stated this is an unfortunate situation, but it is kind of hard to go through that and do what we thought was right. He said he could understand Councilwoman Price's predicament.

Councilman Homoki stated this might be a situation for an executive session where Council could discuss the matter, get a consensus, and then come back to the public meeting and vote. He asked if Council would debate the merits of the appointees in the open Council meeting. He felt that would be a personnel issue.

Mr. Smith stated years ago the people who got appointed to the boards and commissions typically were the result of whoever was able to make their motion the quickest. That was the reason for the plan to have one appointee per Councilmember.

Councilman Dewar stated there is not a pattern of Council for deferring an item at the request of a Councilmember. He said he could cite about four or five examples. He said he wished Council did. He said a Councilmember should have enough authority to say they would like an item deferred, and it should be deferred. However, Council does not have a policy. He said he had asked that the issue of redistricting be deferred, but it was

not. There was a Crosland Park meeting. He was out of town and asked that the meeting be deferred, but it was not. There was a railroad bridge meeting. Councilman Merry asked that the meeting be deferred, but it was not. He said Council does not have a policy of deferring to Council.

Mayor Cavanaugh stated Council does have a policy. The majority of Council can vote to defer something or continue it. He said Council had done that a number of times.

Councilman Dewar stated it was not done for redistricting. He said redistricting was considered on the first meeting he had missed in four years. He said the issue of the Crosland Park meeting was not brought to Council. He said the decision was by the City Manager that there was not an opportunity to reschedule to suit that particular Councilmember. He said he would like a policy that if a member of Council requests deferment of an item that it will be deferred.

Mayor Cavanaugh stated the policy is that an item is deferred or continued by a majority vote of Council. He said Councilman Dewar is asking that it be that just one Councilmember can make that decision. He said he did not know why it should be that one Councilmember could make that decision. He said there is a majority vote for most everything Council does. He asked why it should not be a majority vote to defer or not defer.

Councilman Dewar stated he did not know whether the matter of deferring the redistricting was brought to Council. Mr. Pearce stated he mentioned the request to Council. Councilman Dewar stated it was not brought to a vote.

Councilman Homoki stated it was not totally out of the rules of order for meetings. He said the Senate can withhold a name and not bring it up by deferring any vote on it. He felt Councilman Dewar is probably right. If Council does have a question and a member wants to defer the item for one or two sessions, he felt that could be done.

Councilman Dewar stated Council could have a policy that says Council will vote to defer or not defer, but Council could just as easily have the courtesy to respect the wishes of an elected member of the body and defer a matter at his or her request. He said we don't have that.

Mayor Cavanaugh pointed out Council can do that by a majority vote of Council. Councilman Dewar stated he had given five examples of where Council did not do that.

Mayor Cavanaugh asked that Councilman Ebner restate his motion. Councilman Ebner stated there was no second to his motion so he did not know where to go. Councilman Homoki stated he would second the motion.

Councilman Dewar stated there could not be a second unless he withdrew his second. He said he would withdraw his second, but he wished the same courtesies would be extended to all members of Council. He withdrew his second.

Councilman Ebner moved that Council approve the reappointment of Royal Robbins to the General Aviation Commission with the term to expire September 1, 2015, and reappoint Robert Aaron to the Recreation Commission with the term to expire September 1, 2015. The motion was seconded by Councilman Homoki. The motion was unanimously approved.

Councilman Merry asked if it was possible to see if there was some parliamentary procedure related to deferral of meetings or items on the agenda like Councilman Dewar had mentioned. He said he could understand once something is on the agenda that you would have to wait until the Council meeting to have a majority vote to continue something. However, prior to something being on a published agenda and prior to the item being advertised, he wondered if there was any kind of parliamentary procedure. He asked if that could be researched.

Mr. Smith stated for Council to exercise parliamentary procedure Council has to be in a meeting. He asked if Council wants to establish a procedure in the City Code that may allow them to modify the agenda. He said that is something Council could consider as a business item.

Councilman Dewar stated Council is limited in modifying the agenda. It would have to be done beforehand. He said he was frustrated. He said this puts the City Manager in a bad position because he is trying to schedule a meeting when all can attend. Usually that is not a problem, but sometimes it is. He said he had mentioned several cases where items had not been deferred. He said he felt the redistricting was a real embarrassment when Council would not wait until the next meeting. He said he wanted to wait until Don Wells' election so there could be a downtown member of Council. He said he would like Council to consider a policy that if a member asks for deferral of an item, it is deferred.

Councilman Ebner stated he was going along as a goodwill ambassador, but by the rules that are already set up his appointment should have been made and confirmed at this meeting. He said someone needs to make a motion to continue the appointment as it is an agenda item and needs a vote by Council.

Councilwoman Diggs moved, seconded by Mayor Cavanaugh, that Council continue an appointment to the Election Commission to the next meeting. The motion was approved by a 5 to 1 vote with Councilman Ebner opposing the motion.

Councilman Ebner stated he would like to recommend that Joseph P. Sobieralski be appointed to the Housing Authority. He is a member of the Young Professionals, Vice Chancellor for Finance-Administration at USCAiken. Councilman Ebner stated he was recommending Mr. Sobieralski to fill the unexpired term of Channing Jones which expires May 28, 2017.

Councilman Dewar stated he would like to nominate Rose Lee Fox to the Arts Commission.

Mayor Cavanaugh stated three appointments would be on the agenda for consideration at the next meeting.

#### CONCEPT PLAN - ORDINANCE

Shoppes at Richland  
Richland Avenue W  
Sign  
Lulu's Car Wash  
TPN 087-19-03-012

Mayor Cavanaugh stated the next item is first reading of an ordinance to amend the Concept Plan for Shoppes on Richland regarding signage for Lulu's Car Wash.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE AMENDING THE CONCEPT PLAN FOR THE SHOPPES ON RICHLAND.

Mr. Pearce stated the owners of Lulu's Car Wash location at the Shoppes at Richland have requested an amendment to this center concept plan to install a larger sign than the concept plan or the Zoning Ordinance allows. The request was originally scheduled for the September 9, 2013, meeting, but a representative from Lulu's Car Wash was not available.

The Planning Commission reviewed this request. The Commission members voted 6 to 1 to recommend against allowing a larger sign at the Shoppes at Richland. A copy of the Planning Commission memo regarding this request, their voting results, and their

recommendation was included in the agenda packet for Council's reference. The difference in the sign is that it exceeds 40 sq. ft., and it is not a monument sign. It is a free standing sign.

For City Council action is first reading of an ordinance regarding the request to amend the Shoppes at Richland Concept Plan for a larger sign for the Lulu's Car Wash. A representative from Lulu's Car Wash is present.

Mr. Carlos Marban, one of the owners, stated he understands that the monument sign that was proposed to go on the front of the property at U.S. 1 would not be approved. He said they would like to make it a monument sign without the reader board part. It would just have LuLu's Express Car Wash on it and would meet the city's square footage for signs. He said they would also like to keep the one that they propose at the entrance to the property, which is shown on the site plan.

Mr. Pearce asked if they were just requesting one sign and not two signs. Mr. Marban stated they were still requesting two signs, one would be at the entrance to the car wash inside the shopping center, and the other one would be up on U.S. 1 similar to what Murphy Oil has. He said it would be a monument sign with the bottom being a brick veneer type that would match the concept of the shopping center, and they would not have the reader board on it, just the LuLu's sign. He said they were trying to modify it so it would be approved.

Councilman Merry asked if it would be smaller to meet the sign square footage restriction. Mr. Marban stated the sign would be smaller, as the reader board part would be eliminated.

Councilwoman Diggs asked if the modifications were made to the sign, would the sign not exceed 40 sq. ft. and 7 feet in height. Mr. Marban stated they would like to make the sign smaller and under the 40 sq. ft. without the reader board part, so the sign could be lowered and keep it a monument sign, so it will meet the ground with brick veneer on the bottom of the sign to match the brick veneer of the shopping center.

Councilman Dewar asked if the proposed sign with the modifications would be like the sign at the facilities on Pine Log Road. Mr. Marban stated the signage on Pine Log is like the signage originally proposed for the Shoppes at Richland. He said they want at least a small monument sign on Richland Avenue so they can at least light the back panel of the sign with a fluorescent light and LuLu's Car Wash and LuLu's picture. With the proposed modifications the sign would be within the city's sign guidelines.

Councilman Merry asked if the LuLu's on Pine Log Road had a reader board. Mr. Marban said it does, but it can only be changed once every 24 hours so the reader board was kind of a waste.

Councilman Merry asked Mr. Marban if he was saying that on the rear sign, the one nearest Walmart, that you want it to have a reader board. Mr. Marban said they would like to have the reader board in case they need it for something special, etc. Councilman Merry asked Mr. Marban if he knew the limitations on changing a reader board. Mr. Marban said they do know because of the sign that they have on Pine Log Road. It can be changed once every 24 hours—no blinking, or flashing. Councilman Merry pointed out that it is a lot of money to pay for a reader board that can only be changed once a day. Mr. Marban stated he understood that and that was one reason for eliminating the reader board on the second sign.

Mr. Pearce stated that Mr. Evans is present, and he could speak to the proposed changes as to whether they would comply with the concept plan.

Mr. Ed Evans, Planning Director, stated he understood that Mr. Marban is asking for two signs. The only one with a reader board would be the sign within the shopping center facing the parking lot. The signs would be under 40 square feet. He said all those would be fine with the concept plan, with the only issue being whether the design of the sign is

compatible with the main sign at the University Parkway entrance on U.S. 1. He said the design is Council's call. If Council is happy with the design, it is Council's decision.

Councilman Merry asked Mr. Marban if the sign that would be closest to the Walmart building, that would still have a reader board, would be reduced in size also so it is less than 40 square feet. Mr. Marban said if they need to do that they will. He said those changes can be done as needed.

Mr. Evans stated he thought the signs that were proposed are all 40 square feet and meet the conditions of the concept plan. The only question is the design of the sign, and Council needs to decide if the design of the sign is compatible with the main sign at University Parkway. By the terms of the concept plan, the sign is supposed to be compatible. He said it is Council's call as to whether they feel the design of the sign is okay.

Councilman Homoki asked the rationale for the Planning Commission denying the sign initially—whether it was the size of the sign or other issues.

Mr. Evans stated there were not a lot of reasons stated. He felt it was the general feeling that the appearance of the sign differed from that of the main sign at University Parkway entrance to the shopping center. They had concerns about the reader board also.

Councilman Ebner asked if Council would be voting on a sign smaller than 40 square feet and no reader board. It was pointed out that the sign at University Parkway would not have a reader board, but the one in the shopping center at the entrance to the car wash would have a reader board. The sign at University Parkway would not have a reader board, but would just have LuLu's Express Car Wash. He asked if the sign would look somewhat like the Shoppes on Richland sign.

Councilman Merry pointed out that the sign would look like the sign shown in the agenda package without the red reader board. He pointed out it would have the sloped red and yellow roof. It would have LuLu's in the semi-script. He said one could decide whether the signs look alike. He said one is red and yellow and has a roof on top. The other one is khaki and green.

Mr. Pearce stated he had heard the owner say that he would wrap the base in brick so it would match the brick. Mr. Marban said he would brick the base so it would be more architecturally pleasing to the shopping center. He said he could remove the roof if Council desired and would have the bottom of the sign brick veneered.

Mr. Gary Smith, City Attorney, asked if the person who had drawn the proposed signs would do another drawing of the signs with the proposed changes and have that available to go with the agenda package for the next Council meeting. Mr. Marban said he could do that. Mr. Smith stated if a revised drawing of the signs could be done for the next Council meeting, he would suggest that the ordinance be passed on first reading with the understanding that the revised drawings would be submitted to the Planning Department in time to go with the next Council agenda.

Mayor Cavanaugh asked about the design of the signs. He pointed out one sign would be like the sign shown in the agenda packet without the reader board and with brick veneer base. He asked about the other sign. It was pointed out the other sign would be the same and located in the parking lot. Mayor Cavanaugh stated he thought he heard someone say something about the sign being green. Mr. Marban said he could change the red to green.

Councilman Ebner moved, seconded by Councilwoman Diggs, that the ordinance be passed on first reading approving the signs for LuLu's Car Wash with the condition that a drawing of the actual sign design as discussed and modified at this meeting be included in the next agenda package. The motion was unanimously approved.

CONCEPT PLAN – ORDINANCE 09232013South Park Shopping CenterSignParty City1360 Whiskey RoadTPN 106-08-03-001

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to amend the Concept Plan for South Park Shopping Center regarding signage for Party City.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CONCEPT PLAN FOR SOUTH PARK SHOPPING CENTER.

Mr. Pearce stated the owners of Party City at the South Park Shopping Center on Whiskey Road have requested an amendment to the concept plan to install a larger sign than the center concept plan or the Zoning Ordinance allows.

The Planning Commission reviewed this request. The Commission members voted 6 to 1 to recommend against allowing a larger sign in the South Park Shopping Center for Party City. A copy of the Planning Commission memo regarding this request, their voting results, and their recommendation was provided to Council for reference.

At the September 9, 2013, meeting a representative from Party City was present to present their request. After discussion at the September 9, 2013 Council meeting, Council unanimously approved on first reading an ordinance to amend the Concept Plan for South Park Shopping Center to allow Party City to install a sign in accordance with Option 3, a copy of which was included in the agenda packet. This Option 3 would allow a 42" letter sign for Party City. Planning Director Ed Evans indicated at the September 9 meeting that he is in agreement with this height for this sign. The Party City representatives have indicated to Mr. Evans that they now agree with this size sign and have agreed to Option 3. So that there is an ordinance to enforce, Council needs to approve Option 3 for the Party City sign.

For City Council consideration on second reading and public hearing is an ordinance to permit a 42" high sign for Party City in the South Park Shopping Center.

The public hearing was held.

Councilman Dewar stated the ordinance refers to Exhibit A. He wondered what was Exhibit A. Mr. Smith responded that Exhibit A is the entire package from the Planning Commission, and the option considered for approval is the page labeled Option 3 on page 107 of the Agenda package.

Councilman Merry moved, seconded by Councilman Ebner, that Council pass on second and final reading an ordinance approving Option 3 as shown in the agenda packet for the Party City sign in the South Park Shopping Center. The motion was unanimously approved.

ZONING ORDINANCE AMENDMENT – ORDINANCE 09232013ADefinitionDwelling UnitKitchenKitchenette

Mayor Cavanaugh stated this is the time advertised for second reading and public hearing on an ordinance to amend the Zoning Ordinance regarding the definition of dwelling unit and kitchen.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE REGARDING THE DEFINITION OF DWELLING UNIT, KITCHEN, AND KITCHENETTE.

Mr. Pearce stated Council discussed this matter at the September 9, 2013, meeting. He pointed out that, as part of an application to construct an Assisted Living facility on Silver Bluff Road on the southside of Aiken, issues arose regarding what constituted a "dwelling unit," what should be considered to be a "kitchen," and what could be a "kitchenette." As part of their Annual Action Item List, that Council sent to the Planning Commission, these definitions were part of several public hearings and Planning Commission meetings. After these meetings, the Planning Commission issued its findings and recommendations.

Council discussed the Planning Commission-proposed amendments at length at the September 9, 2013, meeting. After discussion and hearing from several citizens, Council voted at first reading to amend this portion of the Zoning Ordinance to read as follows:

*Dwelling Unit:* A single housekeeping unit, whether in a single-family or Multifamily structure, including, at a minimum, a kitchen, bathroom, and sleeping area. In residential and planned residential districts, dwelling unit density for any multifamily dwellings with a communal kitchen will include the number of units with bathroom and sleeping areas.

*Kitchen:* A room or space used, intended, or designed to be used for the cooking or preparation of food.

City Council unanimously approved the ordinance on first reading in this form, which deletes kitchenette and modifies the other two definitions at the September 9, 2013 meeting.

For City Council consideration on second reading and public hearing is an ordinance to amend the Zoning Ordinance regarding the definition of dwelling unit and kitchen, with the kitchenette definition omitted entirely.

Mr. Pearce pointed out he had also included a memo from Planning Director Ed Evans to clarify these new definitions so as to avoid confusion in applying them. He has set forth his reasons for these modifications. He has requested that the definition for Dwelling Unit be modified to show in the second sentence a capital "R" for Residential, a capital "P" for Planned, a capital "R" for Residential, and to add the word "zoning" before "districts" with the sentence to read "Residential and Planned Residential zone districts." He is also recommending that "multifamily" be omitted before the word "dwellings" in the same sentence and instead state "dwelling unit density for any dwellings with more than one unit" and remove the words "with a communal kitchen" and substitute instead "and in which all meals are provided in a congregate setting."

Mr. Pearce stated he thought Council had received a communication from Mr. John Veldman. He said his understanding from reading the email is that he has no problem with the capitalization of the zoning districts and adding the word "zoning" before "districts" but he would object to the other language that Mr. Evans has recommended.

For City Council consideration on second reading and public hearing is an ordinance to amend the Zoning Ordinance regarding the definition of dwelling unit and kitchen with the kitchenette definition omitted entirely.

Councilman Ebner moved that Council approve on second reading the definition of dwelling unit as "Dwelling Unit. A single housekeeping unit, whether in a single-family or multifamily structure, including at a minimum, a kitchen, bathroom, and sleeping area. In Residential and Planned Residential zone districts, dwelling unit density for any

multifamily dwellings with a communal kitchen will include the number of units with bathroom and sleeping areas. Kitchen. A room or space used, or intended, or designed to be used for the cooking or preparation of food,” and that the ordinance be amended to reflect the changes stated. The motion was seconded by Councilman Dewar.

Mr. Evans stated he felt there were two or three changes which he thought might help clarify the definition of dwelling. However, if Council felt they did not help that was fine with him. He said he had suggested removing the word “multifamily” as the definition of multifamily actually refers one back to the definition of dwelling unit. He felt it became circuitous. He felt it better to get away from multifamily. He said there are different interpretations of what multifamily actually is, so he felt it might be better to say “with more than one unit” rather than using the word “multifamily.” He recommended removing “with a communal kitchen.” He felt it was better to avoid the word “kitchen” since it had been such a point of confusion. Mr. Evans stated the end of the proposed wording says “will include the number of units with bathroom and sleeping areas” does not include a place to prepare food so he assumed that all meals would be served in a congregate setting since you could not prepare them in your own unit. He said that was the reason for suggesting adding “all meals are provided in a congregate setting.” He said those were suggestions.

Mr. John Veldman, 352 Magnolia Lake Court, stated his comment regarding “multifamily” is that the term multifamily has been in the ordinance for many years. It is defined in great detail in the list of definitions. He said he had a hard time understanding why a definition like that is hard to interpret. It makes a lot of sense when he reads it, and it is there. The term “unit” is not defined. He felt the proposed change would not improve clarity. He said Mr. Evans described this as circuitous but he does not feel that way. He felt it is properly tied together. If you look at “dwelling multifamily,” it talks about having a kitchen. It is pretty obvious that the third sentence is the talk about the fact that when you have a communal kitchen available, it substitutes for having a kitchen in each unit and in fact has where the dwelling unit density is determined by the sleeping area and bathroom. He said whether someone could have a small kitchenette in addition to having a communal kitchen, he did not see anything to prohibit that. Lastly, the way the wording was in the last sentence where it talks about having all meals provided, he felt creates a very significant loophole. He said if you don’t provide lunch you are not a dwelling unit. He felt the changes proposed by Mr. Evans were not enhancements. He said he had been working on this since the fall of 2010. He said they chose their words very carefully, and they mean what they intended as people who worked on this since 2010. He said we have had multiple instances where if the wording is fuzzy or if loopholes are present people will drive through there and try to do things that are untoward. He said he strongly recommends that Council approve the ordinance wording as Councilman Ebner made his motion.

Councilman Merry stated he had given the matter a lot of thought and spent a lot of time on it. He felt he had been working on it since 2010, but it has really only been two weeks. He said he finds himself in agreement with Mr. Veldman and Mr. Rahe on a lot of the elements of this, particularly their concerns related to the piece of property behind their homes on Silver Bluff Road. He said his concern is that we are taking one piece of property, one project, and one location, on one road behind one or two homes, which is a very specific concern with a very specific project, and we are painting with a very broad brush something that will affect the entire city. He felt it is a slippery slope when we start changing the ordinance. He said we are not just changing the ordinance, but are changing the entire way we interpret dwelling units across the breadth of the Zoning Ordinance which affects Planned Commercial, Planned Institutional, all the residential classifications, everything. We are changing the interpretation for the entire ordinance, and it will affect the entire city. It is hitting a small bug with a big hammer. He said he is in agreement with Mr. Veldman and Mr. Rahe that the project proposed on Silver Bluff Road was far too intense for the location, and it was not necessarily appropriate for the place or for the neighborhood, but there is a process. He said that project never got past the Planning Commission. The process would have carried it to City Council, and that is where the judgment would have been made whether it was too intense or whether it was appropriate or inappropriate. City Council would have had the chance to say yes, no, or modify the project.

Councilman Merry stated when you change the way you interpret and the way you define dwelling unit, it changes that across the entire Zoning Ordinance. That would restrict multi-unit or congregate living facilities to 12 units per acre in any residential zoning area, except RML and RMH, and it restricts that same multi-unit congregate living facility in Planned Commercial and Planned Institutional as well. It will be solving a bigger problem than what really exists. The problem relates to the 5 acres on Silver Bluff Road, and it is not something that needs to be fixed as it is not broken for the whole city. Almost every congregate living facility in the City of Aiken has greater density than 12 units per acre. He said if the ordinance is changed no more congregate facilities could be built in Aiken. There could be no more Pepper Hill or Windham House. He said it can't be done in Planned Commercial, as Planned Commercial limits the number of units to 1 per 3,000 square feet of lot size. That means 14.5 units per acre, but then it limits it to half that being a residential component, as we call it a dwelling unit, to half of the total acreage. It is conceivable that the Planned Commercial and Planned Institutional would create a density unit lower than 12 units per acre. The other thing he had heard on this subject is that we want to limit it to 12 units per acre, but if there was ever a good enough project we could make an exception. He said when we change the way we interpret the words, we can't make an exception. The ordinance says in Planned Residential as it does in Planned Commercial and Planned Institutional that there will be a limit. Planned Residential says the limit is 12. It does not give Council the right to go above 12. If you start calling all these things dwelling units you can't take it above 12 no matter how good the project or how worthy the location or how necessary the service. Council can't make the exception. He said his observations of Council over the years have been that Council wanted the authority to hear a presentation, consider the pros and cons, and where exceptions might be warranted grant them. Where they are unwarranted, where it might be too close to an important residential neighborhood, where it might be too close to a neighbor that would be impacted, Council has been able to refuse those projects. He said he thought that was the reason for the Planned Residential and Planned Commercial zones. He said Council wanted the ability to make the exception, a judgment or ruling, but this change takes that away for any project over 12 units per acre whether it is being asked to be zoned Planned Residential, Planned Commercial or Planned Institutional. The only thing left to them is RML and RMH, and Council has been very reticent to permit those zonings, to do any annexations under those zonings for many years. In fact, Council has decided that anything over 4 acres that is residential should be Planned Residential. Anything over 5 acres that is commercial should be Planned Commercial. He felt they had basically ruled out the RML and RMH options for anybody. He said if we think that we in the city won't ever want anything more than 12 units per acre, the damage that will be done is that we will increase the cost of developing the property, and either the developer will have to buy more acreage or they will have to have lower density and charge more per unit. That does not hurt those who can afford it, but it does hurt the lower and middle income people that can't afford it. If we are in a position where we say to those people we really don't want you in this town when you get to that age and you need to be in the nursing home, you might as well pack up and go to Edgefield, Barnwell, or North Augusta. He said if we want to get to that point, this is a way you could do it. He said he did not want to get to that point.

Councilman Merry stated he agrees with what they said with respect to the impact that this would have next to their property. There is no question they are in the right, and he applauds all their efforts. It was the wrong project for the wrong location, but this is the wrong fix to that issue. He said he would not vote for the amendment to the Zoning Ordinance. He said he hates that because he finds himself in agreement with them in so many ways, but he felt we are trying to fix a problem that is not nearly as big as the ones that will be created by adopting the proposed language.

Councilman Ebner stated Councilman Merry had said the proposed amendment affects PC and PI, but that is not what it says.

Councilman Merry said it does. He said PC and PI will allow residential use up to 50% of the land area. The crux of the whole thing is whether or not we are calling assisted living facilities residential use. If we don't call them dwelling units, it's not residential use and the Planning Department interpreted that would allow more than 12 units per

acre, but with the proposed definition we are calling it residential use. That means PC and PI would limit it to 50% of the total acreage and 3,000 square feet of lot area per unit. You would still have to have the green space requirements, etc. In other words, an acre is 43,560 sq. ft., and if you are limiting it to 3,000 sq. ft. per unit, then you can have 14.5 units in a Planned Commercial and Planned Institutional zone. You turn around and apply your 50% rule in the Planned Commercial and Planned Institutional and suddenly you can be less than 14.5 units per acre. It could be less than 12 units per acre. Not only that, but if you are going to force developers to annex property and ask for it to be zoned PC in order to get this done, and they build this on half of it and get their X number of units per acre, then you have created an opportunity for them to turn around and put something commercial next to whatever the development is. You are trying to fix something with a solution that is a bigger problem than what exists now. There are other ways to do it. He said he trusts the 30 years of experience that Mr. Evans has and the many years of diligence that the Planning Commission has that they have considered all this. He said he had not asked them specifically, but he trusts they have considered all this stuff. He said he knows that every minor tweak to the Zoning Ordinance can have a profound effect. While it applies in this case to this one property, once it is applied to the whole city it is amplified. It has an exponential effect on what it can do. You can do that in this case, and it can be detrimental to the city. He said the Mayor has called the city business friendly. If this is an example, the businessmen would question this. He said he was not in any way advocating the Lenity project or any project on the 5 acres on Silver Bluff Road. He said he did not think that was the right thing for that property, but there are properties in town where something like assisted living could and should be developed. There is a demand which is growing for projects like this in this town. He said as we all age, we are going to need it more and more. He said he hates to think that we set up conditions in the Zoning Ordinance that would have the unintended consequence of pricing those services out of our middle and lower income people's price ranges.

Councilman Ebner pointed out that PC and PI are commercial. He asked if Councilman Merry was saying that Residential and Planned Residential zoned districts affect what is in a PC.

Councilman Merry stated what affects them is what you call dwelling units. If you call these dwelling units, then they become residential. If they are residential, they are limited in PC to 50% of the area and 1 unit per 3,000 sq. ft. of lot area. If you had a 5 acre parcel, then you would be allowed 14 units per acre so there could be 70 units on a 5 acre parcel zoned PC. If the property were annexed as PC they would be allowed 70 units at best. If they requested PR and if we used 12 units per acre, that would be 60 units. You are really talking about 10 units per acre at best. Depending on how the 50% rule is applied in Planned Commercial, they might not get 70, but may only get 35. He said the rule is the same for Planned Institutional. He said Council needs to know this before we vote on the matter. He said if this is news to anybody, Council should not be voting on the matter. He said if we are going to change the Zoning Ordinance, we need to know the ramifications before we change it and need to know what effect the changes will have beyond one piece of property in one location. He said if we don't know this, he felt Council should not be voting on the matter.

Councilman Ebner stated he had spent two years going over this. He said he had gone to meetings for a year and a half on the issue. He said perhaps Mr. Evans needs to comment on the comments made. He said he was at a loggerhead. After all this time, this has not come up. He said he had not heard the discussion about possible effects of the proposed changes on other zones that Councilman Merry had made about the proposed change.

Councilman Merry stated he did not know what they discussed over the two years, but he did know that if you start changing the way you interpret and define dwelling unit, it changes things beyond just Planned Residential and changes things everywhere dwelling unit plays a role. It plays a role in Planned Commercial and Planned Institutional.

Councilman Homoki stated a couple of weeks ago there was a new definition on the table of a dwelling unit, including definition of a kitchen. He asked if that also would have hampered the development of assisted living facilities.

Councilman Merry stated he had struggled with how to do this. He said he agrees with Mr. Veldman and Mr. Rahe in a lot of ways with what they have said and their concerns. In a place like Woodside you don't want a three story super structure on 5 acres. He said that is why he thought the previous City Council came up with the idea of using and recommending Planned Residential and Planned Commercial for such projects. On a project like the Lenity project, if it came before Council, Council would have the right to say the project meets all other requirements such as green space, signage, landscaping, etc., but it is incompatible with the neighborhood. He said the Zoning Ordinance says Council would have the right to turn that down. That is within the system that we already have. Council could have done that on the Lenity project. He said he hates to refer to it, because he is in no way advocating the Lenity project, but the mechanism was already there for Council to approve or deny such a project. He said he does not have a bunch of heartburn about their language, but what he does have heartburn with is that we would be hamstringing ourselves to where we can make no exceptions over 12 units per acre in residential and over 14 units per acre in commercial. He pointed out that all the congregate living facilities in Aiken, except Cumberland Village, would exceed the parameters. They would be nonconforming and no other facilities could come to Aiken. He said the problem is whether that is really what we want. Do we want to say we don't want any more of these congregate facilities or do we say that we only want the ones in which the most well to do Aikenites could afford to live. He pointed out we will only get an application for a project like this every 6 or 8 years. He said it is not an earth shattering issue in the end, but he still sees that there will be an increasing demand for congregate living facilities and he sees it hurting the most those people who can afford it the least. He said he did not feel that we should be telling those people to go find a cheaper place to live in Edgefield.

Councilman Dewar stated the thing that really drove the beginning of the process was density for the Lenity project. What drove that issue was how you define density and dwelling unit. When all of this was finalized someone asked the question now that the Planning Commission has done what it has done, could the Lenity project go back to the area where they had originally applied for a congregate living facility. The answer was yes.

Councilman Merry stated it could not be done by right. They asked for Planned Residential zoning. They would have to get approval from City Council for it to be done. He said that is the whole idea of Planned Residential. He said Council had not approved a concept plan for the Lenity project. It was pointed out the Lenity project never came to City Council, as the project was withdrawn. He said if it had come to Council, City Council would have had the option. He said if it had come to Council, he tends to think Council would have heard from the same members of the audience that we have heard from at the last two meetings. He said he tends to think we all would have felt the same way. He said he doesn't think anyone on Council felt there was anything good about the project at that location.

Councilman Merry stated the Planning Commission did what Council requested with respect to the definition of dwelling unit. He said he tried to touch on the issue at the last meeting, but he had not really studied it that well. He said what he was trying to say was that the Planning Commission worked carefully to set up the circumstance where Council would retain the right to allow a project with greater than 12 units per acre density in Planned Residential or 14 units per acre density in Planned Commercial so Council would have the right to go higher. He said he agrees so much with what Mr. Veldman and Mr. Rahe said, and he does not have a problem with the language until you get to the limit. He said he had done some research in North Augusta, Greenwood, Greenville, Columbia, Rock Hill, and Charleston and most have density limits much higher than Aiken. He said he does not propose that we change what our maximum is, but felt that Council should retain the right through the Planned Residential and Planned Commercial process to allow a higher density. He said now we could not allow a higher density unless we change the ordinance.

Councilman Dewar stated he is confused. He stated Councilman Merry doesn't want to increase the density, but is making the point, well intentioned he thought, that unless a developer can have more than 12 units it's not cost effective and they won't come in and build them.

Councilman Merry stated he felt Council should have the ability to allow more than 12 units if someone were to ask for more or to decline a request for more units per acre. He said he did not know what the magic number is. He said he thought Charleston had 24 units per acre and North Augusta 20 per acre. He said his understanding of Planned Commercial, Planned Residential, and Planned Institutional is the rules are thrown out. The developer brings a concept plan to Council. Council looks at it. If Council likes it, they can approve it. If Council does not like it, Council could deny it. He said, however, if we put in rules that restrict Council where we can't go over 12 units per acre in Planned Residential without changing the ordinance, he felt there could be problems.

Councilman Ebner pointed out the proposed change does not take out the requirement for the PR concept plans to come to Council.

Councilman Merry stated he did not suggest that it did. They all still come to Council, but if someone brought some plans to Council and the density worked out to 15 units per acre, and they wanted Planned Residential zoning Council could not approve it as it would be over 12 units per acre, nor could they approve Planned Commercial as it would be over 14 units per acre. He said unless Council goes through the process to change the ordinance, they could not allow a project over the 12 units and 14 units per acre for Planned Residential and Planned Commercial respectively.

Councilman Dewar stated it seemed to him that Council has had a couple of projects come to Council that some think should not have come to Council. He pointed out Council has so much freedom, flexibility and authority to do whatever Council wants to do. He said, however, he likes to be consistent.

Councilman Merry asked Mr. Evans if Council had the authority to go over 12 units per acre in Planned Residential.

Mr. Evans responded that Council did not have the authority to go over 12 units per acre in Planned Residential and a variance cannot be requested. He said the Board of Zoning Appeals cannot grant a variance that would allow a dwelling unit density higher than otherwise allowed.

Councilman Ebner stated if the concept plan came to Council, Council could do it. Councilman Merry stated that was what he was talking about. Council could not approve a concept plan with a density higher than 12 units per acre. Councilman Ebner asked why Council has to approve a PR plan then. Councilman Merry pointed out that for a PC plan you can't go over the 3,000 lot sq. ft. per unit so Council could not go above 14 units per acre.

Councilman Ebner stated he hears what Councilman Merry is saying, and he is not that familiar with it. He asked if the Planning Commission and City Council used to have the authority to raise the limit.

Councilman Merry stated he thought Council wanted that limit for typical multifamily—apartments, condos, townhouses, etc. He said he talked at the last meeting how this is distinctly different. He said there is a fundamental difference in congregate living facilities from the ordinary multifamily. He said there are a lot of differences. He said Council might think that 12 units per acre limit is right. He said obviously Council did think so, since they approved the 12 units per acre. He said that might be right for the standard multifamily residential or multifamily in a PC or PI district. The difference is that the congregate living facilities were not subject to that limit because they were not interpreted to be dwelling units. Now, under the proposed changes, we will be changing that so they will be interpreted to be dwelling units. Once the changes are made the limits apply to congregate living facilities and they apply whether the facility is in

Planned Residential, Planned Commercial, or Planned Institutional. Councilman Merry pointed out there are not a lot of developers lined up with these projects waiting on him to make the case. He said he did not think there is any risk of Council being overwhelmed with high density projects. The second point is that if Council maintains the right to approve a higher density for a congregate living facility, Council does not have to grant it, but would have the right to grant it. Under the proposed change, if Council adopts the language, Council does not have the right to approve a project over 12 units per acre in PR or 14 units per acre in PC. The only way to change it is to change the Zoning Ordinance. He pointed out that Councilwoman Price said at the last meeting that if we are going to change the ordinance let's do it once and get it right. He said if we are going to do this, he did not want to find ourselves in a few months with a great project, but the ordinance will not allow Council to approve the density.

Councilman Ebner stated he hears what Councilman Merry is saying. He said the City Attorney has said many times that Council has the right to change any ordinance at any time. It just has to have two readings to make the change. Councilman Merry stated why not get it right now so Council does not have to do that. He said we are telling Mr. Veldman and Mr. Rahe that we will change the ordinance for you today, but we will change it behind your back later.

Councilman Ebner stated he had been to meetings for a year and a half on this issue, but he was sorry the matters Councilman Merry has talked about did not come up in the meetings.

Councilman Merry stated it did not come up in the meetings, but what he was saying is that what they were working on agrees with what he is saying. He said there was no reason to talk about it when the path they were creating would still allow for congregate living facilities to not be construed to be dwelling units. He said Council would have the right to allow over 12 units per acre. He said it would not mean the developer would have the right to build it, but Council would have the ability to make an exception to go above 12 units per acre. If the Planning Commission was working on language in a way that makes sense with what he is saying tonight, then there would be no reason to tell them they were doing it wrong. He said for a year and a half the Planning Commission worked on defining congregate living facilities as something that was different from the standard multifamily dwelling and something that wasn't a typical dwelling unit. He said because he believes they are different from a typical multifamily dwelling and that they should not be considered dwelling units, then he would have no reason to object to what the Planning Commission was doing. He said he would assume they were doing it for the same reasons or similar reasons to the argument that he is making at this meeting. He said if this is all new to people, he felt we need to stop. He said one of the most profound things you can do in a city and one of the greatest powers you can exercise with discretion or callousness is the Zoning Ordinance. That is where you limit people's ability to use and enjoy their private property, one of the most sacred things we have in this country. When we start making changes and start regulating and limiting people's ability to use and enjoy their private property, you need to know the ramifications and what it does. He said if we all have not thought that through, then we need to think about it.

Councilman Dewar stated it was not enjoying private property rights for the people at Woodside to look at the Lenity project. He said that was one of the reasons that drove this proposed change. He said he was comfortable approving the amendment to the ordinance tonight. He said he understand what Councilman Merry is saying. He said he would like to go into it deeper. He said he was not worried if Council ends up changing the ordinance again if there is a request for such a project. He said he was sensing that it was not too likely that Council will receive such a request for a project. He said he was comfortable approving the proposed ordinance at this meeting. Then if Councilman Merry wants to make a case that it is a bad thing to do because of its effect on other areas of the Zoning Ordinance, it could be discussed later.

Councilman Merry stated he did expect to change Council's mind.

Councilman Ebner stated anyone can bring a concept plan to the city. He said if the plan went through all the procedures other than the BZA, if someone called him and said their concept plan does not fit and asked him to present it to Council, he felt it would be his right to bring the matter to Council as an agenda item. If it is put on the agenda, Council would have the right to discuss it. Councilman Merry stated Council would have the right to discuss it, but Council could not approve it if it is more than 12 units per acre in a PR zone.

Mr. Gary Smith stated Council would have to stay within the parameters of the Zoning Ordinance.

Councilman Ebner said he could say the project was a good thing and he felt the Zoning Ordinance needed to be changed to allow more units per acre. Councilman Merry stated he did not see why Council did not try to get it right the first time. He pointed out that Councilwoman Price's directive was that Council get it right and not have to come back and change it again.

Councilman Ebner stated there was a lot of discussion at the Planning Commission meetings, and he was present at the meetings for the last year and a half.

Councilman Merry stated if Councilman Ebner was there what the Planning Commission was telling you was that congregate living facilities should not be defined as dwelling units. The language which the Planning Commission came up with that was presented to Council at the last meeting and which Council never voted on basically said that congregate living facilities were not defined as dwelling units. He asked about an extended stay hotel. He said under this definition we will not have any more. He said under the proposal an extended stay hotel will be considered a residential structure, and once they are structures, they will be limited to 50% of their land area and one unit for every 3,000 sq. ft. of lot size, which means the extended stay hotels which will have a kitchenette will not be allowed, and no new ones will be allowed.

Councilman Ebner stated he did not hear that discussion. He said maybe it was the underground. He said he is not a zoning person, but Councilman Merry deals with it all the time. He said this may be one of the unintended consequences. He said we have what we have, and if we need to change it later, Council will have to deal with it.

Councilman Merry stated Council is not looking at what was received from the Planning Commission. He said if they were looking at what they got from the Planning Commission the issue would be addressed. Councilman Merry stated Councilman Ebner was arguing both sides of that because he was saying the Planning Commission did not talk about it, but what they presented to Council was to say that congregate living facilities were not dwelling units.

Councilman Ebner stated he did not hear those words. He stated he would have to explain to him what he was not doing versus what we are doing through all the process. He said Council has the proposed change that he is recommending before them to vote on.

Councilman Merry stated he was not here to vote on what was discussed at the Planning Commission meetings, but was here to vote on the effects of a change in the Zoning Ordinance.

Mr. John Veldman stated he almost did not know where to start. He said this issue has been discussed since the fall of 2010. He said this is not an issue of affordable congregate care facilities and Mr. Evans and Councilman Merry keep mixing and matching nursing homes type 1 and type 2 nursing homes with an apartment building for seniors, which is what the Lenity Group was. He said extended stay hotels are covered under a different part of the Zoning Ordinance. He said cities everywhere have worked this out. This is not an issue. There is no attempt to make an extended stay hotel a dwelling unit. He said he was not aware of any project that has been denied, declined or discouraged other than the Lenity project with the 12 units per acres in Planned

Residential. He said he talked with Mr. Pat Cunning about a development that he is working on. It certainly will fit within those parameters so it is not impossible to do. He said he was just astounded at the discussion on the impact on commercial or whatever. He said over the last 25 minutes he did not take notes so we may have to go back over to review each and many of the assertions. He said Councilman Merry is entitled to his opinion, but this matter was given very long, careful, and thoughtful consideration. He said he believes that density limits are a very important parameter in land use. He said the city's Zoning Ordinance states that as one of the key purposes of the ordinance. He pointed out the limit had been raised from 8 to 12 in Planned Residential some time back. He said the Second Baptist Church came forward with a retirement center concept. It did not go forward, but it passed on the 12 units per acre. He said the proposed ordinance is not obstructionist; it is not class warfare between the people in Woodside and people elsewhere. Whether it is on the northside, southside, or westside nobody wants a humongous structure built next to them, and that is why you have zoning limits. If you follow Councilman Merry's logic you could ask why bother to have limits on anything because that limits your flexibility. He said he was sorry that Lenity picked up and went some place else or decided not to build here. He said there were many options available to them to conform. They chose not to conform. They wanted to do it differently. He said his mother-in-law lived at Cumberland Village, which was an analogous kind of facility, but they met the limits. He said they were apartments that people lived in, they were in fact dwelling units. They were not a nursing home. He said nursing homes are governed differently. He strongly, strongly urged Council to reject the fervent last pitch to derail an effort that he had been working on since 2010. He said he did not have much left in him to work on this. He said maybe they will outlast him. He said the proposed change is just good sense. The wording of the first sentence of the definition is exactly the wording in the ordinance that we have worked under since 1999. He said he feels that if the City of Charleston can do with a functional definition of a dwelling unit, that Aiken can make it work here. He said the sky is not going to fall. He said Councilman Merry gave a Chicken Little passionate plea. He said it is not accurate, and it is not going to happen. He continued to urge Council to vote to pass the ordinance on second reading as made in the motion by Councilman Ebner. He said it will work for Aiken and protect all the citizens wherever they are in residential zones from high density development. He said Councilman Merry's comments were a plea for let's hang out the sign "high density development welcome." He said that is not what we are about in Aiken. The character of our community is different from that.

Councilman Merry asked that Dr. Veldman please not misunderstand him. He said he was not working with, for, or about anybody. He said he was not advocating that we hang out a shingle for high density development to come running into town. He said if he believes that is what he was saying, then he misinterpreted his comments. He said Council would retain the right to make individual decisions. He said he was not the one who passed the Planned Commercial, Planned Residential, and Planned Institutional zones, somebody else did. He said Council with those zones retains the right to allow more or less landscaping, parking, etc., but the one thing Council does not have is the right to allow any more dwelling unit structures. If Council feels that is the limit that they want to set, he has said his peace and he will walk away happy and shake everybody's hand. He said if Council wants to do that, then he is done with the matter.

Mayor Cavanaugh pointed out Council can change the ordinance if they desire later. He stated Councilman Merry had stated this is something that might happen every seven to ten years. He stated he can support the ordinance as proposed by Councilman Ebner because Council can change the ordinance later if there is a reason to change it.

Councilman Homoki pointed out that Council approved the concept plan for the hotel and extended stay at Stratford Drive and Whiskey Road. He said he does not see a problem with that, and it went through.

Councilman Merry pointed out that concept plan was approved under the old definition of dwelling unit before making the change that is proposed at this meeting. He said let's put all that away. He said he understands Dr. Veldman's difference with his characterization of that and his Chicken Little approach. He said quite obviously he is in the minority so he is fine with whatever the majority decides. He said he simply never

knew that we would create an ordinance with the intent that if we want to we will change it later. He said he had said his peace.

Mayor Cavanaugh stated it had always been there that Council could change any ordinance when the need arises. He said that has been done over the 20+ years that he had been on Council.

Councilman Merry said sure an ordinance can be changed, but why would you do something that is imperfect just because you know you can change it.

Mayor Cavanaugh stated Councilman Merry is saying we should have a perfect ordinance that we will never change. Councilman Merry stated he was not saying that at all. Mayor Cavanaugh stated he was saying we have a proposed ordinance, and hopefully we never will have to change it, but if we have to let's do it.

Councilman Homoki stated Council approved the concept plan for the hotel complex and extended stay at Stratford Drive and Whiskey Road, the access road, etc. He said if Council approves what Councilman Ebner is proposing now will that have any effect retroactively on that. The response was that had already been approved, and the proposed ordinance would not affect it.

Councilman Merry stated he would not argue the matter any further. He was fine with the ordinance.

Mayor Cavanaugh stated it was not an argument. He stated he respects Councilman Merry's view on the matter. He thought Councilman Merry had some very good thoughts, is a very smart person, has been in the development business, and has expressed his views. He said he was not saying they are wrong, but he is saying there is an out if it becomes apparent that the ordinance is wrong. He said we should be smart enough to know when we want to use it if we have to or not use it. He said he liked the idea that some things have to come to Council and Council can change them. He said in this case we can change it; we can change the ordinance.

Councilman Merry stated he had said his peace, and he apologizes if he made anyone angry.

Mayor Cavanaugh stated a motion had been made by Councilman Ebner and seconded by Councilman Dewar that Council approve on second reading the definition of dwelling unit as "Dwelling Unit. A single housekeeping unit, whether in a single-family or multifamily structure, including at a minimum, a kitchen, bathroom, and sleeping area. In Residential and Planned Residential zone districts, dwelling unit density for any multifamily dwellings with a communal kitchen will include the number of units with bathroom and sleeping areas. Kitchen. A room or space used, or intended, or designed to be used for the cooking or preparation of food," and that the ordinance be amended to reflect the changes stated. The motion was approved by a vote of 5 in favor with Councilman Merry opposing the motion.

Councilman Merry left the Council Chambers at 8:39 P.M.

#### SHILOH SPRINGS – ORDINANCE 09232013B

Filter System

Radium

SC Department of Health & Environmental Control

Decommissioning

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing of an ordinance of intent to comply with DHEC regulations regarding any decommissioning of the filtering system at Shiloh Springs.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE PROVIDING A STATEMENT OF INTENT PURSUANT TO DHEC REG. RHA 1.15 AND RHA 1.15.12.4

Mr. Pearce stated under our Consent Order with SCDHEC, Council has approved FY 2013-14 budget funds to install a filtration system to remove any radium present in the water we process from Shiloh Springs. The City has accepted a \$1 million forgivable loan from the South Carolina Water Quality Revolving Fund for installation of the filtration equipment. As part of this loan we also need approval from Council regarding a path forward to decommission this filtration system at any future date when it may no longer be needed. Our Engineering and Utilities Department Director has reviewed this SCDHEC-required document and is confident that this decommissioning process can be accomplished without any undue expense to our taxpayers. We will hold approximately \$62,500 in reserve to cover these estimated expenses if they are ever needed.

City Council unanimously approved this ordinance on first reading at the September 9, 2013, meeting. For City Council consideration on second reading and public hearing is an ordinance approving a decommissioning agreement from SCDHEC for the filtration system at our Shiloh Springs water source facility.

The public hearing was held.

Councilman Homoki moved, seconded by Councilman Ebner, that Council approve on second and final reading an ordinance approving a decommissioning agreement from SCDHEC for the filtration system at Shiloh Springs. The motion was unanimously approved with a 5-0 vote. Councilman Merry was out of the room.

TOWING FRANCHISE – ORDINANCE 09232013C

Conventional  
Heavy Duty  
Rotation List  
Wreckers

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance regarding involuntary towing franchise agreements for conventional and heavy duty towing.

Mr. Pearce read the title of the ordinance.

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

Mr. Pearce stated, pursuant to prior City Council action, it is time to review the franchise agreements for conventional and heavy duty rotation lists for involuntary tows performed by companies performing this service to our Aiken Department of Public Safety when the need arises to involuntarily tow a vehicle from an incident scene.

Public Safety is requesting one change. Previously Council had requested an annual review of these agreements. ADPS would like to conduct a three-year term for these agreements instead.

Mr. Pearce pointed out that there were several representatives from the area towing businesses at the September 9, 2013, meeting of Council. He said Chief Barranco had met with those towing operators. The only change in the franchise agreement is that Council would review the agreement every three years rather every year.

City Council unanimously approved this ordinance on first reading at the September 9, 2013, meeting. For Council consideration on second reading and public hearing is an ordinance approving the towing rates and franchise agreements for conventional and

heavy duty involuntary tows by private companies on behalf of ADPS when the need arises.

Rates for towing are:

|  |       |
|--|-------|
| <u>Regular Sized Vehicles, Daytime</u> | \$125 |
| --Nights, weekends, holidays           | \$175 |
| Storage Fees per day                   | \$ 25 |

Larger Sized Vehicles

|   |       |
|---|-------|
| More than 7,000 lbs, but less than 17,000 lbs., Daytime | \$150 |
| --Nights, weekends, holidays                            | \$200 |
| 17,000 lbs., or more Daytime                            | \$300 |
| --Nights, weekends, holidays                            | \$350 |
| Storage Fees per day                                    | \$ 40 |

The public hearing was held.

Councilman Ebner pointed out that two of the representatives present at the last meeting asked about increasing the rates because of an increase in insurance rates. He wondered if Chief Barranco had discussed that with them.

Mr. Pearce stated the representatives had a discussion with Chief Barranco. We have checked with North Augusta Public Safety and the Sheriff's Department and our rate structure is similar to their rate structure. He pointed out that Council can look at the rate structure any time and change the rates if there is a need to do so before the three year review by City Council.

Councilman Ebner moved, seconded by Councilwoman Diggs that Council approve on second and final reading an ordinance approving the towing rates and franchise agreements for conventional and heavy duty involuntary tows by private companies on behalf of ADPS when the need arises. The motion was unanimously approved with a vote of 5-0 with Councilman Merry not present.

ACTION AGENDA

Planning Commission  
FY 2013-14

Mayor Cavanaugh stated Council needed to consider approval of the Action Items for the Planning Commission for Fiscal Year 2013-14.

Mr. Pearce stated City Council met on Tuesday, August 13, 2013, with our Planning Commission. The purpose of this meeting was to jointly develop an Action Agenda for the upcoming fiscal year. Based on this meeting, the Planning Commission and City Council agreed on nine items. We believe that several of the items developed in the new Action Agenda can be completed this year with the continued cooperation of the Planning Commission and City Council. He stated he had received an email from the Chair of the Planning Commission regarding clarification of one item. He said he would forward that information to Council so the request for clarification could be discussion on October 14, 2013.

The Action Agenda adopted was as follows:

1. Natural Resources Element.
2. Amendment to the Zoning Ordinance regarding railroad bridges.

3. Review of sign regulations regarding electronic signs and trees blocking visibility of signs.
4. Amendment to Zoning Ordinance regarding LED and modern lighting.
5. Amendment to the Zoning Ordinance regarding definition of “residential assisted living facility.”
6. Review the Policy on Provision of City Services to Unincorporated Areas.
7. Possible amendments to the Zoning Ordinance regarding the depth of untouched buffers for commercial and multifamily residential development.
8. Comprehensive Plan review.
9. Review of Land Development Regulations.

For City Council consideration is approval of the Action Agenda for the Planning Commission for fiscal year 2013-14.

Councilman Ebner asked if the question was about Item 5. He said he thought Item 5 was tied into the BZA ruling. He wondered if that was the question that the Planning Commission had. He said he had talked to Ms. Stewart about Item 5. Mr. Pearce stated he did not have the information and could not answer the question.

Councilman Ebner stated Item 5 was part of Councilman Merry’s discussion. He said the BZA ruling specifically mentioned Retirement. He asked if Mr. Evans could help. He asked if Item 5 was tied into the BZA ruling or if it was totally outside that. He said he thought it was outside, but he wanted clarification.

Mr. Evans stated the matter came up during the discussion on dwelling unit, but in his opinion was not part of the BZA ruling.

Councilman Ebner stated he agreed with Mr. Evans’ opinion. He said we don’t want to tie them together because if it is tied to the BZA ruling we have to go back through the process.

Councilwoman Diggs moved, seconded by Councilman Dewar, that Council approve the Action Agenda for the Planning Commission for fiscal year 2013-14. The motion was unanimously approved with a vote of 5-0 with Councilman Merry not present.

#### WATER TANK – ORDINANCE

York Street  
South Boundary  
AT&T  
New Cingular Wireless  
Amendment

Mayor Cavanaugh stated Council needed to consider an ordinance to modify the AT&T lease of space on the York Street water tower.

Mr. Pearce read the title of the ordinance.

#### AN ORDINANCE APPROVING THE AMENDMENT OF A LEASE OF SPACE ON THE YORK STREET WATER TOWER TO NEW CINGULAR WIRELESS PCS, LLC.

Mr. Pearce stated Council will recall that on the railing at the top of the water tower on York Street at South Boundary there is various antenna equipment. He stated Shirah & Company Representative Tracy Beatty Snow has contacted him about modifying the AT&T lease of space on our York Street water tower for their antenna and related equipment for better service.

The modification was administratively approved by the Design Review Board, but since AT&T is requesting to modify their lease that will have to be approved by Council since that is on City property. By state law a change in the lease has to be approved by ordinance.

Our City Attorney has advised that any lease modification of city-owned property is required to be approved via a City Council ordinance. Along with the additional equipment installation, AT&T has requested a modification of their lease.

For Council consideration is first reading of an ordinance to approve a modified lease with AT&T for new antenna and equipment installation at our York Street water tower.

Councilman Homoki asked if AT&T will be modifying their equipment on the water tower at York Street. He wondered if the city might have liability in case of an accident.

Mr. Pearce responded that AT&T will reconfigure the antenna and the plans are shown in the agenda packet. He said that AT&T would provide the city with proof of liability insurance by their vendor before they commence work.

Councilman Ebner moved, seconded by Mayor Cavanaugh, that Council approve on first reading an ordinance to approve a modified lease with AT&T for new antenna and equipment installation at the York Street water tower. The motion was unanimously approved with a 5-0 vote with Councilman Merry not present.

CITY SERVICES – RESOLUTION 09232013D

Water Service

Patricia Anderson

Crey Trowell

194 Whispering Pines Terrace

Herron Place

Shiloh Heights Road

TPN 119-09-05-009

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to provide water service to 194 Whispering Pines Terrace.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE PROVISION OF WATER UTILITY SERVICES TO PROPERTY LOCATED AT 194 WHISPERING PINES TERRACE.

Mr. Pearce stated owner Crey Trowell and tenant Patricia Anderson have requested water utility service for her manufactured home at 194 Whispering Pines Terrace.

As you will see in the memo provided by Planning Commission Chair Liz Stewart, Council adopted a policy for providing water service for properties currently outside our city limits. This policy typically requires those customers to sign an Annexation Agreement, comply with Tree Preservation, Landscaping, and Signage Regulations of our Zoning Ordinance, if applicable, and comply with our Land Development Regulations in regard to utility designs. As a residential property, the tree ordinance is not applicable.

Mr. Pearce pointed out that there is currently water service throughout the subdivision.

On September 10, the Planning Commission voted unanimously to grant this request upon these conditions:

1. This approval applies to only one single-family dwelling on this portion of Tax Parcel #119-09-05-009 south of Herron Place;
2. An Annexation Agreement be executed within 60 days of approval by City Council;
3. An executed "Agreement on the Provision of City Services" listing conditions of approval be recorded within 60 days of approval by City Council at the RMC Office; and
4. The City Engineer approves the design and installation of the water system.

For Council consideration is a resolution to allow utility service to property located at 194 Whispering Pines Terrace.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council approve the resolution to allow water service to property located at 194 Whispering Pines Terrace with the conditions recommended by the Planning Commission. The motion was unanimously approved by a vote of 5-0 as Councilman Merry was out of the room.

REZONING – ORDINANCE

Lorrie Sullivan  
1450 Richland Avenue E.  
TPN 121-11-03-007

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to rezone property at 1450 Richland Avenue E from Industrial to General Business (GB).

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE LOCATED AT 1450 RICHLAND AVENUE E FROM INDUSTRIAL TO GENERAL BUSINESS.

Mr. Pearce stated Lorrie Sullivan owns about four acres of land at 1450 Richland Avenue E. She has requested this property be rezoned from Industrial (I) to General Business (GB). Since it is zoned Industrial now, Ms. Sullivan is prevented from opening a retail saddlery shop, where tack, saddles, and horse trailers could be sold.

Under our Aiken Comprehensive Land Use Plan, areas in East Aiken are highlighted for uses other than Industrial. Retail uses are already in this area, together with other commercial, government, office, agricultural, residential, and some industrial applications.

The Planning Commission reviewed this request and voted 6-0 to recommend granting this rezoning request especially since other GB uses are in the vicinity of this four-acre tract.

For Council approval on first reading is an ordinance to rezone four acres of land at 1450 Richland Avenue E. General Business (GB).

Councilwoman Diggs moved, seconded by Councilman Homoki, that Council approve on first reading an ordinance to rezone four acres of land at 1450 Richland Avenue E from Industrial (I) to General Business (GB) and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved by a vote of 5-0 with Councilman Merry not present in the room.

ANNEXATION – ORDINANCE

William Kerrigan  
108 Collier Street  
TPN 122-09-07-006

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex property at 108 Collier Street and Zone it Residential Single-Family RS-10.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY OWNED BY WILLIAM KERRIGAN AND LOCATED AT 108 COLLIER STREET AND TO ZONE THE SAME RESIDENTIAL SINGLE-FAMILY (RS10).

Mr. Pearce stated William Kerrigan owns a house at 108 Collier Street. Unfortunately, his septic tank system recently failed. He called the city asking for help on an emergency basis to connect his house to our sewer utility. We have done so, on the condition that he apply to annex his house which is surrounded by properties in the city into our city limits. He has made an application to annex.

The Planning Commission has reviewed his annexation petition and voted unanimously to recommend this property be annexed within our city limits.

For Council approval is first reading of an ordinance to annex improved property at 108 Collier Street into the Aiken City Limits.

Councilman Homoki asked who solved his septic tank problem, the city or a private contractor, by connecting to the city sewer system.

Mr. Pearce responded the city provided the tap into the sewer line. Then Mr. Kerrigan had to have a private plumber run the line from his house to the city sewer tap.

Councilman Ebner moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to annex 108 Collier Street to the city and zone it Residential Single-Family RS-10. The motion was unanimously approved by a vote of 5-0 with Councilman Merry not present in the room.

#### WILLOW RUN – RESOLUTION

Aiken Corporation  
Detention Pond  
Beaufort Street

Mayor Cavanaugh stated a resolution had been prepared for consideration of purchasing land in the Willow Run Industrial Park.

Mr. Pearce stated he would ask that the item regarding purchase of land in the Willow Run Industrial Park be continued to the October 14, 2013, meeting. He said there had been some questions from citizens as well as from members of Council. He said he feels additional information is needed before reviewing the item.

Councilman Dewar moved, seconded by Councilman Ebner, that Council continue the item regarding purchase of land in the Willow Run Industrial Park to the October 14, 2013, meeting. The motion was unanimously approved by a vote of 5-0 with Councilman Merry not present in the room.

Councilman Merry returned to the Council Chambers at 8:54 p.m.

#### BRIDGES

York Street  
Fairfield Street  
Union Street

Mayor Cavanaugh stated Councilman Merry had a request regarding the bridges at Union, Fairfield and York Streets.

Mr. Pearce stated Councilman Merry wanted to discuss with Council our current status with the bridges at Union, Fairfield and two at York Street. He said Council had heard in the past from SCDOT that they rate these bridges on a 100 point system. The York Street bridges at this time are a grade 12. We were contacted some years ago by SCDOT about their approach, and the concept is a single bridge on York Street. We urged them to consider putting two bridges back where the two bridges are. He said he had heard from some of the residents in the area, particularly on Union Street that there was a private survey crew doing some survey work. When they were questioned about why they were on Union Street, they mentioned something about the bridge on Union Street. The city made an inquiry to SCDOT. Our understanding is that they would have something for public comment approximately summer of 2014. Council will also recall that there was a filing by Ben Lott to designate the bridges as historic in Aiken. There was an additional action item for consideration by DRB which is now before the Planning Commission for the designation of the bridges as historic structures. Also, before the Planning Commission is consideration of expanding the jurisdiction of the Design Review Board on items that they can review in the right of way to include bridges, not just the structure

of the bridges, but the actual approaches to the bridges on either side of the bridges. That would mean that the Design Review Board would review design of bridges.

Mr. Pearce stated the city has been contacted by SCDOT, and they apparently believe they have taken into consideration Council's request for the Hitchcock Parkway widening project. He pointed out Council had looked at the 55 mph section versus a 45 mph section and how that review would look. SCDOT wants to come before Council. He asked if it would be a good idea for SCDOT to come and not just talk about the Hitchcock Parkway widening, but also talk about where they are in their work on the bridges, since they have not shared any information with the city yet. Mr. Pearce stated SCDOT could come at Council's pleasure which could be as soon as October 14, 2013, or October 28, 2013. He said the presentation would be along the lines they did on Hitchcock Parkway. He said SCDOT is planning a public information session on Hitchcock Parkway after the first of the year. SCDOT had two designs, the 45 mph and the 55 mph. Council asked them to do the concept and come back to Council for review. He said DOT is ready to come back. He said staff had shared with SCDOT the Toole Engineering Study about how to stay within the right of way, and we provided them all those materials. He said he did not know what they had included at this time.

Mayor Cavanaugh asked what SCDOT would expect of Council at the proposed meeting. Would they expect a vote on one of the approaches. Mr. Pearce responded DOT would like to know the preferred speed limit Council would like. That affects what they would do for their concept that they would present at the public information meeting. Mayor Cavanaugh asked if we would want to have both of those exciting topics at the same meeting. Mr. Pearce stated he was just asking what Council might like to do. Mayor Cavanaugh stated he was not so sure Council would like to have the two topics at the same time.

Councilmembers Ebner and Dewar stated they felt discussion on the bridges should be held first and that meetings on the bridges and widening of Hitchcock Parkway should be separate meetings. It was felt that the room could be filled with residents on both issues.

Councilman Merry stated he had asked that the issue regarding bridges be brought up so Council can consider the matter that Council and the Planning Commission talked about at the Joint meeting. He said SCDOT has asked us to tell them what the city wants, and basically give them a list of our priorities and concerns. He said since they have asked, we should do it. He pointed out as Council has seen with the Hitchcock Parkway scenario, it may be easier to influence the process if we get involved early rather than late. He said the reason for asking the matter be placed on the agenda is for Council to agree on a few broad priority issues that could appear in a letter from the City Manager to DOT or in a resolution from Council to let SCDOT know what our primary concerns are.

Councilman Merry suggested that the priorities include:

1. That City Council and the public be involved in every step of the process through the planning. He said there is a protocol for that, but when they come to a fork in the road in their design process rather than them choosing one way or the other, he would like them to involve Council in the decision.
2. He would like for the bridges to remain historic in design. In other words, they look period specific to be appropriate to the era in which the bridges were first built in the 1850's or 1860's. He said to him that would largely be a wooden structure or something that appeared to the average pedestrian or driver to be wooden. There could be a steel or concrete super structure beneath it.
3. There be zero or insignificant changes to the grade. The approach angle from both directions has been rumored to be changed. The plan they have seen for York Street that Councilman Ebner obtained shows basically the removal of the parkways from Colleton Avenue to Park Avenue and a ramping effect that would impact the businesses, homes and St. Mary's Church on the sides. He said he felt that impact would be greater on Fairfield and more so on Union Street. He said he would like to see as a priority that

Council ask that the change in grade not happen or be done in a way that it would be virtually unnoticeable.

4. As far as other possible options, one would be that they not take any private property, not widen the right of way or acquire any private property.
5. There be no changes to the parks or trees.
6. A comment be made about two bridges at York Street instead of one bridge.

Councilman Merry stated those are the items that could be mentioned in a letter.

Councilman Ebner stated that Mr. Phil Johnston had provided him with a set of drawings from March, 2010, that show two bridge replacements. Then in June, 2011 SCDOT through Kevin Gantt sent in the next rendition which was one concrete bridge on York Street. He said in his conversation with Mr. Gantt recently they have not changed their mind yet about one bridge on York Street. He said that was Mr. Gantt's comment, but he did not have anything in writing. Councilman Ebner stated he felt we should have DOT come to a meeting as suggested and go through their plans for the bridges. He said once they get something in their mind, it is hard to change. He said we need to be sure that the height of the bridge is designated either versus Laurens Street or whatever we are going to use. He said the bridge on York Street is 23 ft. 3 in. which is about a 5 or 6 foot high raise. The bridge on Laurens is 21 ft. 3 in. high. He said if we could talk with the railroad before October 14, 2013, that would be very good to support what Councilman Merry is asking to be done. He said we need to have the railroad tell us what they will stick by. Mr. Pearce stated that was the meeting he tried to set up for a worksession. He said when he indicated to the railroad representative that we would have all of Council as well as the neighbors at the meeting, they said they needed to gather more information. He said he felt retired Judge Robert Smoak made an excellent point that Laurens Street defines the height for the rest of the bridges.

Councilman Ebner stated we need to set up a worksession with the railroad prior to October 14, 2013. He said we need to hear what the railroad is going to do. Several citizens asked if the railroad tracks could be lowered and other things. He felt they need to come prepared to answer some citizens' questions before October 14, 2013.

Councilman Ebner stated he was not suggesting that a letter not be prepared. He said he would go ahead and do the letter being requested, but before SCDOT shows up on October 14, we should hear what the railroad's height is. He pointed out Mr. Gantt was always saying 23 feet. It was pointed out that we don't know the driving force on the height of the bridges, whether it is the railroad or DOT pushing it. Councilman Ebner stated Mr. Johnston's letter was a typical railroad political letter. He said we need to have the railroad come in and give us the number they want. It is their railroad and their right of way. He felt the railroad should state to us what they want in real terms. He felt they could do that at a meeting with the citizens prior to October 14, 2013, when SCDOT would meet with City Council.

Councilman Merry stated he felt if they are put on the spot like that they will say 23 feet. He said he agrees that you have to ask questions. He felt they would not compromise until they have to. Councilman Merry stated his top three issues are: 1. That the bridges maintain an historic look; 2. No grade changes or very minimal--unnoticeable grade changes. 3. That Council is involved throughout the entire process. He asked that these primary things should be included in a letter.

Councilman Homoki asked what the clearance was on Laurens Street. Councilman Merry responded 21.5 feet according to their surveyors. Councilman Homoki asked if they insist on 23 feet will we tear the Laurens Street bridge down again and rebuild. He said 23 feet did not make sense.

Councilman Ebner stated we need to hear that from the railroad company. He said he was quoting numbers that he had read and seen, but he felt the railroad needed to come in and verify that to the citizens and to City Council. He said if you get them here, you will

know what their thinking is. He said a couple of citizens have asked if the track would be lowered. He said his comment was they probably could not because you would have to go back several miles to do it. He said the railroad needs to tell us that.

Councilman Merry stated he agrees with Councilman Ebner, but it does not make sense to require 23 feet for the bridges at York, Fairfield and Union when they have 21.5 feet at Laurens Street. He said he wonders what the height of the bridge at Newberry Street is. He pointed out the Chesterfield street bridge seems very low. He said he did not think any of the bridges are 23 feet.

Mr. Pearce stated the bridges they were talking about doing first when it was just a general discussion was York Street because the York Street bridges are a 12.

Councilman Dewar asked what is the significance of a 12. Mr. Pearce stated the grade is not 100. Councilman Dewar asked if there was a safety issue. Mr. Pearce stated the bridges are marked for no vehicular traffic over a certain GVW (3 tons). He said the bridges are not in very good shape. Councilman Dewar asked if we monitor that.

Councilman Merry stated he had heard from a resident who lives in the area who says he sees a tractor trailer go over the York Street bridge every day. It was pointed out that if you put in Highway 1 on a GPS, it will take you across the York Street bridge.

Councilman Dewar asked if we could get some support from Public Safety to get trucks off the street.

Councilman Ebner stated Public Safety would have to sit there all day long to monitor it. He pointed out a horse trailer with a trailer on the back should not cross the bridge, as it weighs 9,000 pounds. Without a horse in the trailer it would be over loaded.

Councilman Dewar stated his concern is about the liability if the bridge is a 12. He said he did not want to get trapped like we did with the Laurens Street bridge. He said we all got sucked into forgetting everything just because it was an emergency and someone else would pay for it. He said his sense is that if we close the York Street bridge, it is closed until we all get together to decide how it is to be redone. He said he did not want to get sucked into building another concrete bridge as was done on Laurens Street.

Mr. Pearce stated that would be the advantage of a letter. He said they won't do a bridge design, but will do a concept. Then they will do the public information session. They are required to gather all that information before they spend the federal money.

Councilman Merry stated if DOT is working on a bridge concept that has ramps and no parkways, then we need to get them to do something different.

Mr. Pearce stated that would be the advantage of a letter because supposedly to meet federal highway construction requirements they must consider all of the comments they receive on the project.

Mayor Cavanaugh asked if it would be good to have something signed by all of Council, possibly a resolution. Mr. Pearce stated a resolution would be a vote by Council. Councilman Merry stated if a resolution is stronger, he would advocate a resolution if Council would agree. Mr. Pearce stated if a resolution is done, he would do a cover letter transmitting the resolution and pointing them to the key factors, whether there are three or six factors. Mr. Pearce stated the other three matters mentioned were—that there be no private property taking, there be two bridges on York Street, and that the parkways be protected so they are not altered.

Mr. Pearce stated the person about to speak is one of his law school professors, David Owen. He said he is a national and international expert at product liability.

Dr. David Owen and his wife Joan were present. He said they live on Colleton Avenue between two of the targeted bridges, Fairfield and Union Streets. He said they had just lived in Aiken for six months, having moved from Columbia. He said they decided that the charm, sense of community spirit, and dedication to preserving the finest points of the past drew them to the community and the citizens who felt so strongly to preserve them.

He said they are here now situated on Colleton between the two victims, the wooden bridges, as they were beginning to cement their view that this was the house they wanted and the location they wanted. He said it feels like he is coming late to a party that the railroad or the powers in Columbia are trying to change. He said he was delighted with the voices he had heard tonight that strongly agree with the idea of protecting this part of Aiken. He said one thing he did not hear was the possible designation of the bridges as historic. He said he would urge the designation of the bridges as historic regardless of the legality in obstructing DOT or the railroad from moving forward; it at least is a formal designation and certification of the importance of the bridges to the history of Aiken and its charm. He said he had assumed that it would be on the Council agenda tonight. He said he trusts that the community will be informed on each of the steps so the citizens can come and speak.

Councilman Merry pointed out that the designation of the bridges as historic is in the process. It has to go to the Planning Commission and then to City Council.

Councilman Merry moved that Council send a resolution to DOT listing the six items that he had mentioned regarding any possible work on the bridges at Union, Fairfield and York Streets. Councilwoman Diggs stated she felt a resolution would send a stronger message and seconded the motion. The motion was unanimously approved.

Mr. Pearce stated staff would draft a resolution and circulate it to make sure it is what Council wants before it is sent. He said the City Attorney would be helpful in drafting the resolution.

#### CAPITAL PROJECTS SALES TAX

Councilman Dewar stated he had included in the agenda packet a memo with several items that he would move that Council approve. He said the items in his mind put some structure into our Capital Projects Sales Tax Program. He said he had expressed concerns and there had been some discussion in the past regarding these matters. He felt adopting the proposed rules would bring clarity and substance to the Capital Projects Sales Tax Program. He said he would move that Council approve the six items he had listed in his memo. The motion was seconded by Councilman Ebner.

1. On a quarterly basis, Council will receive a summary of Fund 016 (2004 CPST Program) and Fund 017 (2010 CPST Program) with changes from the previous report noted. The summary should continue to use the form which has been highlighted in yellow and should use the same project terminology as used in the ballot measure approved by voters. This summary must be produced by the Director of Finance.
2. City Council must allocate the \$1,113,519 excess money from the 2004 CPST Program.
3. Every effort will be made to do the projects in the order submitted to the voters except for obvious exceptions. To the maximum extent possible, projects from the 2004 Program will be completed before projects from the 2010 program commence.
4. Money loaned from existing holding funds to perform projects from the 2010 CPST program (Fund 017) will be returned to the holding funds as soon as 2010 CPST money begins to be received.
5. Continue the current practice of securing Council approval for all projects as they are initiated.
6. No project from either the 2004 CPST or the 2010 CPST should be considered as re-imposed. This does not prevent the combining of projects from both projects. For example, the City may decide to release one contract which funds the purchase of land for the Eustis Park Senior/Youth Center and the construction of the facility. Likewise, money for Public Safety improvements can be combined if awarded under a single contract.

Mr. Pearce stated staff would be concerned about item 2 and item 6. He pointed out that item 2 states that City Council must allocate the \$1,113,519 excess money from the 2004 CPST Program. He said staff had provided Council with a sheet that has all the Capital Projects listed. He said there are overages and shortages. He stated he and staff had reviewed the sheet with Councilman Ebner this afternoon. He pointed out he felt all the money is allocated. He said he had provided a separate sheet that had an itemization of the Pawnee-Neilson Road Project. It showed the total revenues of \$2,655,292. The total expenses that actually include a couple of invoices received in August and September are \$3,436,900.32. He said that project exceeded the revenues by \$781,608.32. He said that was the slope failure that was litigated. He said a significant portion of the \$1,113,519 went to the Pawnee-Neilson project. There is an additional \$331,910.90, but in looking at the sheets showing the projects, there were some projects that ran over. The fact is that today we have \$11,490,992.90 to spend. Immediately after the two yellow sheets for the Capital Projects in the agenda packet, Mr. Grinton, Director of Engineering and Utilities Department, has a spend-out of the \$11,490,992.90. That will cover the remaining projects on the list as well as some of the overages that we have experienced.

Mr. Pearce stated in item 3 the concern is that we had an opinion from the City Attorney that there is no requirement that item 1 be done, then item 2, then item 3, etc. He said as best we can being subject to state regulations, federal regulations and situations on the ground, it is staff's intent to come to Council, as we have on the Capital Projects Sales Tax II and III items, to have a discussion about a project that may be ready to go, ready for design, and we have an idea of what the project could look like and receive Council's intent at that time. He said staff's concern about item 6 is that it leaves us in no man's land. He said they could work on a project, but if we needed to do a design on a project, for example, the road projects take an inordinate amount of time, and we would not want to get stuck on the road projects and not be able to do other projects that may not be as complex. He said it is not that we would totally disregard the list, but staff would like the flexibility, since we will bring the projects to Council, to kind of have a discussion about the reason for doing the project instead of just having to march down the list.

Mr. Pearce stated as far as re-imposed we were trying to incorporate the language from the Attorney General's Opinion that Councilman Dewar cited. He said what we have are projects that have been combined. For example, like Eustis Park—buy the land and do the design.

Councilman Dewar stated he had addressed that. He said combining projects is fine, but the term re-imposed in his mind seems clear that the word re-impose is that you did not get a project done in one program and you will re-impose it for the next program. He said that is something that we are not allowed to do. He said the City Attorney disagrees, but he has the Attorney General and State Director of Revenue on his side. He said that is neither here nor there because it is not that significant as long as we agree that we can combine projects, which makes sense. He said we have a couple of projects dealing with Public Safety that we can combine.

Mr. Pearce stated that is a good example because in CPST II we had some improvements to the Headquarters Station. That wound up being spent on the Training Grounds. In CPST III there is \$900,000 to do the Headquarters Station.

Councilman Dewar stated he understands, but he would not accept the inference that the \$900,000 was put in because we spent the \$800,000 for the Training Grounds. He said he does not recall Mr. LeDuc mentioning that. He said, however, that is not significant to what he wants to do. He said with regard to the \$1.113 million, he thought Council needs to know that of that \$1,113,519.22 that \$781,608.32 is being taken out of the excess money for the Pawnee-Neilson Connector Road because of the legal issues that occurred—the slope failure. He said that might be okay, but his thought was that it was something that Council should decide to do because every step of the way from the beginning to the end Council makes the decision on the allocation of money. He said he felt it was a shame that we started out with a project that we thought would be \$700,000, and it cost us close to another \$1 million because we had to dig a bigger hole, etc. He said it was \$700,000 and the voters are now paying \$3.436 million for that project, and we still don't have a connector to Walmart.

Mr. Pearce pointed out there is a connector from Pine Log Road to Dougherty Road. He pointed out that the owner of the property on Christee Place has now said she is ready to sell her property, which would be a connector to Aiken Mall.

Councilman Dewar stated, however, we still don't have the connector to Walmart. He asked if staff is still working on trying to get a connector to Walmart. Mr. Pearce stated staff has had several conversations with Walmart, but they are not real interested. They don't want people seeing their loading platform. He said we are trying to find another way to go across to connect with the road by the former boat business.

Councilman Dewar stated he got the number he had been asking about for a long time. He said Council should realize that \$781,608.32 of the extra \$1,113,519 that we received from the sales tax went to the Pawnee-Neilson Project.

Councilman Dewar stated he was not trying to tie anybody's hands with the six proposed items, but trying to put some structure to the program and make sure Council is in a position to monitor the program. He said he was very pleased with the information received in the agenda packet. He said he would say the information is a little overkill. He said he did not feel it was reasonable to expect Council to review all the pages and items listed for the Pawnee-Neilson project.

Mr. Pearce stated he was responding to the request of Council to show all the money that was spent on the Pawnee-Neilson Project. He said it was impossible to show all of it on the yellow sheets as there had been so many checks for the \$3,436,900.

Councilman Dewar stated he would offer the six items for Council's consideration.

Councilman Merry stated he agreed with a lot of the items and felt there were some good ideas. He said he had never been through the process of creating a ballot for CPST. He said he guesses it was Council's decision as to what order to put the items in.

Councilman Dewar stated no. He said the City Attorney opined that. The law says you prepare the projects. You put them in priority, and you should do them in priority. He said if there is an obvious situation, as has been the case with us, there may be several occasions where we just can't do the next project. He said if we get to the project for Hitchcock Woods, we will not stop the whole program just because we have to wait until we spend the Hitchcock Woods money. Also, if we get to the project for buying open space, we obviously can't stop the whole program, but the intent is that you start with project no. 1 and go down the list. If you have a good reason not to do a project, you go to the next project. He said that is the spirit and intent of the law as he sees it.

Councilman Merry stated he remembers the interpretation that says the projects should be done in order. He said he felt when Council sets the order that Council may not have the expertise to know what the right order is or what can be done sooner or later so there are some obvious circumstances where you can't get one thing done, but you can do something else.

Councilman Dewar stated that is a downside, Council is being asked to make a decision on something that will not come before Council for three or four years and in some cases nine or ten years.

Mr. Pearce stated that is a good point because in CPST I which is now closed out, we ran into that issue because the ballot had some County projects first, then the City of North Augusta, and then the City of Aiken. The opinion was that the Aiken County projects would be done first, then City of North Augusta, and then City of Aiken. We worked out an agreement on that. Specifically in CPST II and CPST III there is language in the ballot that Council reserved the right to determine the order of the projects.

Councilman Merry stated he felt that had to be kept in order to allow that discretion. Councilman Dewar stated that was put in by Council, that was not in the law. Mayor

Cavanaugh stated that is what the voters approved. Councilman Dewar stated that is correct, but we failed to tell the voters that they were voting against the law.

Councilman Merry stated he was trying to get clarity because he had not been through the process. He said his understanding is that because we need discretion and we can't get everything necessarily in the order they appeared on the ballot and because we can't get everything done in that order, we maintain the right to reorder it. He asked if he was wrong in assuming that we have always at least attempted to do it in the order on the ballot. Mr. Pearce stated we had approximately. Councilman Merry stated he was trying to understand the track record.

Councilman Dewar stated it was not worth going over the whole history. He said he was just trying to set the stage for the future. He said let's try to do them in the order that Council approved them. If there is a reason we can't, then go on to the next item. Councilman Merry stated Councilman Dewar was saying what he assumed was the way it worked.

Councilman Homoki stated it seemed that when the list was made for the Capital Projects Sales Tax that Council went through and reviewed the list to make sure the priority was what Council wanted the priority to be.

Councilman Dewar stated that is what was done. He pointed out that computers for Public Safety, for example, was moved to item 1. The item for the SPCA was moved up on the list.

Councilman Homoki thought Council gave up after about the first three or four projects and everything else was just left in whatever order.

Mr. Pearce pointed out that staff came to Council on the Municipal Building expansion, the widening projects, the accessible playground at the library, and Governor Aiken Park. Those projects were done out of order, but they were voted on by Council to move the projects up. He said the intent is to do the projects in the order listed. We try to do the list as best we can, but there may be a need because of a situation that comes up, to move the project up. He said he had heard from Council, to the extent in CPST III that Council had advanced the projects, that we need to pay that debt down which we should be able to do in a couple of quarters so we don't have to pay interest on the loans. He said if Council has the discussion, and it is on the record, that gives staff something to refer to. He said staff will do the best they can with items 2 and 3 of Councilman Dewar's request. He said he sees us working that out as we come to Council with the individual projects. At that time Council can look and see that we are going to repave a street, but they thought we were going to build a splash park. But perhaps the splash park has to be permitted and there is a delay in the project. He said we don't want to hold up the rest of the list because of some regulatory or environmental regulations.

Councilman Dewar stated he did not want to tie staff's hands, but he was saying don't do project 25 when project 24 needs to be done. We should make an effort to comply with the spirit of the law and go down the list.

Mr. Pearce stated staff certainly wants to comply with the law, but there may be things that need to be done like site acquisition, or design, or a feasibility study such as for the Municipal Building, and so some funds would have to be advanced from that line item, but maybe not spend the whole amount.

Mayor Cavanaugh pointed out staff would seek approval of Council for any advance of funds to do any work on a project on the list. He said if any work is to be done on any project or if we want to do a project out of order, the matter will be brought to Council for approval.

Councilman Dewar stated Mr. Pearce started doing that, but Mr. LeDuc did not do that.

Mayor Cavanaugh stated this matter has been talked about so much and everybody has a viewpoint. He felt if a project is not going to be done in order, bring the matter to Council for consideration. That would relieve the City Manager and staff.

Councilman Dewar stated that is what he was trying to do. He said the CPST program is so vital to the city that we cannot afford to take a chance on breaking the trust between us and the people. He said we are going to need to continue the CPST program, and if we don't have the Capital Projects Sales Tax program our property tax rates would increase.

Mayor Cavanaugh stated he had said that many times and that is true. However, he did not know that we have not done what we have said we would do or have hurt the citizens by what we have done.

Councilman Dewar stated we have not hurt the citizens, but we have spent \$800,000 on a \$700,000 project.

Councilman Ebner stated he would like to summarize a two hour meeting he had with Mr. Pearce, Mr. Bedenbaugh, and Ms. Abney. He pointed out that the six items proposed are to be sure we don't get off track on CPST III and IV in the future. He said those came about because of the past history. He said the past history is not very good. He said in the meeting they went through every cost item and compared it to what the voters voted on. Ms. Abney will reissue the yellow sheet of paper which has all the money accounted for because it is closed out. For CPST II we have received all the money we are going to get. Mr. Grinton has to reissue his schedule for CPST II to match the numbers. We have \$11,000,000 to spend. The money is in the bank, and we have the projects accounted for the money. He said he would not say how much overrun that is, but it is cleared up. It took some General Fund money to do it. He said CPST II is completed. On CPST III the intent is that we go down the list. There are some on the list that we can't do already. Out of the first nine items on the list, two out of the nine we can't do. We have done four out of the nine so we are in pretty good shape on the first ones. He asked if we had received a check yet for CPST III. Mr. Pearce responded that we had not, but probably will get one before the end of the year, but it may not be much. The check after the first of the year should be larger.

Councilman Ebner stated the other thing that has to happen is that when Mr. Grinton redoes his project list, his schedule for Capital Project III, he needs to come to Council through the City Manager, and point out the realistic projects that we can do. He said Council needs to agree on the amounts and the projects that can be done in the next couple of years and be done with it. He said Hitchcock Woods has been 20 years in the making, and it might be another 20 years before we spend the money. He said he would propose that this be done at the October 14, 2013, meeting. He asked that the CPST II list base line of June 30, 2013, be updated.

Councilman Dewar stated one of his items is that on a quarterly basis Ms. Abney, Finance Director, will provide a summary of Fund 016 (CPST II) and Fund 017 (CPST III) with changes from the previous report noted.

Mr. Pearce stated what Council will have by the October 28, 2013, meeting will be the next quarter. He said staff will base line it as of June 30 for the October 14 meeting and for October 28 Council will have the first quarter of this fiscal year.

Councilman Ebner stated Mr. Grinton needs to update his base line on CPST II, listing the projects and the monies that were reviewed at the meeting with staff. He said he needs to have a block of the projects that they can do in the next two years and Council should agree to do them. He said the money is in the bank. He said there are some that Mr. Grinton can't control. He said \$5 to \$6 million will sit in the bank for six to ten years. He said if that can be done for October 14, then Mr. Grinton can proceed to work on what he can do. On CPST III we follow the rules. Whenever Mr. Grinton is ready to do something, he has to come ask for the money.

Mr. Pearce asked then if Council does not mind if staff groups projects as opposed to each individual project. Councilman Ebner stated not on CPST II, but on CPST III we have to be careful that we don't overstep our capabilities.

Mr. Pearce stated his thought is the way the projects are staged. He said you are going to build a splash park. You can get a design for a splash park and build it. If you are talking about something like infrastructure, we may identify several sections. Councilman Ebner pointed out there is \$8 million, and we won't spend that in one year. Mr. Pearce pointed out we have the SSES and the video camera equipment that has been bid out.

Councilman Ebner stated for CPST III staff needs to come to Council on each project. Mr. Pearce stated we may group them and not have individual sheets on each project. There may be a list with a timeline. Councilman Ebner stated that had already been done on the McDonald's, Parsons, etc. Staff came to Council with a list.

Mr. Pearce stated if that helps Council that is fine with staff. Councilman Dewar stated let's not be confused. They will still be in the same order. Mr. Pearce stated Council will have a yellow sheet on a quarterly basis that will show the revenue received. He pointed out that for CPST II we have received all the revenue. Staff will update what has been spent for CPST II and list the items as worded on the ballot. There will be four sheets of paper for every quarter. Mr. Pearce stated then staff will find the opportune time to provide Council with an updated timeline. He said what staff gave to Council at this meeting is how it looks today.

After a lengthy discussion, Mayor Cavanaugh called for a vote on the motion made by Councilman Dewar, and seconded by Councilman Ebner, that Council approve the six items he had listed in his memo. The motion was unanimously approved.

Mr. Pearce stated staff's understanding is that the six items submitted by Councilman Dewar will be interpreted as discussed at this meeting. He said he felt there was a clear path forward. Councilman Ebner stated we don't want to repeat the past.

Councilman Dewar stated Mr. Pearce did an excellent job with the Capital Projects Sales Tax items. He said Mr. Pearce had done an excellent job of laying out the budget process. He said at some time in the future he wondered if he would solicit comments about proposed changes to the budget process because Council gets involved very late in the budget process. He said Council's initial involvement is when Council gets the memo after Mr. Pearce and the staff have done all the hard work. He said if he is the only one making the comment, then don't worry about it. He said he would like to get more involved in the budget process.

Mr. Pearce stated Council could do a segment at Horizons before Council adopts their goals. They could talk about some of the projects we see in the coming fiscal year which would reflect on the Five Year Capital Improvement Plan. Then as part of the goal adoption process, Council could establish priorities. Mr. Pearce stated Horizons would be held the first weekend in February. He said by that time staff would have distributed the Major Capital Projects List. That information would be available at Horizons.

Councilman Homoki asked what item Councilman Dewar is talking about.

Councilman Dewar referenced the memo from Mr. Pearce regarding the budget process, audit and capital projects sales tax. He said he was talking about the item regarding the budget process. He said unless the rest of Council is interested in revamping the budget process, it will stay the way it is.

Councilman Homoki stated any organization with which he has been involved in the past, with most of his experience being in the military, the department heads would individually come and justify their requests for their budget. He said he thought that was done to the City Manager, but they don't come to Council. He felt maybe there should be more "Horizons" where the department heads come and answer some of Council's questions. He said he agrees with Councilman Dewar that the budget basically moves along and then in April Council gets a big document for Council's consideration and

vote. He felt Council should be fed more information along the way of the process when the City Manager starts getting information from the department heads.

Mr. Pearce stated that at Horizons Council typically has presentations from the larger departments in the city. They can tell Council at that time what their priorities will be in the next fiscal year. He felt that would help Council with their goal setting session.

Councilman Homoki stated he would like to get numbers associated with their priorities.

Mr. Pearce stated Aiken has a Council-Manager form of government so he would be glad to present that to Council. There could be work sessions along the way also once we have the numbers. He pointed out that until he knows the revenue figures, he doesn't know what the expenditure will be. He said there are two times when the revenues are estimated. He said that guides the expenditures and the conversations he will have with the department directors. He said the priorities on capital project purchases is the major change in the budget. The salaries and other expenditures remain close to the same. He said he could provide Council with information along the way, but there is not a lot to provide in the month of February because the revenue figures are so uncertain at that point. He said the department directors would talk about what they want to do in the next year at Horizons. He said we would do what we can, but until he knows what the revenue is, it is difficult to know what the expenditures will be. He said he has several meetings with the department directors in narrowing down the wish list. He said we have to establish the priorities if we don't have the money. He said the City has historically been pay as you go. We don't want to be a debtor city. We have been in an excellent financial position, and we don't want to endanger that.

Mayor Cavanaugh stated that each Councilmember might want to know more about the budget or certain aspects of the budget than others. He said it might be well to make a list specifically what each would like to know. He said Councilman Dewar says he would like to be more involved in the budget. He said his thought is what particularly does Councilman Dewar want to know. You would not want to sit there with them through the whole process, but there might be something you would want to hone in on that you are more interested in than others. Councilman Homoki might have something else that he is interested in. He said perhaps the Councilmembers need to tell Mr. Pearce exactly what we are most interested in or else have a meeting with everyone on a two week basis.

Councilman Dewar stated we could look at what other cities are doing. He said at the first meeting which is in April, Council gets a summary memo and a book with a bunch of numbers. Mr. Pearce stated the information is given to Council in April and a worksession is held. Council votes on first reading of the budget in May. Then there is a month between May and June when Council votes on second reading of the budget. He said there is an opportunity there where he could let Council know if there are big things like repaving the Virginia Acres track, a new roof on Smith-Hazel, etc. He said he could alert Council to that and could talk about the budget at Horizons. At Horizons we won't have hard and fast numbers, but there could be more discussion about a wish list and what the departments are interested in pursuing if funding is available. He said we don't have a final revenue estimate until early April. He said that is the issue.

Councilman Dewar stated he guess he was just looking for more spoon feeding and more specifics on the budget.

Mayor Cavanaugh stated there is nothing wrong with it, but perhaps Council needs more meetings.

Councilman Dewar stated technically it was not zero based budgeting that Council did just before Mr. LeDuc left, where they went through every department, but he learned a lot.

Mr. Pearce stated it was delightful for staff because Council added \$750,000 to expenditures. He said he would give the matter some thought. He suggested that Council look at the budget at Horizons with the departments presenting to Council some

of their major expenditures that would be out of the ordinary routine. He said Council had had a full presentation on the routine expenses such as salaries, chemicals, training, etc.

Councilman Dewar stated perhaps they could pick one department and go through it as they did for zero based budgeting. Mr. Pearce stated that would be fine. He pointed out Council did all the departments at that time. Councilman Dewar stated he still has the book used for zero based budgeting and still refers to it.

#### AUDIT

Councilman Ebner stated he has a couple of items. He said his concerns go back about five years. He said he had been on the Aiken Corporation board for three years and others had asked him to take a look at the finances.

Mr. Pearce stated we had talked about city finances, and he thought we had worked through that and that Councilman Ebner had gotten the information he needed. He said one thing that Council may not be aware of in the budget, is that before the auditors come our Finance Department goes through and identifies items and makes journal entries to put that information into an accrual based accounting basis so the auditors don't have to come in and do the translation work. He pointed out that the sheets that Council received at this meeting regarding projects were strictly cash in and cash out for the city. They are not accrual based accounting. The auditors only speak the language of accrual based accounting. He said it became apparent in our detailed review of the Aiken Corporation that we were not making journal entries and putting that information into an accrual based accounting basis for the auditors. The auditors in effect were becoming the translators, and they don't need to do that. He said his intent is to go to the Annual meeting of the Executive Committee of the Aiken Corporation on October 9, 2013, at 4 p.m. He said he is going to request that the Executive Committee approve the employment of an accountant to take the cash in and cash out accounting, and before the auditors come in late April or May, put the cash in and cash out into the accrual based method. Then when the auditors come they will just audit the figures and there will not be a lot of journal entries. He said this year they will have approximately 20 journal entries, but there should probably only be about 4. He said we need to have the Aiken Corporation approve the employment of an accountant to go ahead and make the journal entries.

Councilman Ebner pointed out that would be a CPA to do the work. He said Aiken Corporation has a sub-company that is a business corporation and their bookkeeping is handled just like URS. A CPA is needed to go through and do the accrual based accounting internal audit so the external audit can check it. What has been happening is that Elliott Davis has been having to put together a spreadsheet so they could do the external audit. He said we are out of that mode now. We will hire an internal auditor to do the accrual based accounting once a year to give to Elliott Davis. That is a requirement by the State Treasury Department for accounting on a 501(c)3 and also on a corporate basis. He said it had been a long struggle to get there. He said there is information in the agenda packet on page 264 of which Mr. Pearce has a copy. He asked that the information be included with the minutes.

Councilman Ebner stated the other thing that he was personally disappointed in Elliott Davis on the Aiken Corporation is that they were not doing as much trending as he felt should have been done. They should have picked up some of the errors. He said maybe they did, and they just did not report them. He said he and Mr. Pearce had looked at some of them.

Councilman Ebner stated the city audit is handled a lot differently. He said for the city audit basically we do our own work internally in getting the bookkeeping ready, but on the Aiken Corporation it was not getting done. He said we are putting that chapter behind us. Once they hire a CPA to do the accrual base method once a year, then Aiken Corporation is basically on its own.

Councilman Ebner stated there is one last item to do with Aiken Corporation between the City. He said you have to remember that for Aiken Corporation there is a reverter clause which means who is responsible for the 501(c)3 and that is the City of Aiken. He said that is very important to know. The City is connected at the hip with the Aiken Corporation. There is one outstanding inter-loan of \$328,000. He said he would discuss that at the Board meeting. It is for housing. In all rights once they spend the money on housing, the money is not going to be able to recover because they would be doing socio-economic work with it. He said he would talk to the Board and then bring it back to Council. That money will go into housing. It won't be recoverable so we will need to write that loan off. It will be just like the work we did with Toole Hill, Edgefield and Crosland Park. Then that totally gets our bookkeeping separate between the Aiken Corporation and the City of Aiken. He said that would be the last financial obligation between the two. He said after that they are on their own for loans for the office buildings, etc. He said that finishes up what the City has to do with Aiken Corporation.

Councilman Dewar stated we have not received the 2012 audit for Aiken Corporation. Councilman Ebner stated we will be receiving the 2013 audit which he will guarantee to be correct. Councilman Dewar asked then if there will not be a 2012 audit. Mr. Pearce stated he would give him a copy of the 2012 audit, and it is on the website. Councilman Ebner stated there was a 2012 audit, but we need to move forward. He said the 2013 audit will reflect the correct numbers.

Councilman Ebner stated in his meeting with staff they discussed the water and sewer funds, and he will be bringing up some items for discussion at the next Council meeting. Then we will discuss the matter in detail at Horizons.

The following pages were requested to be inserted by Councilman Ebner:

September 21, 2013

To: Richard Pearce

From: Reggie Ebner

Subject: City of Aiken September 23, 2013 City Council Meeting Agenda-Item V-3-Aiken Corp Audit Comments Pages 264 through 288.

Richard,

Thanks for taking time to arrange a meeting on Friday, September 20<sup>th</sup> with Wade Brodie and Fred Cavanaugh to review my comments on the Aiken Corp Audit. The document for review is dated September 16, 2013 to Laurie Smith, Richard Pearce and Wade Brodie as referred to in the Council agenda.

As requested, I have reviewed the responses:

- A. Refer to Page AC-3: item 1. P1-A and item 2. P1.B Option on Crosland Park Homes
  - a. Refer to page AC-8-Aiken Corp Executive Committee Minutes dated September 12, 2012, the \$143,500 was written off.
  - b. Refer to page AC-10-Aiken Corp authorized \$48,000 more monies based on the Leasa Segura memo of August 3, 2010. This memo stated \$100,000 was expended and approximately \$46,000 was needed for future payments.
  - c. It appears this \$43,500 entry needs to be reassessed
- B. All other comments and responses will be verified when the Elliott/Davis external audit is completed.

Path Forward:

- a. Richard to review path forward at the September 23, 2013 City Council meeting and the Aiken Corp October 9, 2013 Meeting
- b. Page AC-2, Aiken Corp Balance Sheet as of June 30, 2013 as revised to be issue to Aiken Corp Board
- c. Aiken Corp Board to consider hiring an auditor to audit and issue the June 30<sup>th</sup> end of year: the Aiken Corp Balance Sheet, the Leading Economic Development of Aiken, Inc Balance Sheet" and other necessary annual reports. These reports would be done once per year. The monthly cash flow updates would be done by the book keeper.
- d. Copy of this memo and attachments to be included in the September 23, 2013 Council minutes
- e. Copy of this memo and attachments to be included in the October 9, 2013 Aiken Corp Board minutes

Reggie

Attachment: page AC-1 through AC-12

CC: Laurie Smith E/D

Nichole Hillman E/D

Wade Brodie Chairman Aiken Corp

City Council Members: Cavanaugh, Price, Diggs, Homoki, Merry, Dewar

**AC-1**      *DOCUMENT FROM*  
**Leading Economic Development of Aiken, Inc.**      *9-20-13 MTG*  
**Balance Sheet**  
 As of June 30, 2013

|   | Jun 30, 13                 |
|---|----------------------------|
| <b>ASSETS</b>                           |                            |
| Current Assets                          |                            |
| Checking/Savings                        |                            |
| 11000 · CHECKING                        | 97,861.95                  |
| 11100 · Lease Escrow                    | 24,891.74                  |
| Total Checking/Savings                  | 122,753.69                 |
| Other Current Assets                    |                            |
| 12000 · Prepaid Taxes                   | 50,990.79                  |
| 81999 · Due from (to) Aiken Corp.       | 3,327.01                   |
| 90000 · Cert of Deposit-Lease Escrow    | 65,186.29                  |
| 90001 · CD-Lease Escrow                 | 31,388.50                  |
| Total Other Current Assets              | 150,892.59                 |
| Total Current Assets                    | 273,646.28                 |
| Fixed Assets                            |                            |
| 27000 · Audio Equip. URS                | 59,409.00                  |
| 27101 · Bldg. Improvements - URS        | 94,956.00                  |
| 27200 · Building-URS                    | 3,146,221.00               |
| 27500 · Parking Lot - Paving/land impro | 13,014.00                  |
| 27600 · Parking Lot - URS               | 110,000.00                 |
| 28000 · Accumulated Depreciation        | -1,003,027.32              |
| Total Fixed Assets                      | 2,420,572.68               |
| <b>TOTAL ASSETS</b>                     | <b><u>2,694,218.96</u></b> |
| <b>LIABILITIES &amp; EQUITY</b>         |                            |
| Liabilities                             |                            |
| Current Liabilities                     |                            |
| Other Current Liabilities               |                            |
| 20250 · Prepaid Rental & Reserve Income | 28,090.16                  |
| 21000 · Current Portion Notes Payable   | 137,000.00                 |
| 37204 · Loan Security Federal           | 2,112,668.77               |
| Total Other Current Liabilities         | 2,277,758.93               |
| Total Current Liabilities               | 2,277,758.93               |
| Long Term Liabilities                   |                            |
| 37201 · Less Current Portion L/T Debt   | -137,000.00                |
| 37202 · Income Tax Payable              | 12,841.00                  |
| 37203 · Deferred Loan Interest Due      | 5,472.84                   |
| Total Long Term Liabilities             | -118,686.16                |
| Total Liabilities                       | 2,159,072.77               |
| Equity                                  |                            |
| 39150 · Common Stock                    | 10.00                      |
| 39250 · Retained Earnings               | 361,275.20                 |
| Net Income                              | 173,860.99                 |
| Total Equity                            | 535,146.19                 |
| <b>TOTAL LIABILITIES &amp; EQUITY</b>   | <b><u>2,694,218.96</u></b> |

UNAUDITED

COPY

**AC-2**  
**Aiken Corporation**  
**Balance Sheet**  
 As of June 30, 2013

UNAUDITED COPY

~~PRELIMINARY~~

|  | Jun 30, 13          |
|--|---------------------|
| <b>ASSETS</b>                                |                     |
| Current Assets                               |                     |
| Checking/Savings                             |                     |
| 10400 · Aiken Corp Housing Money Mkt         |                     |
| 10401 · Housing Alloc - Crosland Park        | -43,500.00          |
| 10400 · Aiken Corp Housing Money Mkt - Other | 300,728.42          |
| Total 10400 · Aiken Corp Housing Money Mkt   | 257,228.42          |
| 10402 · Aiken Corp Housing Checking          | 7,241.62            |
| 10600 · Aiken Corp Money Market              | 671.80              |
| Total Checking/Savings                       | 265,141.84          |
| Other Current Assets                         |                     |
| 15700 · Rec. Friends of Aiken RR Depot       | 16,330.78           |
| 15701 · Friends of Aiken RR Depot-LT         | 660,409.00          |
| 16000 · Note Rec - 1249 Hahn 6/11            | 10,713.68           |
| 16001 · Note Rec - 324 Morgan 2/06           | 6,000.00            |
| 16002 · Note Rec - 334 Morgan 7/06           | 8,000.00            |
| 16003 · Note Rec - 802 Edgefield 4/06        | 6,000.00            |
| 16004 · Note Rec - 803 Dillon 12/05          | 6,000.00            |
| 16005 · Note Rec - 821 Dillon 5/06           | 6,000.00            |
| 16006 · Note Rec - 807 Dillon Ave 4/06       | 6,000.00            |
| 16014 · Note Rec - 352 Morgan 2/08           | 10,000.00           |
| 16015 · Note Rec - 807 Cox 2/08              | 10,000.00           |
| 16016 · Note Rec - 365 McCormick 3/08        | 10,000.00           |
| 16020 · Rec. City Aiken-Crosland Park        | -1,500.00           |
| 16105 · Less Noncur. portion Notes Rec       | -78,713.80          |
| 18100 · Noncurrent portion of Notes Rec      | 78,713.80           |
| 20100 · Due from Government                  | 76,230.57           |
| 21100 · Land Cost - Willow Run Spec Bld      | 181,848.13          |
| 21104 · Willow Run Infra.-Spec Bldg.         | 3,094.24            |
| 21105 · Willow Run Infrastructure-Park       | 310,377.32          |
| 21106 · Cost - Willow Run                    | 369,654.43          |
| 21107 · Allowance or Loss of Impairment      | -376,034.00         |
| Total Other Current Assets                   | 1,319,124.15        |
| Total Current Assets                         | 1,584,265.99        |
| <b>TOTAL ASSETS</b>                          | <b>1,584,265.99</b> |
| <b>LIABILITIES &amp; EQUITY</b>              |                     |
| Liabilities                                  |                     |
| Current Liabilities                          |                     |
| Other Current Liabilities                    |                     |
| 30353 · Loan Payable-LED of Aiken, Inc       | 3,327.01            |
| Total Other Current Liabilities              | 3,327.01            |
| Total Current Liabilities                    | 3,327.01            |
| Long Term Liabilities                        |                     |
| 35725 · N/P City of Aiken                    | 328,800.00          |
| Total Long Term Liabilities                  | 328,800.00          |
| Total Liabilities                            | 332,127.01          |
| Equity                                       |                     |
| 39100 · Retained Earnings                    | 525,794.00          |
| 39103 · Retained Earnings-Aiken Corp         | 1,028,503.08        |
| 39104 · Retained Earnings-Aiken RR           | -706,555.95         |
| 39105 · Retained Earnings-Housing            | 308,605.90          |
| Net Income                                   | 95,791.95           |
| Total Equity                                 | 1,252,138.98        |
| <b>TOTAL LIABILITIES &amp; EQUITY</b>        | <b>1,584,265.99</b> |

DOCUMENT  
 FROM  
 9-20-13 MTG  
 WITH RICHARD,  
 WADE, FRED &  
 REGGIE

AC-3

Document From  
9-20-13 MTG

1. P1-A what is this number.

Account: 10401: Housing Allocation - Crosland Park. -\$43,500.00

This negative number is the amount over the \$100,000.00 Aiken Corporation allocated to pay for options for potential purchase of Crosland Park Properties. This amount was entered as a journal entry dated 9/30/2011.

2. P1-B this number is different that check book amount-see P3A

Account: 10400: Aiken Corp Housing Money Market - Other. Balance: \$300,728.42

This amount is the value of the money market account when including the \$43,500 in extra options spent for potential purchase of Crosland Park Properties.

3. P1-C,D and E Aiken RR was closed out in 2012.

Accounts: 15004: Accts Receivable - Aiken RR. Balance \$8,625.00  
 15005: Allowance for Uncollectable - RR. Balance \$-13,638.40  
 15601: Friends of the Aiken RR [Long Term Pledges Receivable].  
 Balance \$-10,600.00

Journal entries were made to write off all three of these amounts.

4. P1-F is this part of P1-H and I? I think H and I should add up to \$676,739 (see P3 RR loan)

Accounts: 15601.1 [P1-F]: Allowance for Uncollectable. Balance \$-173,456.40  
 15700 [P1-H]: Rec. Friends of the Aiken RR Depot. Balance: \$50,000.32  
 15701 [P1-I]: Friends of Aiken RR Depot L.F. Balance: \$660,409.00

Account 15601.1 has been written off. It is not related to the other two accounts referenced.

Account 15700 has been adjusted to \$16,330.78 to reflect payments made in FY 2012-13 by FARD on their loan they have with Aiken Corporation. P1-I does not change as this amount is the balance FARD will pay after 6/30/2013. With this adjustment, the sum of Accounts 15700 and 15701 will be \$676,739.78, which is the amount FARD owes Aiken Corp as of 6/30/2013.

5. P1-J this amount is \$20,000 on P10.

Account: 16022: Notes Receivable 1249 Hahn. Balance \$20,000.00 [Balance sheet "As of June 30, 2012"]

This account was deleted as it erroneously entered in FY 2011-12. The proper account for 1249 Hahn is Account 16000: "Notes Rec - 1249 Hahn 6/11"

6. P1-K and L compared to P10 this two items were not reduced **DOCUMENT FROM**

Accounts: 16003: Note Rec - 802 Edgefield 4/06  
16006: Note Rec - 807 Dillon 4/06

**9-2013 MT 6**

**AC-4**

See updated balance sheet from June 30, 2012, adjusted after journal entries. Councilmember Ebner was looking at a balance sheet from June 30, 2012, that had not been adjusted after the auditor-recommended journal entries.

7. P1-M what is this number?

Account: 16020: Rec. City of Aiken - Crosland Park. Balance \$-1,500.00

This amount reflects three checks for totaling \$1,500.00 [\$500 each] written for options that never cleared the bank. [Expect auditor-recommended journal entry to clear this up]

8. P1-N and O are these part of P1-P? if so what is the purpose of these entries?

Accounts: 16105: Less Noncur. Portion of Notes Rec. Balance \$-78,713.80  
18100: Noncurrent Portion of Notes Rec. Balance \$78,713.80

Per auditor in email from 4/3/2013: "Those two accounts are essentially for financial statement presentation purposes to back the current amount (amounts due within a year) out of the total amount due and separately present that amount." These reflect the balance of all the notes receivables for the homes listed in accounts 16000 through 16016.

These accounts are not related to "P1-P" referred to above. That account is detailed below:

Account: 20100: Due From Government. Balance \$76,230.57. See below in item #9 for detail.

9. P1-P this number should be \$72,400

Account: 20100: Due From Government. Balance \$76,230.57.

The auditor informs us they will recommend a journal entry to write off \$3,830.57. This will bring the balance to \$72,400.00 which will be the sum of the value of the purchase prices for 1407 Aldrich and 1143 Alderman, which Aiken Corporation purchased then decided to the City of Aiken.

10. P1-Q part of land was sold in early 2013. Does this number need to be reduced by land sale amount?

The sale value of \$158,685.85 was recorded by the bookkeeper in Account 21106 "Cost - Willow Run". Auditor indicates we will receive a journal entry to record it in another account.

[ITEMS 11-14 REFER TO THE LED BALANCE SHEET]

11. P2-A what is this number?

DOCUMENT FROM  
9-20-13 MTG

Account: 81999: Due From (to) Aiken Corp. Balance \$3,327.01

AC-5

This amount was originally \$193,057.40 on 7/1/12 and reflects bookkeeper entries primarily booking amounts paid on the Security Federal loan during FY 2012-13. It also includes a payment from LED to the City for \$2,625.00 for plantings at the Willow Run Industrial Park detention pond as part of the Planning Department's administrative approval to replat the property.

12. P2\_B and C lease escrow-should these two items be combined with entry in Checking/Savings?

Accounts: 90000: Cert. Of Deposit-Lease Escrow. Balance \$65,186.29

90001: CD-Lease Escrow. Balance \$31,388.50.

These are classified separately from entries in the "Checking/Savings" section of "Current Assets" because CDs unlike traditional checking and savings accounts have penalties associated with withdrawals before their maturity date.

13. P2-D and E does Aiken Corp own the land for these two assets? If they do not own the land, are these Aiken Corp assets?

Accounts: 27500: Parking Lot - Paving/land impro. Balance \$13,014.00

27600: Parking Lot - URS. Balance \$110,000.00

Aiken Corporation owns the land per deed recorded on September 27, 2001. [Confirmed by Wade Brodie 9/19/2013]

14. P2-F what is this number?

Account: 21000: Current Portion Notes Payable. Balance \$137,000.00

This number is an estimated amount that will be paid towards the Security Federal loan during FY 2012-13.

15. P2-G why is there deferred interest when it is due with the monthly note

Account: 37203: Deferred Loan Interest Due. Balance \$5,472.84

This is a balance reflecting interest owed between the loan payment June 12, 2012 and the end of the fiscal year June 30, 2012. [Will need a journal entry for an updated figure for June, 2013]

The questions below relate to the work done by Elliott Davis and many are best answered by them.

16. P5-A, B, C and D how do these numbers relate to the Aiken Corp board year end financial report?

See P10

DOCUMENT FROM  
9-20-13 MTG

17. P6-A why the difference between 2011 and 2012? What will 2013 number be?

18. P7-A,B,C and D how do these numbers relate to the Aiken Corp board year end financial report?

See P10

AC-6

19. P7-E if this is for the two houses the city owes Aiken Corp the number may be \$72,400.

See number 9 above.

20. P8-A what are these other assets for sale?

21. P9-A I think this grant expired in 2011.

This refers to the forgivable notes found on the Aiken Corporation balance sheet [Accounts 16000 through 16016]. These are forgiven over a ten year period, so they will stay on our books for several more years.

22. P9-B verify amount of notes receivables vs P 10

23. P9-C verify amount of notes receivables vs P 10.

AC-7

**AIKEN CORPORATION  
EXECUTIVE COMMITTEE MINUTES**

Room 204, Municipal Building  
Aiken, SC 29801  
September 12, 2012

**Members Present:** Chairman Wade Brodie, Councilmember Reggie Ebner, Councilmember Lessie Price, John Cunningham, David Cozad, Scott Neely, Pat Cuning, Rick Osbon, Tim Simmons, Sam Erb, Paul Bush, and Buzz Rich

**Others Present:** Mayor Fred Cavanaugh, City Manager Richard Pearce and Assistant City Manager Stuart Bedenbaugh, Carla Cloud, David Jameson, and Jo-Anne Saunders.

**Call to Order:** The meeting was called to order at 10:01 A.M.

The Chairman welcomed Paul Bush to his first meeting as a member of Aiken Corporation's Executive Committee and the Board of Directors.

**MINUTES:** After a duly seconded motion, the August 8, 2012, minutes were unanimously approved as written.

**AIKEN DOWNTOWN DEVELOPMENT ASSOCIATION:** The membership update shows 0 renewals, 2 new members, 2 losses, 1 business closure and 0 new businesses. The committee did not meet in August.

The Economic Vitality Committee reports that the site picked for the location of the SRS Museum will be announced later this year. The City expects to move into the former First Citizens Bank Building by the end of this year. Dr. Gene Eidson will address the Economic Vitality Committee in September to discuss the promotion of the green features of the City and an equine industry representative will be invited to speak to the subcommittee in October.

The Marketing Committee did not meet in August. The group is looking for more active members. The Murder Mystery was a success and should realize a profit. The Labor Day Sidewalk Sale went well. Taste of Downtown Aiken has been canceled due to lack of participation from downtown restaurants. The committee is looking into holding an Oktoberfest, most likely beginning in 2013. The committee approved ADDA's promotion of the Golden Harvest Food Bank's "It's Spooky to be Hungry" food drive. The Vintage Stroll will not be taking place because the difficulty of participating businesses to obtain necessary permits and licenses to serve alcohol.

The Design Committee did not meet in August though more permanent awning designs for the Newberry Street Festival Center have been submitted to the City.

AC-8

The Finance Committee reports the Murder Mystery was a success. The committee recommends getting a credit card for ADDA so the executive director will not have to use her personal credit card.

**HOUSING COMMITTEE:** The committee discussed the need to examine the price points in Crosland Park in an effort to sell the existing housing stock. The Housing Committee will meet to prepare a plan to present to the Executive Committee at the October meeting.

The MOU partners are working to update their agreement. The Safe Communities initiative will be held on October 11<sup>th</sup>. Public Safety will give a preview of this program to the City Council at their September 24<sup>th</sup> meeting.

The committee discussed the authority given by City Council to the City to sell houses at appraised value. Any amount over that appraised value can be written off.

The committee discussed the \$143,500 in options paid to Crosland Park property owners. After a duly seconded motion, the committee unanimously approved to write off the entire amount spent by Aiken Corporation on options.

**VISITORS CENTER & TRAIN MUSEUM:** The two year anniversary of the opening of the Visitors Center and Train Museum is Saturday, September 15<sup>th</sup>. At this anniversary, the passenger platform will be dedicated. To date, over 20,000 visitors have visited.

The All Aboard pledge campaign should close out by the end of the year. Next year, the Aiken Together campaign will commence, which will involve the Friends of the Railroad, the Center for African American History, Art, and Culture, and the SRS Heritage Museum. The goal of this joint campaign will be \$2.4 million.

**CENTER FOR AFRICAN AMERICAN HISTORY, ART, AND CULTURE:** The Center is developing a program for students for spring break and the summer. The grant with the SC Heritage Corridor has closed out. The City will begin infrastructure work at the Center. The Center hopes to have all assets transferred to their 501(c)(3) nonprofit by the end of the year.

**ECONOMIC DEVELOPMENT:** The Board of Zoning Appeals will hear the Special Exception Approval application for the proposed indoor shooting range at the Willow Run Speculative Building on September 25<sup>th</sup> at 5:30 p.m. There was some discussion about whether this proposed facility fits with the overall use of the industrial park. The committee reviewed the Willow Run Restrictive Covenants and after a duly seconded motion, the committee approved by a majority vote to amend a portion of Section B Subsection 2 (b) to read "...outdoor target, or other outdoor gun shooting" and to delete Section B Subsection 2 (i) which prohibited General Retailing.

The chairman informed the committee that the acreage to the parcel in the proposed sale was actually 3.6231 acres.

AC-9

**AIKEN CORPORATION  
EXECUTIVE COMMITTEE MINUTES**

Room 204, Municipal Building  
Aiken, SC 29801  
August 11, 2010

Members Present: Chairman Wade Brodie, Councilmember Reggie Ebner, Rev. David Cozad, Pat Cuning, John Cunningham, Henry Krippner, and Arthur Rich, Esquire

Others Present: City Manager Roger LeDuc, Assistant City Manager Richard Pearce, Greater Aiken Chamber of Commerce President David Jameson, ADDA Chairman Mike Willis, Jet Beckum, Kevin Bassham, and Davis Cheek

The meeting was called to order at 10:06 a.m.

The July 14, 2010, meeting minutes were reviewed and unanimously approved after a duly seconded motion for approval of them was made.

As an initial item of new business, the Executive Committee discussed an effort underway by some citizens to attempt to designate the Aiken County Complex building as a historic structure. It was designed in the second quarter of the 20<sup>th</sup> century by Willis Irvin, an architect who designed several buildings in Aiken. The Aiken County Council has discussed building a new complex. This construction plan includes razing the existing building and constructing a new facility. A general discussion about this construction project, other Irvin-designed buildings in Aiken, and what Executive Board action would be appropriate then ensued. After this discussion, member Cozad moved – and member Krippner seconded – to oppose any effort to place any historic designation or list the Aiken County Complex building at 828 Richland Ave., W as a landmark, contributing, or historically significant property. The motion passed unanimously.

The Executive Committee next received the following reports:

**AIKEN DOWNTOWN DEVELOPMENT ASSOCIATION**

Sponsors are still being taken for the Murder Mystery Theatre. Support for the *Celebrate Aiken!* Transportation Parade on September 18 continues to build, and Aiken Department of Public Safety Director Pete Frommer has been particularly helpful. The ADDA Design Subcommittee has identified some benches it believes will be very appropriate for the downtown area. They match the arborways that have been installed downtown. The Finance Subcommittee reports annual Events Revenue down by \$15,000. This reduction is directly caused by the current economic recession. However, dues receipts are double their monthly quota. Events revenues remain important to ADDA operations. A recent strategic plan meeting will be influential in ADDA's study of potential, additional revenue sources.

Membership has seen 3 renewals, 4 new members, no losses, and 2 business closures.

AC-10

**HOUSING COMMITTEE**

Fourteen churches and non-profits – including Aiken Corporation – are continuing their work in Crosland Park. The Municipal Association of South Carolina has awarded this project its annual Municipal Achievement Award in the area of Public Service. Two homes have been sold, one model home is being used for open houses, two vacant lots have been sold, six homes have been rented, and six additional homes are now in various stages of construction.

With three homes sold in Edgewood, and new sidewalks and curbing in place, plans are underway to expand this revitalization project throughout this neighborhood. Updates will continue.

Additional option agreement funds are needed for options in Crosland Park. These options cover multi-year agreements. After a general discussion, Chairman Brodie moved and member Cunningham seconded, an additional loan to the City of Aiken for \$48,000 to fund the balance of monies owed on the pending Crosland Park options.

**RAILROAD DEPOT REPORT**

The Committee reviewed the revised Bill of Sale, Memorandum of Understanding, and related documents for the transfer of any interests Aiken Corporation may own in the rebuilt Depot Building to the City of Aiken. City Manager Roger LeDuc provided the Committee with information related to these documents. Member Cuning moved, and Chairman Brodie seconded, a motion to approve these documents, as revised by Aiken City Council, and authorize the Chairman to sign any and all documents. This duly seconded motion passed unanimously.

**CENTER FOR AFRICAN AMERICAN HISTORY, ART, AND CULTURE**

No report was received.

**ECONOMIC DEVELOPMENT**

The Willow Run Executive Park speculative building remains under consideration as a possible location for the County Health Department. The Consolidated School District has not presented any concrete offer for this site. Review of the valuation of this building is still under consideration.

**NEW BUSINESS**

The Annual Meeting of the Aiken Corporation will be at 5:00 p.m. on Wednesday, October 13, 2010 in the Aiken City Council Chambers of City Hall, 214 Park Avenue, SE in Aiken. Sam Erb is the Chair of the Nominating Committee, which is also staffed by Mike Anaclerio and Henry Krippner. They will present a proposed state of officers and members at the September Executive Committee meeting.

AC-11

**TREASURER'S REPORT**

Questions arose regarding the amount in prepaid taxes being set aside each year. The annual audit will soon be conducted, and the auditor will be asked to clarify why this amount is being so designated.

There is a \$1MM line of credit established for the Railroad Depot project. \$823,000 has been spent against this credit line. Future pledge payments will be used to pay off this loan.

Member Cunning had questions about the formal fundraising activities for the benefit of the Depot project by the Friends of the Aiken Depot. The consensus of the Committee is that continued reports of fundraising to retire Aiken Corporation's Depot debt are needed. These reports will need to be given on at least a quarterly basis.

No further business came before the Committee, so the meeting adjourned at 11:02 a.m.

Respectfully Submitted,

---

Richard L. Pearce  
Assistant City Manager

AC-12 Aug 11, 2010 Agenda

Memorandum

196

Date: August 3, 2010To: Wade Brodie, Aiken Corporation and Richard Pearce, City of AikenFrom: Leasa Segura, Neighborhood Services Supervisor, City of AikenSubject: Increase allocation for Option Funds for Crosland Park Acquisitions

As you aware, the Aiken Corporation provides the option funds necessary for homes to be purchased in Crosland Park under the Crosland Park Initiative. Each option is for four years with \$1,000 to be paid at signing and \$500 paid on the anniversary of the signing date, if the unit is not purchased by the City of Aiken or a MOU member, for each of the next three years.

Currently, there are 74 active options. A total of \$185,000 for option funds would be required if all 74 options were to be paid the full \$2,500 over a four year period. Of these, 65 have been paid the initial \$1,000 and the first \$500 extension, leaving \$1,000 more to be paid to each property owner. Aiken Corporation's total exposure for these 65 homes is \$65,000 through 2013. Nine option holders have been paid only the initial installment, leaving \$1,500 to be paid to each. Aiken Corporation's total exposure for these 9 homes is \$13,500 through 2013. The maximum total exposure for the 74 homes is \$78,500.

Assuming that the City of Aiken and its partners will exercise 20 of these options during 2011; the total projected future exposure will be reduced to \$68,500.

Assuming that 5 homes will be sold in 2010 yielding a \$1,000 reimbursement to Aiken Corporation per house, and 15 homes will be sold in 2011 providing \$1,500 reimbursement per house; Aiken Corporation can expect to receive up to \$27,500 of these funds back by the end of 2011. Assuming that 15 homes will be sold in 2012, Aiken Corporation can expect to receive up to \$30,000 by the end of the year in 2012 assuming a \$2,000 reimbursement per house.

However, Aiken Corporation has currently spent its allocation of \$100,000 for the options and with the August payment, has slightly exceeded this allocation. The sale of three properties has yielded a reimbursement of some up front option funds.

To continue this program, Aiken Corporation Board of Directors will need to increase its original \$100,000 allocation to a larger amount. To pay all options through 2011 would require \$46,000, assuming no reimbursement and assuming no new options are signed. There is the small possibility a new option would/should be signed if an ideally located home become available.

I look forward to hearing of your decision and would be happy to provide you with additional information should you require.

ELECTION

Councilman Dewar asked the status of the election. He asked if we are at the point where the incumbents are considered elected and no election needs to be held.

Mr. Pearce stated we are at that point. He said we will schedule the incumbents to be sworn in at the November 25, 2013, meeting.

Councilman Ebner stated there is an October 4, 2013, date that says the last day for certifying candidates to the Election Commission. He pointed out we only have the incumbents. Mr. Pearce pointed out that would be for a contested election. Councilman Ebner pointed out that maybe there should be a letter so there is no misunderstanding between the City and the County and their names show up on the ballot on November 5, 2013. Mr. Pearce stated there are not supposed to be any names on the November 5 ballot. There will be no ballot. Councilman Ebner stated last time we had some unopposed Councilmembers, they were on the local ballot. He just wanted to be sure.

Mr. Richard Johnson, Chair of the Municipal Election Commission, stated regarding the question about names being on a ballot and holding an election, there will not be an election in 2013. The Municipal Election Commission will give a report and certify the names of the candidates to City Council on November 25, 2013.

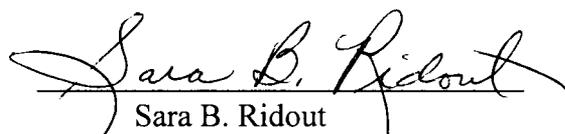
Councilman Dewar stated the Aiken St. Andrews Society is having an event on October 5, 2013, in The Alley and invited everyone to attend.

PERSONNEL

Mr. Pearce stated that Alan Willing and Josh Parry are the City's new Animal Control Officers. Sergeant Matt Braxton has been promoted to Lieutenant.

ADJOURNMENT

There being no further business, the meeting adjourned at 10:59 P.M.

  
Sara B. Ridout  
City Clerk