

Aiken City Council MinutesREGULAR MEETING

August 8, 2011

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Pete Frommer, Kim Abney, Ed Evans, Ben Moore, Larry Morris, Alicia Davis, Tom Rapp, Sara Ridout, Amy Banton of the Aiken Standard, and about 100 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.

ADDITIONS OR DELETIONS TO THE AGENDA

Mayor Cavanaugh asked if there were any additions or deletions to the agenda. Councilman Dewar stated he would like to add discussion on a water line break and how notification is done to let citizens know of these emergencies. Another addition was nominations for appointments to boards and commissions. Councilman Dewar moved and Councilwoman Clyburn seconded a motion to approve the agenda as amended. The motion was unanimously approved.

MINUTES

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

PRESENTATIONSOvarian Cancer Awareness MonthGail's AnatomyTeal RibbonsDowntown

Mayor Cavanaugh stated the City had received a request for approval to "Turn the Town Teal" for Ovarian Cancer Awareness Campaign.

Mr. Pearce stated September has again been designated as the National Ovarian Cancer Awareness Month. The local group known as "Gail's Anatomy" [a Relay For Life Team] that asked for Council approval last year has also requested that the City participate this year in an awareness campaign. This campaign will help promote ovarian cancer awareness and its symptoms by placing teal ribbons, which are biodegradable and made in the USA, at various locations around our downtown. They will also ask local businesses and citizens to become involved by placing signs on their private property stating that September is Ovarian Cancer Awareness Month. Campaigns similar to this have been approved by City Council in the past and will simply need an affirmative vote by Council to approve their request.

For City Council consideration this is approval of a request to recognize

September as Ovarian Cancer Awareness Month and to authorize an Ovarian Cancer Awareness campaign in Aiken by allowing teal colored ribbons to be placed throughout the downtown area from September 1 to 30th.

Ms. Debbie Mills stated she was the captain of Gail's Anatomy (a Relay for Life Team), which focuses on ovarian cancer awareness, and present with her is co-captain Alecia Curry. She said Gail's Anatomy started as a one night relay for life team in memory of her daughter, Gail, who at the age of 30 was diagnosed with ovarian cancer in October and passed away 3 1/2 months later. She said before that time the only thing she knew about ovarian cancer was that it was bad. She had never seen any teal ribbons or information about ovarian cancer. With the help of her family and friends and businesses she has tried to expand the campaign and make others aware of the signs and symptoms of ovarian cancer. She pointed out presently there is no test for ovarian cancer, so awareness is important. She said she had signs that she would like to share with people about September being Ovarian Cancer Awareness Month. Last year was the first year for having the teal bows and "Turning the Town Teal" in Aiken. They felt the campaign was successful, but they wanted to build on it to make people aware of September and the need to pay attention to your body and know the symptoms.

Mayor Cavanaugh thanked Ms. Mills for doing the awareness campaign again this year. He felt it was successful last year and that it was certainly a worthwhile effort.

Councilwoman Price stated Debbie Mills and Alecia Curry had worked hard for many years to create awareness of ovarian cancer. She said they were committed to making people aware of ovarian cancer, and she was sure that they had brought awareness to many people through the campaign and use of the teal ribbons. She said they had taken on a mission that has helped a lot of people.

Councilman Wells moved, seconded by Councilwoman Price, that Council approve the request to recognize September as Ovarian Cancer Awareness Month and to authorize an Ovarian Cancer Awareness campaign in Aiken by allowing teal colored ribbons to be placed throughout the downtown area from September 1 to 30th. The motion was approved unanimously.

Mayor Cavanaugh presented a proclamation to Ms. Mills recognizing September as Ovarian Cancer Awareness Month.

Carolina Bay
Girl Scouts
Silver Award

Mayor Cavanaugh stated a group of Girl Scouts want to present a proposed Carolina Bay service project.

Mr. Pearce stated in June a group met at the Carolina Bay after Amy Banton of the Aiken Standard earlier in the year had written an article about the state and condition of the Carolina Bay. Staff became aware of some local Girl Scouts--Caroline Miller, Erin Drake, and Mina Krohn-Vernon—of Troop 5225. In order to receive a Silver Award, they must participate in a public service project. After meeting with these Scouts, staff has a good path forward. The Scouts joined a group of City staff, Aiken Land Conservancy members, business owners, and concerned citizens and walked the Bay to see what could be done to make it a more user friendly city facility.

The City's plans for improvements at the Carolina Bay include clearing the area of unnecessary undergrowth and invasive plant species, freeing up the native plants that have already been planted along the trail, improving visibility into the park from Price Avenue, upgrading the parking lot, installing a split rail fence, and developing plans for an outdoor learning center to be built adjacent to the Bay

with CPST funds collected in Round II.

The Girl Scouts would like to construct several items for use at our Carolina Bay. Their public service project must include 50 hours of community service work that makes a lasting, positive difference in their community. They are proposing to build and install some bird houses, butterfly houses, bat boxes, and six more benches for our Carolina Bay, which will also have back supports and arm rests. They would also like to prepare educational materials to be included on our Carolina Bay kiosks, set up a scavenger hunt flyer, and develop some Carolina Bay 'patch programs' so other Girl Scouts can earn patches as they learn more about our Carolina Bay area.

Ms. Caroline Miller introduced Erin Drake and Mina Krohn-Vernon members of Girl Scout Troop 5225, who are working on their Silver Award project. She said they must do 50 hours or more of community service work that would make a lasting positive difference in the community. She said they would like to work in the Carolina Bay to earn the award.

Ms. Erin Drake reviewed for Council what the Girl Scouts would like to do in the Carolina Bay. She said they would like to add six more benches to the ones already in the area with back supports and arm rests and place them in areas approved by the city. She said they would like to create ten bird houses, six butterfly houses, and six bat houses. The animal houses would be placed throughout the Bay according to city rules and regulations. She pointed out that butterflies, bats and birds are good for the environment. Butterflies pollinate plants and the caterpillars provide food for the birds. The birds control insects and disperse seeds in the environment. Bats act as a natural pest control by eating mosquitoes and other bugs within the environment.

Ms. Mina Krohn-Vernon stated for the scavenger hunt the Scouts would like to create a scavenger hunt flyer to help people recognize and locate various plants and animals found in the Carolina Bay, including the poison ivy. The scavenger hunt would be for all ages and could be fun for everyone. They would also like to put some of the information they will be collecting about the plants and animals found in the Bay in one of the kiosks. They would like to put a trail map of the Carolina Bay, information about the plants and animals, and the scavenger hunt information in the kiosks. They would also add a list of safety rules, ways to help the bay, and flyers for events such as Girl Scout sponsored clean up days, planting days, etc. She said for the Girl Scout Patch Program they would like to create a Carolina Bay patch program for all age groups of Girl Scouts from Daisy to Senior. The patch programs would insure that current and future girl scouts would continue to learn about and care for the Bay. They would also like to create the "Be a Tree Hugger" patch, the Carolina Bay patch and the Three R's patch that Girl Scouts can earn.

Mayor Cavanaugh stated the project seems to be a terrific project and thanked the Girl Scouts for their concern and involvement.

Councilman Ebner moved, seconded by Councilwoman Clyburn, that Council approve the proposed community service project to be installed at the Carolina Bay by these Scouts. The motion was unanimously approved.

Mr. Pearce noted that an email had been received from Stephen Geddes for other improvements to the Carolina Bay which would be considered when making the improvements at the Carolina Bay.

Mr. Steve Geddes stated he had sent some comments on improvements to the Carolina Bay by an email, and he felt those suggestions, such as pick up after their animals, deal with smokers, fishermen, and drinkers could be dealt with by a sign at the entranceways. He said he visits the Bay every day. He feels that it is a beautiful place and the closest place he can go to see some wilderness. He said he recently saw an owl at the Bay. He said he also wanted to mention that every

time it rains a good bit of the detritus comes down the pipes and ends up in the Bay. He felt the Engineering Department could work on this problem. He also mentioned that he felt the use of game cameras at the Bay could be used to provide a record of the usage of the park as well as abuse of the park. He passed along some information on game cameras for the City's information.

Council thanked Mr. Geddes for his comments and information on the Bay.

Child Advocacy Center
Fundraiser
Newberry Street
Cooking for Kids

Mayor Cavanaugh stated a request had been received from the Child Advocacy Center to hold a fundraiser on Newberry Street.

Mr. Pearce stated Dewayne Jones of Holley Tractor has written to request an in-kind support by the City of Aiken for their annual "Cooking for Kids" barbeque fundraiser to benefit the Child Advocacy Center [CAC].

In past years, this event has taken place at the Holley Tractor business location. However, this event has proven so successful over the years that a new venue is needed. Mr. Jones and the volunteers would like to use the Newberry Street Festival Center.

City Council approved \$6,000 in the FY 2011-2012 budget in support of the Child Advocacy Center. In addition, ADPS employees Alan Willing, Mike Grabowski, and Eddie George have cooked for this event. Other members of City staff work in tandem with CAC staff in support of the Center's goals.

This Center provides valuable assistance and support to children who are victims of crimes perpetrated on them, or who find themselves removed by SCDSS from abusive or neglectful parents or guardians.

Mr. Pearce stated Dewayne Jones of Holley Tractor and Gayle Lofgren of the CAC are present to make the request for use of the Newberry Street Festival area.

For Council consideration is authorization for the Child Advocacy Center "Cooking for Kids" fundraiser to be held the evening of March 30 and morning of March 31 at the Newberry Street Festival Center.

Mr. Dewayne Jones of Holley Tractor stated he was present to ask Council's permission to hold their barbecue fundraiser for the Child Advocacy Center on Newberry Street in March, 2012. He stated they started the event three years ago with nine local teams. Last year they brought in the South Carolina Barbecue Association and went from nine teams to nineteen teams. He said Holley Tractor's area has become too small to hold the event. He said last year they fed about 250 people and the event had outgrown the Holley Tractor area. He pointed out the Labor Day Cook Off for the United Way barbecue had been done on Newberry Street, and it was a good place for the event. Mr. Jones stated the Child Advocacy Center is a wonderful organization, and he would like to raise the awareness of the CAC and make it known to Aiken citizens.

Ms. Lofgren stated it was felt that with having the event downtown there would be more traffic and more involvement. They want it to be a family oriented event with something for the kids too.

Mayor Cavanaugh stated the Child Advocacy Center is a needed agency, and it provides help for abused children. He said he was in favor of the request.

Councilwoman Clyburn moved, seconded by Councilman Wells, that Council authorize the Child Advocacy Center "Cooking for Kids" fundraiser to be held at

the Newberry Street Festival Center in March, 2012. The motion was unanimously approved.

BOY SCOUTS

Troop 146

Mayor Cavanaugh pointed out that several boys from Boy Scout Troop 146 were present at this meeting. The Scouts are working on the Citizenship and Community awards. The Scouts introduced themselves.

AIKEN CORPORATION – ORDINANCE 08082011

Loans

Consolidated

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to consolidate various Aiken Corporation debts into a single loan.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE CONSOLIDATING VARIOUS AIKEN CORPORATION LOANS WITH THE CITY OF AIKEN.

Mr. Pearce stated over the course of several years, Council has approved a few loans to Aiken Corporation in the name of better economic development. These loans have so far been maintained separately and accounted for separately. The Aiken Corporation Executive Committee has met and unanimously voted to consolidate three of these loans, each having similar terms, into a single, consolidated debt. These loans are:

1. Blue House Loan	\$67,500
2. Willow Run Paint Bill	11,300
3. Toole Hill & Northside Revitalization Loan	<u>250,000</u>
Total	\$328,800

Mr. Pearce stated the loans were all zero interest loans, and they were two year callable upon the call of the City Manager. The Aiken Corporation Executive Committee had received information as to the benefits of consolidating the three loans into one for accounting and tracking purposes. They voted to combine the three loans.

City Council approved this ordinance on first reading at the July 11, 2011, meeting. For Council consideration is second reading and public hearing of an ordinance to consolidate three City of Aiken loans made to Aiken Corporation, including the Blue House Loan, Willow Run Paint Bill, and Toole Hill and Northside Revitalization Loan, into one consolidated note for \$328,800.

The public hearing was held and no one spoke.

Councilwoman Price moved, seconded by Councilman Ebner, that Council pass on second and final reading an ordinance to consolidate three loans of the Aiken Corporation into one loan for \$328,800. The motion was approved unanimously.

REZONE – ORDINANCE

Crowell & Co.
Fox Haven Drive
TPN 138-06-04-002 (po)

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to rezone property owned by Crowell & Co. on Fox Haven Drive from Planned Residential to Residential Single-Family RS-6.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE ZONING OF REAL ESTATE OWNED BY CROWELL & CO., INC. FROM PLANNED RESIDENTIAL (PR) TO RESIDENTIAL SINGLE-FAMILY (RS-6).

Mr. Pearce stated Crowell & Co., as owner of a 0.34 acre tract of undeveloped real estate on Fox Haven Drive in Fox Haven Subdivision, has made an application to rezone this property. It is currently zoned Planned Residential. They seek to rezone it to RS-6 [Residential, 6,000 square foot lots].

Planning Commission Chair Bill Reynolds' July 13, 2011 memo explains that this application was spurred by a 50-foot wide gas pipeline easement that separates this tract from the rest of the Fox Haven Subdivision. This tract also connects two subdivisions--Fox Haven and Deodar Plantation.

After the Planning Commission's review of this application, the members present unanimously recommended approval because it is within the Comprehensive Plan provisions for this area of Aiken.

For City Council consideration on first reading is approval of a rezoning application by Crowell & Co. of a 0.34 acre tract adjacent to Fox Haven Subdivision from Planned Residential [PR] to Residential [RS-6].

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council pass on first reading an ordinance to rezone a 0.34 acre tract adjacent to Fox Haven Subdivision from Planned Residential (PR) to Residential RS-6, and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

CONCEPT PLAN – ORDINANCE

Village at Houndslake
Pine Log Road
Amberly Circle
Gaul and Kisner
TPN 106-15-17-001

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Concept Plan for The Village at Houndslake.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CONCEPT PLAN FOR THE VILLAGE AT HOUNDSLAKE.

Mr. Pearce stated the principals of Gaul and Kisner, LLC have applied for approval of amendments to their Concept Plan for their Planned Residential development known as The Village at Houndslake. It is located at the intersection of Pine Log Road and Alpha Drive.

He stated Council approved a concept plan February 10, 2003, for The Village at Houndslake. The minutes from that approval and the Planning Commission action on the plan were provided to Council for information. The 2003 plan

showed 37 attached two-story, single-family dwellings grouped three to four per unit. Of this total number, 23 units were proposed to be built outside the looped street and 14 within the confines of the loop. One condition of the 2003 approval was preservation of 10 existing trees shown on the development plan. Since that time 2 of the 10 trees have died, leaving 8 trees. He stated the developers filed an application with the Planning Department and appeared before the Planning Commission asking to amend their 2003 concept plan for The Village at Houndslake as follows:

1. New units to be built inside the loop are proposed to be 1.5 story, and not 2 stories, as well as detached instead of attached. The number of units is being reduced from 14 to 7 to be built inside the loop.
2. Establish an 8 to 10-foot wide protection zone for the grand specimen deodar cedar that is within this development area. Interim Coordinator for Urban and Community Forestry of the S.C. Forestry Commission, Jimmy Walters, has provided a detailed course of action for steps to minimize the impact of the inner loop development on a large, existing Grand Specimen deodar cedar. Mr. Walters' June 6, 2011 memo was provided to Council for information. Several citizens have expressed concerns about the impact of this development on the existing grand specimen deodar cedar. Their comments were provide for Council review.

Several letters from concerned citizens were provided, including a July 24, 2011, letter addressed to City Council from Susan and Bob Scherphorn.

The Planning Commission members in attendance voted unanimously [5-0] to approve the July 13, 2011 Revised Site Plan, which shows 7 detached, single-family residences upon the conditions that:

1. The house in the bend of Amberly Circle be located as far away from the two Deodar Cedars as possible, that temporary construction fencing be placed as determined by the City Horticulturist to protect these two trees during construction, and that the protected area be permanent;
2. The design of the houses be substantially similar to the attached townhouse units;
3. Conditions of this approval be shown on the Concept Plan as revised;
4. Applicants execute an agreement listing the conditions of approval; and
5. The agreement be recorded by the City at the RMC Office within 90 days of approval by City Council.

Mr. Pearce stated there was some discussion at the Planning Commission meeting about two large deodar cedars that are in the subdivision. The one closest to the road was measured to be 50 feet tall and has a 26 inch diameter. The other deodar cedar is further in the subdivision. It is 60 feet tall and has a 30 inch diameter.

For City Council consideration on first reading of this ordinance is approval of a revised site plan dated July 13, 2011, for The Village at Houndslake with 1 1/2 story units, not 2 story and 7 units instead of 14 placed according to the revised plan.

Mr. Steve Kisner, partner in Gaul and Kisner developers of The Village at Houndslake, appeared before Council. He said he would not review the details, but wanted to mention a couple of items. He said he had been through two sessions with the Planning Commission and had also had two meetings with the residents of The Village at Houndslake to reach a compromise. The original request was to go from 14 attached townhomes in the center section of the development to 8 single family units. Because of the issues raised with the cedar trees, the developers compromised and said they would build 7 single family units. In the meetings with the residents, and also in the meetings with the Planning Commission and hearing feedback at those meetings from the residents, he felt there were primarily two issues raised. One is the loss of green space in the center and loss of trees. He pointed out the center section was always planned

to be developed so the green space would be lost. By going from 14 to 7 units (the compromise) we would be gaining over one-half acre of green space. The total project is only 5.8 acres. The center section is a little over 2 acres. He felt they would be gaining quite a bit of green space and would actually be saving more trees than would be saved if they were building 14 units rather than 7. The biggest discussion was centered around property values. Since 2003 they have built 19 units in the development. Of the 19 units 17 have sold, and they have not sold a unit since 2007. The average sales price was \$317,000. There have been a couple of resales in the last three years and a couple of appraisals have been done. The current market value of the townhomes is between \$260,000 and \$290,000. The current sales value of the single family units proposed to be built is between \$290,000 and \$300,000. He said they would not be building anything of less value than the current townhomes in this market, but would be building a higher price unit than the current value of the townhomes. Based upon the last meeting with the residents, there were more people not opposed to the single family units than those opposed to the units. He said by building single family units in the center they would be creating a product that might be more marketable than the current townhomes. He said they can't control the current real estate market. He said no one knew in 2003 that they would be before Council in 2011 under the current climate of real estate. He said if they don't get approval for the single family, the only other option would be to develop the center unit and rent the units. He said they don't feel there is a market today in the real estate climate to build the value that the residents currently have and be able to sell them.

Councilman Ebner stated he attended the Planning Commission meetings. He said his understanding from Mr. Kisner's letter of July 18, 2011, is that they are planning to build 2,100 to 2,400 square foot houses. At the Planning Commission meeting he thought Mr. Kisner stated the houses would be priced between \$220,000 and \$280,000.

Mr. Kisner responded that when they first met with the residents he stated the price would be from \$240,000 to \$280,000. At the Planning Commission he stated the price as being \$250,000 and \$290,000. He said this had been reevaluated because they would be building fewer units, going from 8 to 7, but also they have taken another look at the market, and it has been determined to build a product that is between \$290,000 and \$300,000. In response to the question as to whether a nice brick house could be built for \$110 to \$120 per square foot, including the land, Mr. Kisner responded yes. He stated the proposed housing facades would be almost identical to the townhomes that are presently in the subdivision, with the same materials, architecture, similar brick columns in the front, same roof material, and the same colors.

Councilman Dewar stated Mr. Kisner had mentioned that if the single family homes were not approved that his option would be to build units as rental units. He wondered if those units would look different from the proposed single family units or if they would be the same as the existing units.

Mr. Kisner stated the exterior of the units would look the same. However, they would be smaller. He said they were weighing their alternatives, but had not reached that decision yet. He said they don't know of another alternative. He said they have successfully rented the two unsold units for the last three years. There is a rental market in Aiken that they feel they can tap into if they are not able to build something they feel they can sell.

Councilman Dewar stated he was at the Planning Commission meetings and the Commission wrestled with the dilemma of Mr. Kisner and Mr. Gaul and the residents of The Village at Houndslake not being able to come to an agreement. He said it would be great if the developer and the residents could come to an agreement. He said this is a difficult issue.

Mr. Kisner stated he felt the majority of the residents are not opposed to the single family units. He said this is based on a vote taken in a meeting, with 10 residents

out of 16. Of the 10 people 4 voted for the single family, 2 voted against, and 4 had no opinion.

Ms. Ingrid Pearson, one of the owners of a townhome in The Village at Houndslake, said at the last meeting the residents and the developer did not compromise because they were presented with 8 houses with the bottom line being 7. Those who did not vote for those things are still having a problem with the one story homes and getting away from what was originally planned for the area. There are many concerns, with one being that the horseshoe is still unfinished with townhomes. She pointed out that they plan to build two spec homes, but if they don't sell perhaps they will build more houses to rent. If they don't, they again have the undeveloped, unfinished area. She pointed out that the market today for housing is terrible and to build more houses in a market that is already overloaded with new homes and resale homes, etc. may not be the best time to try out these new things. She stated the residents had asked that a survey be taken and that the Horticulturist come out and make a definitive decision on the root system of the cedar trees so they would know exactly whether 7 or 6 houses could be built and not impinge on the root system of the trees. She felt that many of the people who were at the compromise meeting really would appreciate 6 homes that would be symmetrically looking at the center, rather than having one odd house at the end of the point of the circle. She pointed out that the house will still just be the house, as the property around it will be space that belongs to everyone in the area. It would not be like buying a house in a community, and having a postage of ground that belongs to the house. This ground will belong to the community, and she was not sure how appealing that would be at the proposed price. She said at the compromise hearing they had tried to talk about the end of the circle where the trees are and taking that area and making it into a common area, and then putting the six homes, if they build homes, more back towards the front gate and in the middle section, so it looks more aesthetically pleasing to the community. She pointed out when they bought homes in the area, they knew the plan was to build additional townhomes, and that was not an issue. The issue was that all of a sudden, without any knowledge until they happened to hear from outside sources, that there were plans to build one-story homes in the center. As residents of the area, they felt that information should have been given to the residents first before they heard it from outside. She said communication had not been very good. She felt that is why there are some issues now. In response to a question by Councilman Dewar regarding how many of the 17 residents agree with Ms. Pearson's feeling that they would accept 6 houses if the end area is left, Ms. Pearson stated she had not taken a poll in the last few weeks, but before that most everyone was in agreement that 6 houses would be much better than 7 and more aesthetically pleasing. There is one homeowner that will take anything they build, and she and her husband do not support the rest of the homeowners. In response as to whether they could live with 7 houses, Ms. Pearson stated she would like to know whether 7 houses could actually be put in the area and not destroy the trees. She said the group had asked that Tom Rapp, City Horticulturist, look at the trees to see if 7 houses could actually be put in the area and not destroy the trees, but there had been no mention of this in the minutes. She thought that was what was voted on, as she had asked that that be part of the consideration before a final number of houses was approved.

Mayor Cavanaugh noted that Mr. Pearce had stated that Jimmy Walters of the S.C. Forestry Commission had provided a detailed course of action for steps to minimize the impact of the inner loop development on a large, existing Grand Specimen deodar cedar. He pointed out that someone had looked at the situation and his comments were in the agenda packet.

Mr. Pearce stated Mr. Walters is with the Forestry Commission, and he had recommended one foot of space for each inch of diameter of the tree.

Mr. Kisner responded that they would exceed the recommendation of one foot of space for each inch of diameter of the tree with the seven unit proposal. Mr. Pearce pointed out that one tree was 26 inches and the other was 30 inches.

Ms. Pearson stated she had not read that, but perhaps 30 feet will work. She felt that in looking at the configuration of the homes, having one on the end was not the best arrangement. Her suggestion was to build and not have the space in the middle, but to have the space at the end, preserving the trees and the space next to it.

Mayor Cavanaugh asked Mr. Kisner if there was a way to rearrange the house on the end so it might meet some of the criteria that Ms. Pearson has mentioned.

Mr. Kisner responded that the first preference was to put the seventh unit at the end of the circle, which might be close to 30 feet. He said personally he did not agree with the 30 feet, but he was not a forester. He said they had compromised by moving the end unit cattycornered to be the farthest from the trees. He said he did not feel that was necessary. He pointed out the road had been built within a few feet of the trees, and that is more intrusive than the pillars from the building. The tree has survived for 8 years. He felt it was not necessary to be moved to the side. He felt if it was centered it would look better.

Councilwoman Clyburn asked if the green space that would be left would be in the circular part out front. She said in looking at the area she could not make 7 houses fit in the area.

Mr. Kisner stated the way the covenants work is that the homeowner owns the footprint of the home and the rest of the space is green space. The green space that would be around the deodar cedars would be common space, and that is a sizeable space. Had they built 12 units there would be less green space. There will be a considerable amount of green space around the deodar cedars by moving the unit to the side the way it is sketched on the drawing in the agenda packet. The units would be three on each side and one at the end on the inside of the circle, but the one on the end would not be in the center. It would be angular. He pointed out the units would be placed to meet the requirements of the S.C. Forestry Commission.

Councilman Wells stated if the homeowners object to anything being built in the area, he wondered if Mr. Kisner and Mr. Gaul would be interested in selling the property to the homeowners.

Mr. Kisner stated that had been suggested, but there was not much interest in that.

Councilman Homoki stated it had been suggested that there be 6 units instead of 7. He wondered if there was an economic reason if 7 units are not allowed that they would have to go with a rental business. He wondered where the cutoff is.

Mr. Kisner stated the cutoff is 7. He said they had gone from 14 to 12 to 8 to 7. He said he could not go any less. He said if they cannot get 7 single family units, they would regroup and do something different. They would go back to what's been approved. He pointed out a mistake was made in 2003, and one of the deodar cedars is in the center of an approved unit. He said they would have to deal with that if they go back to townhomes.

Councilwoman Price asked why the thought is that townhomes are more valuable in some eyes versus the single family homes. In her thoughts, she felt a single family home would have more value than a townhome. She pointed out another factor is that there are people who are moving here from other locations. They are maintaining their homes in other places. These are professionals. They are coming here looking at Woodside and Houndslake for a temporary second home and keeping their other home. They are thinking about in several years possibly returning to their other home.

Mr. Kisner stated he and Mr. Gaul had traveled and looked at a lot of townhome projects, and had brought to Aiken what they thought would be a very marketable product. He felt it was, but they did not sell as quickly as they had anticipated. The townhomes were of good quality with good amenities, and 17 out of 19 were sold. In the depressed market a single family one story unit has much more value than a townhome unit. The other issue they are dealing with is that their market place and customers in Aiken are more retirees than young families. He said more and more they hear that people do not want to deal with stairs. The townhomes are designed so all the amenities for a couple are on the main level, including the master bedroom, and the guest rooms are upstairs. However, the fact that there are stairs is the biggest problem with the townhomes.

Mayor Cavanaugh asked the reason for the location of the house on the end. He wondered if it were lined up more whether it might be more acceptable.

Mr. Kisner stated the original plan had three units on each side and two on the end angled, for a total of 8. When the plan for 7 was submitted they centered the house on the end so it faced the center of the horseshoe. Then the question of trees came up so they moved the house over to get it farther away from the trees. He said, however, they could take a look at moving it more in line with the ones on the left. The proposal is not cast in concrete.

Council then continued to discuss the issue. Mr. Kisner stated they could look at moving the end house to see if it would work. However, they might have to have a variance from the city on some setbacks.

Mr. Todd Gaul, a partner with Gaul and Kisner, pointed out that one of the reasons the units were laid out the way they are is that the city has a main sewer line between two of the units, which goes through and on to Houndslake. This made it more difficult to be able to meet all requirements. Prior to this plan with 8 units, the one on the end was straight in line looking down the easement. After the community meeting and meeting with Planning, it was decided to move the unit and get more green space together rather than have it spread out with more small areas. He pointed out some time ago he drew a 30 foot radius for the tree to see where they were. He stated with the current locations it shows that it is 10 feet beyond that to the first unit. He expressed concern about meeting setbacks and getting into the radius if the end unit was turned some. However, they would look at the situation.

Mr. Kisner stated they were always going to angle the two at the end when doing 8 units. When they compromised for 7 units because of the cedar trees they decided to do the 7th unit angled. When they went to the Planning Commission last time they decided to center the unit in the middle so it faces the end of the horseshoe. However, the residents said they would rather have the unit moved over angled like it is shown on the plan submitted, because it gave more green space around the deodar cedar trees. He said tonight is the first time he had heard that they might want to orient it differently even though it is to the side. He said they might be able to do that if it meets the requirements of the city as far as setbacks and its proximity to the other units because of fire code regulations.

Ms. Pearson stated the reason for asking that the unit not be in the center part is that it would be closer to the trees. Having it further away would be best. She suggested that possibly the unit could be the smallest in square footage, which could make a difference as to where it could be located.

Mayor Cavanaugh wondered if there was another model home that could be placed on the end that was smaller than the one shown. Mr. Gaul stated all the houses are similar in width, but there is a difference in depth. He said variances would be needed in setback to move the unit.

Councilman Wells stated Mr. Kisner and Mr. Gaul had made some concessions. In looking at the plan approved in 2003, there could be 14 units built on the property. They are looking at building 7 one and half story units and preserving the deodar cedars. He said if a change is not approved, Mr. Kisner can still build the 14 units approved in 2003. He pointed out the real estate market is not good at this time. Building the 14 units could use the space and also drive down the value of the homes in the area. He said he sees two issues. One is protection of the deodar cedars, with the other being 7 units as opposed to 14 units. He felt both issues could affect the value of the homes. He said if he were living in the area he would rather have the 7 home plan than the 14 unit plan of 2003.

Councilwoman Price stated she would like to know that if a variance is given and the house is turned to give four houses on a row, if the neighbors could live with that. She said she was trying to come up with a compromise.

Ms. Marie Mullett-Durrett stated aesthetically she does not like that plan because everything is proportioned in the neighborhood, and she felt it would not look right. She was only in favor of 6 houses. She said she was never in favor of 14 units in the middle. She said she agrees with the single story and a half homes, but only 6 units. She said 6 units is a compromise for her. She did state if the end unit could be turned and be a smaller unit and the residents could see how it looks, that could be a possibility.

Councilman Dewar stated Council does not like being at an impasse, but would like to have people agree and compromise. He said many of the residents were present at the Planning Commission meeting, and he would like to hear from more of them. He said they presented a consolidated view point at the Planning Commission meeting. The impasse is that Mr. Kisner and Mr. Gaul can build 14 units, which were approved in 2003. At this time Mr. Kisner has indicated because of the market those would probably be rentals. He pointed out Mr. Kisner has stated 6 units is not acceptable for him. He said we need to come to a compromise. He pointed out this is first reading of an ordinance so there will be a second reading and public hearing on this issue.

Councilman Homoki stated in driving through the area, it looks like the subdivision is not complete. There is a large lot on the outside and there is also a vacant lot on the right of the entrance. He pointed out there is a revised plan for 7 units and possibly the end unit could be turned. He said Mr. Kisner has stated that 7 units is the lowest he can go for the number of units, or he has to build from the original plan for 14 units. He felt the developer and residents have to come to a compromise.

Mayor Cavanaugh stated this revision is presented as first reading of an ordinance. He said he would suggest that Council pass the ordinance on first reading for 7 houses and in the meantime see how the end unit can be turned if possible. He stated Tom Rapp could look at the trees before second reading of the ordinance.

Mayor Cavanaugh moved, seconded by Councilman Wells, that Council pass on first reading an ordinance to amend the Concept Plan for The Village at Houndslake to allow 7 single-family units 1.5 stories high on the inside loop, with the developers to see if the end unit could be turned some, possibly a smaller unit placed there and that Tom Rapp, Horticulturist, review the building distance for the deodar cedar trees, and that second reading and public hearing be set for the next regular meeting of Council.

Councilman Ebner stated he had attended the Planning Commission meetings. He was concerned about setting a precedent. He said this is a unique neighborhood. It is walled. A lot of money was put in by the developers of the property. He said his concern is that Council not set a precedent. He said these are unique houses. There are a couple of other areas that have neighborhoods of this nature. His

concern is that if a development does not work, then they just ask Council to change it and build something else. He was concerned about setting a precedent.

Councilman Dewar pointed out Council would be discussing Planned Residential later in the meeting. He said it is unrealistic on one hand to expect a developer to come up with a concept plan and to anticipate every issue that may come up over a long period of time. He pointed out this plan was made 8 years ago, which is a long time. In the case of Woodside, the plan is for development over a 25 year period, and it is difficult to anticipate issues that will come up, i.e. changes in the economy, etc. He said if there was a rule that you had to build within 3 or 4 years, that would probably take care of some issues. However, it is better that there is no such rule to benefit everyone concerned. He said this is a frustrating situation. He said he hoped the residents can get together and work out this issue.

Mayor Cavanaugh called for a vote on the motion to approve the ordinance on first reading. The motion was approved by a 6 to 1 vote with Councilman Ebner opposing the motion.

ZONING ORDINANCE AMENDMENT – ORDINANCE

Planned Residential Dwelling Unit Density

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration for first reading to amend the Zoning Ordinance regarding dwelling unit density in the Planned Residential zone.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE REGARDING DWELLING UNIT DENSITY IN THE PLANNED RESIDENTIAL ZONING DISTRICT.

Mr. Pearce stated that at the joint meeting with the Planning Commission members this year, Council asked them to review the Planned Residential [PR] portion of the Zoning Ordinance to see what, if any, revisions to it would be appropriate. This review has also been spurred by the increased number of apartment construction projects within the city limits. Council has pursued a policy that all proposed residential-use developments / annexations need to be zoned PR. Planning Department staff has encountered concerns from developers with this policy, which is seen as too restrictive by developers regarding dwelling unit density. Developers have instead sought RML or RMH zoning, and these zones do not provide for Council approval of a development plan.

Further background regarding this issue is provided in a July 13, 2011 memo from Planning Commission Chair Bill Reynolds.

Planning Commission has reviewed this section of the Zoning Ordinance. The Commission members present voted unanimously [5-0] to revise the existing Zoning Ordinance provisions as follows:

1. Delete the requirement that an entire project must have at least 20% green space, to instead read that the predominantly single-family residential section of the development have at least 20% open space; the portion of the development that will be built as multifamily residences have at least 40% open space, and any predominantly nonresidential portion of the proposed development have open space set aside as described in the Planned Commercial zone requirements of our Zoning Ordinance.
2. Delete existing provisions that do not allow the multifamily open space development area to be credited toward the total 20% open space requirement in the proposed PR development.
3. Add a provision to allow City Council to vary these open space percentages as Council may determine is needed for creative PR development design.

Mr. Pearce stated there was an error in the proposed amendments to the PR zone in Section G. Design Standards. The wording in 3.a. "excluding any open space required at 4.2.6.G.5" should be deleted from 3.a.

For City Council consideration on first reading is adoption of amendments to the Planned Residential section of the Zoning Ordinance as set forth in Exhibit "A" of the ordinance and the Exhibit to the July 13, 2011 memo from Planning Commission Chair Bill Reynolds.

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council approve on first reading the proposed amendments to the Planned Residential section of the Zoning Ordinance as set forth in Exhibit A.

Councilman Dewar stated he had a question regarding some statements in the Planning Commission memo. He said the implication was that a reduction was made in the density in 2004 because of some impact on the historic and horse training areas and the proposed ordinance would increase the density. He wondered if the concern in 2004 is still a concern today about density in the horse district.

Mr. Ed Evans, Planning Director, stated the density was not a concern for him. He said one has to remember that Council has the final say on what the dwelling unit density will be. It is up to Council. If a proposal is received and Council feels it is too dense, it is within the authority of Council to turn it down and decrease the density. He said it was a concern in 2004 when the change was made to allow PUD or Planned Residential within the city limits. He said it had been understood that the term maximum meant the number was the maximum number of dwelling units that could be allowed, and Council could approve something less than the maximum. He said wording could be added to make it clear that Council could limit the number of units to something less than 12 units per acre. In response to Councilman Homoki, Mr. Evans said he was not saying that Council could increase the dwelling unit density to something greater than 12, but could make it less than 12. He pointed out the present maximum dwelling unit density is 8 after subtracting 20% for open space. The proposal is to go to a maximum of 12 units per acre and not subtract the open space before you apply the 12 units per acre. You could not go above the 12 units as that is the maximum, but Council could approve less than 12 units.

Councilman Ebner asked if concept plans that are already approved can come back to Council and go from 8 units to 12 units. Mr. Evans responded that the way it is worded someone could come back with an existing PR and ask for a higher number of dwelling units up to 12, unless wording is added that existing PR concept plans cannot come back asking for a higher dwelling unit density. Councilman Ebner asked if that would include any area of the city zoned PR, whether it is gated or not. Mr. Evans responded, yes. Councilman Ebner asked if that also included multi-story buildings if going to 12 per acre. Mr. Evans stated multi-story buildings are allowed in the PR zone. He said it is up to Council to allow multi-story. They are not allowed automatically.

Ms. Jenne Stoker stated she was out of town and had not attended the Planning Commission meetings. She said she had concerns in certain districts that 12 dwelling units per acre may never be appropriate. She said there is discussion now in an area off Colleton of a potential Planned Residential development. She felt 12 units would definitely be too many in this area. She felt there are a lot of things to think about, including the setbacks, the open space requirements, etc. She said she does have reservations about 12 units being allowed in the Horse District and the Historic District. She felt we need to take a good look at all the applications. She pointed out the particular development she is talking about is small, but they do plan to ask for Planned Residential zoning. She felt getting a concept plan for the area is the right thing to do so the area is planned rather than having a lot of different lots. She was concerned because it will be near her neighborhood.

Councilman Wells pointed out in looking at other jurisdictions, some allow as many as 24 units, some 9 units, or 16. Some allow Council to determine the number of units totally. He pointed out when a person has a piece of property that has some value and you don't have anything concrete to know what you can do with the property, that affects the value of the property. He said he did not feel that leaving the number totally up to Council would be the way to go.

Ms. Stoker stated she agreed, but she did not feel that allowing more units per acre was the way to go either as this could potentially impact people who are already in the area. She said people need to make money on their investment, but she felt it is not the time to make changes in a down economy, as we might suffer with this when things pick back up.

Mayor Cavanaugh asked Mr. Evans if he had stated earlier that Council could reduce the number of units allowed and if that would apply to what Ms. Stoker is talking about on a small acreage. Mr. Evans replied that it would, and that it is his interpretation that Council can limit the number of units to whatever they think is appropriate, anywhere from 1 to 12 units per acre, when they approve the concept plan for the proposed development. Mr. Evans stated the development she mentioned is less than four acres. In order for the property to be zoned Planned Residential they would have to apply to the Board of Zoning Appeals to get a variance to put a PR on less than four acres. Then the request would come to Council for approval of the concept plan. He felt Ms. Stoker was looking for something tighter in the wording of the ordinance rather than leaving it open for Council to decide.

Ms. Stoker pointed out if the property is zoned PR someone could buy the property thinking they could develop 12 units per acre, and then they would come to Council asking for approval of the plan.

Councilman Wells asked how many units would be allowed in an area zoned RML. Mr. Evans responded that RML allows 12.44 units per acre; RMH allows 17.4 units per acre. This is based on gross acreage. There is no deduction for open space before applying the number.

Mayor Cavanaugh asked what Council wanted to do. He wondered if Council wanted to look at different wording before the next meeting that would make it a little tighter before second reading, or if they wanted to leave it as is for Council to make the decision on the number of units allowed per acre.

Councilman Wells stated he was understanding that if there was a certain situation and Council was concerned about a certain area, that the density in a PR zone could be reduced to something less than 12 units. However, given the economy today in order for people to be able to build, they need to be able to make a profit. He stated the ordinance could be revisited at any time if the economy changes.

Councilman Homoki stated he was concerned that if a person has property that they want to develop, looking at our ordinance, they could develop 12 units per acre in the PR. He said a person could invest a lot of money designing the property for 12 units per acre. They could come to Council with a concept plan, and then Council only allow a number less than 12. He felt that could be a lot of wasted effort on the part of a developer. He felt it would be bad to send them back to do the plan over. He wondered when the decision to allow less than 12 units per acre is done and whether it is after a person has invested their money in developing a plan.

Councilman Wells stated he felt if someone is dealing in a very sensitive area in the City of Aiken that certainly they would do some investigation before they come in with a plan. He pointed out some apartment complexes currently in the city, such as the Colony Apartments contain more than 12 units per acre. He said he did not feel that the density for the Colony Apartments is too great. He

reviewed a listing of some of the apartments with most being greater than 12 units per acre. He did not feel that there was a problem with the density on these developments.

Mr. Pearce stated the other issues are covered in the information to Council. Developers have looked at the 8 unit maximum for PR and instead have asked for RML or RMH zoning, under which Council has no review. The Planned Residential zoning designation is what brings the development to Council for review of the concept plan.

Councilman Dewar stated he was confused. He said the first paragraph of the information to Council says it is the city's policy that proposed residential use developments and annexations need to be zoned PR. However, developers have requested RML or RMH and, under those zones, there is no provision for Council review of the development. He wondered why have an ordinance with any limit when the developers request RML or RMH zoning and don't have to have the development reviewed by Council.

Mr. Evans stated Council has a policy that they want developers to apply for Planned Residential, however they do not have to apply for PR. They can apply for any zone.

Councilman Dewar asked if the property near Colleton that Ms. Stoker was talking about could be zoned RML or RMH and not have to come before Council with a concept plan.

Mr. Evans stated that could happen. However, the property is zoned single-family presently. This rezoning was highly controversial. The residents are concerned if the owner comes back and wants it rezoned to RML or RMH, which allows apartments by right with no Council involvement, that they won't have a chance.

Councilman Dewar stated if the ordinance states 12 units per acre are allowed, he can't see why anyone would not expect to be able to do 12 units per acre. He said he was not sure Council would have a reasonable basis for saying 9 is better than 12 units.

Mr. Gary Smith stated that with the term maximum used in the ordinance Council has leeway to use less than 12 if that is Council's desire.

Mr. Evans stated the Planning Department has had contacts from 4 or 5 developers thinking about wanting to do apartments. They would request Planned Residential if it allowed more units per acre. They are not satisfied with the limit of 8.

Councilman Wells stated it was his understanding that Planned Residential gives them greater flexibility in some changes that Council can set forth for the development. Mr. Evans stated that is correct with things such as no required setbacks. In the Village at Houndslake instance, Mr. Kisner asked about the possibility of needing a variance for building setback for a unit. He would not have to go to BZA Council could decide what the setback would be.

Councilwoman Price stated with the range of up to 12 she wondered if each time the developer would want the high end of 12 versus looking at a lesser number. Mr. Evans stated he would think we could assume the developer would want the high end. Councilwoman Price stated there is a need for units in Aiken that are aesthetically charming. She pointed out the development would be reviewed, and she was wondering what harm could be in 4 more units, making 12 units versus 8 units presently.

Mr. Evans stated it will depend on the individual situation. There may be an application where 12 units may be too much for some reason and Council will

want only 8 or 10. He said when you have to assume that each developer will want 12, you have to operate under the assumption that most developers would like to get the maximum number of units possible on a piece of property.

Councilwoman Price asked who reviews the requests when the position is that 12 units may be too many.

Mr. Evans stated the Planning Department and the Planning Commission would review the request and make a recommendation to Council. Council has the final decision.

Councilman Homoki asked if Council would have to have a specific reason for not allowing 12 units per acre if the ordinance states a maximum of 12 can be allowed. He questioned allowing 12 for one development and then not allowing 12 units for another development. He wondered if a developer would have a legal recourse if he were not allowed to have 12 units if he requested 12.

Mr. Gary Smith stated he did not think there could be legal recourse. He felt using the term maximum you are making it clear that you may get up to 12, but they are not guaranteed to get up to 12 units per acre.

In response to a comment by Councilwoman Price that she did not understand the problem and why Council was discussing the matter, Councilman Wells stated he felt the goal was to clear up some language as well as to encourage people to request Planned Residential zoning, as opposed to RML or RMH. He pointed out if someone owns a large tract of land that they want to annex, they probably won't request PR zoning because presently they would be restricted to only 8 units per acre so they would probably request RML or RMH zoning, and they could have 12 and 17 units per acre. He said with the present restrictions of PR zoning a developer will not want to annex under the PR zone. If the limit of units per acre could be raised from 8 to 12 units per acre, the developer may opt to annex as PR zone.

Councilman Dewar pointed out that in 2004 the ordinance was changed from 12 units to 8 units, and the minimum acreage was decreased from 5 acres to 4. He wondered if we are going to increase the number of units from 8 to 12 units why not increase the minimum acreage back to 5, 6 or 7. He said he was sensitive to the issue if it impacts historic and horse training areas.

Councilman Wells pointed out the PR zone is not permitted in the horse district or historical areas and that is stated in Section 4.2.6.A.

Mr. Pearce pointed out that under the current ordinance PR is prohibited in the Horse District and for land listed on the Aiken Historic Register. He also pointed out that B.4 addresses some of Council's concerns that have previously been stated. The concept plan is subject to detailed review by City Council, and there shall be no entitlement to either the maximum permitted density or minimum required open space.

Councilman Dewar stated he was concerned about being arbitrary. He said if he were a developer he would expect to be able to have 12 units per acre in the PR zone, if that is what is adopted. He said he would not be happy with a Council that would be arbitrary and only give 10 or 8. He said if the ordinance is changed to 12 we should expect the developers to want to have 12 units. He said it was no consolation to him to say Council has the authority to approve less than 12 units.

Mayor Cavanaugh called for a vote on the motion made by Councilwoman Clyburn and seconded by Mayor Cavanaugh that Council approve on first reading the proposed amendments to the Planned Residential section of the Zoning Ordinance as set forth in Exhibit A. The motion was approved by a vote of 6 in favor and 1 opposed. Councilman Dewar opposed the motion.

ZONING ORDINANCE AMENDMENT – ORDINANCE

Planned Commercial Zone

Use Table

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend the Planned Commercial Zone of the Zoning Ordinance.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING
ORDINANCE REGARDING THE PLANNED COMMERCIAL ZONING
DISTRICT.

Mr. Pearce stated at this year's joint meeting with the Planning Commission, several action items were discussed. One of these items was review of the Use Table for the Planned Commercial [PC] zone to determine what revisions may be warranted. This Council request resulted from concerns that certain uses were permitted by right in PC-zoned tracts, and Council involvement with development of these tracts is currently limited to site plan approval, intensity of development, appearance, and related issues. These concerns were brought about by development at the Shoppes on Richland where the Walmart is located and the request for a convenience store and gas station.

With these concerns in mind, the Planning Commission has reviewed the Use Tables related to Planned Commercial developments. In addition to Council's concerns, Planning Commission members took what they consider to be two additional, related issues under advisement:

1. Incorporating previous Planning Director interpretations into the provisions of the Zoning Ordinance related to Planned Commercial [PC] development.
2. Adding language to the Zoning Ordinance to clarify that City Council has authority to grant waivers from Zoning Ordinance provisions except to Section 4.3.8, Planned Commercial primary section and to Section 3.1.6 Planned Commercial Use Table.

After their review, Planning Commission members present voted unanimously [5-0] to send Council their recommendations that:

1. The Use Table for Planned Commercial developments not be changed, and if there are specific uses that City Council thinks should be prohibited in PC developments, that they so advise the Commission so that a recommendation can be made on such specific possible amendments;
2. The amendments incorporating the five interpretations previously made by our Planning Director be adopted; and
3. The amendments making it clear that City Council may waive any provision of the Zoning Ordinance except for Section 4.3.8, and the Use Table at Section 3.1.6, be adopted.

For City Council consideration on first reading is approval of an ordinance regarding Planned Commercial zoning districts to retain the existing Use Table, incorporating five previously issued Planning Director interpretations made since adoption of the Zoning Ordinance and related to Planned Commercial development, and clarifying Council's waiver authority regarding this section of the Zoning Ordinance.

Councilwoman Clyburn moved, seconded by Councilwoman Price, that Council consider on first reading an ordinance regarding Planned Commercial zoning districts to retain the existing Use Table, incorporating five previously issued Planning Director interpretations made since adoption of the Zoning Ordinance and related to Planned Commercial development, and clarifying Council's waiver authority regarding this section of the Zoning Ordinance.

Mayor Cavanaugh asked if anyone wished to speak on this matter.

Mr. Buzz Rich stated he was present as the Chair Elect of the Greater Aiken Chamber of Commerce, as the Chair Frank Thomas could not be present. The Chamber of Commerce has voted unanimously to oppose the change in the ordinance and to support the unanimous decision of the Planning Commission to table this ordinance. It appears that it moves planning decisions from the present objective method to a very subjective process. They fear the uncertainty of City Council's subjectivity will label Aiken as a city that makes business investment very risky. He said they trust the current City Council members to make good decisions, but they have no way to know what the future holds. At a time when we are hopefully showing some limited signs of economic turnaround they feel that this sends a bad message to the community. Mr. Rich stated speaking personally as a resident of Aiken and as a property owner, he felt the ordinance was a bad public policy. He felt some flexibility in the ordinance is a good thing, but making the ordinance so subjective is a very bad thing. He said as a lawyer he wanted to make a comment from a legal perspective. He said in research of some zoning ordinances the courts have been pretty consistent in requiring three requirements for zoning issues: 1. that they be non-discriminatory, 2. that they be reasonable, and 3. that they be applied in a uniform manner. He felt the proposed change in the ordinance almost guarantees that there will be a lack of objective criteria, making it a more subjective process.

Councilman Dewar stated one of the things that brought this about, and why the Planning Commission was asked to consider changing the Use Table, had to do with the issue of the Murphy Gas Station at the Shoppes at Richland. The residents indicated that they had been told there would not be a gas station in the shopping center, but there would be upscale restaurants, etc. Proof of that never materialized. He listened to the audio of the meeting and read the written minutes, but there was no promise by the developer that there would not be a gas station. Going through that process Council seemed to accept the fact that there was going to be more upscale so the request was not approved on first reading. Then their attorney pointed out that there was a use by right for a gas station in the shopping center, so Council was compelled to approve it. He said if Council keeps the use by right in, as Council is being asked to do, it is a clear indication of what can go into a given project and it does take away authority that Council has now with a planned development. He said he thought the planned development was originally organized to provide flexibility to the developers so they would not have come to City Hall all the time, but could make one presentation with Council having total authority saying what was allowed with everyone agreeing. He wondered if that was a problem and if Council should consider getting rid of a planned development concept of 4, 5, or more acres.

Mr. Rich stated in his opinion there are more than adequate safeguards in the system now for Council and for the Planning Commission to review the developments. The proposed ordinance to him is an overreaction to the Murphy Oil situation. If the ordinance is changed to make it so subjective, he felt damage will be done to potential development in the community. He felt the ordinance would leave an air of uncertainty for anyone. He questioned why anyone would buy a piece of property in the City of Aiken not knowing what they can do with it. He felt it would totally shut down the commercial real estate market. He said as an investor why would he buy anything when he knew that when he had to come before Council that Council could change it. He felt the risks and damage that would be done would far outweigh the minor benefit of having more flexibility and subjectivity in the process.

Councilman Dewar asked Mr. Rich how he would consider the interest of residents that Council has to deal with and neighborhood concerns. He felt Council would be losing the flexibility to deal with neighborhood concerns about projects that are going on in their neighborhood, and Council would end up with a chart that has to be followed and that is it without regard to concerns of the neighborhood.

Mr. Rich stated the purpose of a zoning ordinance is to lay out objective criteria so the residents will know what can be placed on property as well as the developers. The purpose is so they all have some clarity rather than making it such a subjective process. He felt the proposal was an overreaction to one situation. He pointed out Frank Thomas, the Chair of the Chamber, lives on Kalmia Hill near the Walmart development at the Shoppes on Richland. The proposed Murphy Oil development did not bother him. He pointed out there would always be a vocal minority that will not like something.

Councilman Dewar stated his concern was that Council does need to take into consideration the concerns of neighbors on projects. He said he would not be comfortable if the whole process had to be managed by a chart.

Mr. Rich stated if Council doesn't like the chart change it, but give some objective criteria so everyone knows what is on the list.

Councilman Ebner asked if, in the original concept for the Shoppes at Richland Council at that time had said no gas station in the development would that have been feasible under the present ordinance.

Mr. Gary Smith stated when a developer comes to Council with a plan that they want Council to approve, as part of the negotiation of the concept plan in a planned development district, Council has the ability to ask the proposed developer if they would be okay with not having a gas station in the development. If the developer agrees, then that can be marked on the concept plan as no gas station for the development. That could have been done for the Walmart Center at the Shoppes on Richland. The minutes show, however, that no discussion occurred before Council about not having a gas station at the Shoppes on Richland. He stated the beauty of planned residential and planned commercial developments is that Council can make the concept plan as specific as they want to if the developer is agreeable. He said Council could put in the concept plan that there be no gas station in a particular development.

Councilman Ebner then said there are other areas now, particularly along Whiskey Road, that people could come in and build a commercial business in front of places such as Home Depot, Lowes, etc. It was pointed out these areas are zoned Planned Commercial.

Mr. Smith stated any change in a Planned Commercial concept plan has to come to Council for review of any modification. He pointed out Kroger's concept plan had a grocery store and a gas station. If Kroger wanted to put something else on that property now, they would have to come to Council to amend the concept plan. Mr. Smith pointed out that with the present ordinance Council could still negotiate what goes into a Planned Commercial or Planned Residential concept plan. He pointed out Council can do this when considering the zoning and annexation of the property. Council ultimately has the right not to approve a concept plan if there was enough uproar from residents. He stated Council can amend the Use Table for a given project, but it has to be done as part of the initial process and approval of the concept plan, which was not done for the Shoppes at Richland project.

Mr. Tilden Hilderbrand, with Hass and Hilderbrand, said they live and die by the Use Tables. He said for them to prepare a conceptual plan for a developer they use the Use Tables. He said it would be difficult to tell a client that they can't tell them what they can do with the property, and if they would have to go to City Council first would really put him at a disadvantage. He said this would make the property less attractive. He said if he prepares a concept plan based on the Use Table, setbacks, requirements, uses, etc. he needs to have some assurance or some comfort level that the use is allowed. Mr. Hilderbrand stated there are a lot of factors that go into a site plan other than just dimensions, impervious area, open

space, etc. He said they need some set concrete guidelines that can't vary. He said they do understand that conditions can be set by Council.

Mr. Gary Smith pointed out that for property that will be zoned Planned Residential or Planned Commercial, the person does not know yet when they come to Mr. Hilderbrand whether City Council would be willing to rezone the property to that particular zone to allow what the owner wants to do. Or, there could be an annexation, and City Council is not obligated to annex any property into the city if they don't want to. He stated any time there is to be a Planned Commercial development involved it will either be a rezoning or annexation.

Mr. Jerry Waters stated he was a lifelong resident of Aiken and is a developer-builder. He said as stated earlier when a use by right is taken away, you take away use in his opinion as an investor and developer. He said if it is all subjective, then the only use is the lowest use allowed. It basically would have no value. He stated he would hate to go to the bank and try to take out a loan on a commercial piece of property that has the lowest use. He said it would be impossible to get a loan on the property. He felt if the property is not zoned commercial and commercial use is not allowed by right, then the property should not be taxed as a commercial piece of property. He felt taxpayers would complain about that. He said Council can impose conditions. He felt some things should be allowed by right. He pointed out developers have those charts, and they go by those charts. He stated local developers cannot continue to grow Aiken, but we need people from outside to develop areas. Those outside need to be able to get development information from the website to see what they can do with some property. If they can't get the information, they will move on to the next site.

Mr. Steve Wilson, 712 Park Avenue SE, stated he is a manager at a financial institution. He stated he was speaking as a business person. He said he had appeared at a meeting on behalf of the Chamber of Commerce at a meeting of new teachers coming to Aiken County. The Chamber was passing out gift cards to the teachers. He said he was struck by how important it is that we welcome new businesses because the businesses will be providing employment for the students that come out of our school system. He felt we should be welcoming commercial development. An important element of commercial development is a certain degree of predictability. A commercial developer will not want to come into our area if they think decisions are made on an arbitrary basis and that everybody is not playing by the same rules. He encouraged Council to make their decision based upon the idea that we want everyone to play by the same rules, to be aware of what the rules are as they develop their plans and make their investments. He felt Council would not want to put themselves in the position of picking winners and losers in the area of economic development.

Mr. John Heaton, President of the Aiken Downtown Development Association, stated the ADDA board voted unanimously to oppose the proposed ordinance. He said he would concur with Mr. Rich and the others who had spoken against the proposed ordinance. He felt it would not be wise of Council to adopt such an ordinance.

Ms. Carla Cloud, Executive Director of the Aiken Downtown Development Association, stated the ADDA board did decide that to change the Use Table would be very detrimental to the economy and to the community, and they were opposed to the proposed ordinance. It was pointed out that presently there is a time when Council can allow or not allow certain uses, and that is at the time the plan is originally submitted if there is an issue about a use.

Mr. Tad Barber, 334 Walker Avenue, stated he was hoping the motion to pass the ordinance on first reading would die for lack of a second, but that did not happen. He said he had a couple of comments. He said he was around when the Planned Commercial zone was developed. He said his interpretation at the time was that the zone would be for large scale developments, but it was changed later to a smaller area of 4 acres, which created the opportunity to have more control over

more developments as they were annexed or rezoned. The other comment has to do with residential surrounding these planned commercial developments. If the development is already there and someone buys a house nearby, they have the ability to go to the City and find out what uses are allowed in that particular development. If they are already living there and a development is planned later, the residents have the opportunity to look at the Zoning Ordinance and come to any public hearings and have those issues addressed at that time. He felt there was some responsibility on the part of the residents who may have a complaint about a development. He pointed out anyone can ask to annex under any zoning that they choose whether it is General Business, Planned Commercial, Planned Residential, etc. However, the Planning Department staff recommends and points out that City Council has a policy that new developments be annexed as Planned Commercial or Planned Residential. He wondered if it was legitimate to have a side policy that overrides the existing ordinance. He said it is confusing that it says a developer can ask for any zoning they want, but when they go to the Planning Department it is recommended because of a policy that property be zoned a certain way. He felt that may need to be addressed. He said the previous statements made are the concerns that he has. He felt the proposed ordinance would create a lot of uncertainty in the market place. He also expressed concern about having to come to Council every time a use might change in an existing planned commercial development.

Councilwoman Price stated she seconded the motion to get the ordinance to public hearing. However, a public hearing is being held on first reading. She said she is supportive of what many had said at this meeting.

Mr. Pearce pointed out to clarify that the Planning Commission recommendation is to leave the Use Table as it is. Voting for the ordinance would keep the Use Table the way it is. The amendments to the ordinance incorporate the previous interpretations by the Planning Director to make them part of the ordinance and clarify other language.

Councilman Ebner stated he was one who had suggested eliminating the "gas station" from the Use Table. He said he was at the Planning Commission meeting when this matter was discussed in detail, and he appreciated all the comments at this meeting. He said he understood that if Council votes for the proposed ordinance the Use Table does not change. The table stays the same and a business can come in and build a service station, etc. The second part of the ordinance is that the amendments incorporate five interpretations of the Planning Director. Council had specifically asked the Planning Department to look at the 50 plus interpretations of the Planning Director and recommend which ones need to be incorporated into the ordinance. He said he had not heard any comments at this meeting as to whether any of the interpretations should or should not be incorporated. He pointed out there had been 50 plus interpretations, and the Planning Commission had decided to recommend that five be incorporated into the ordinance.

Mr. Pearce pointed out the 50 interpretations related to the whole Zoning Ordinance. However, the five recommended pertained specifically to the Planned Commercial zone.

Councilman Ebner pointed out what would happen with adoption of the proposed ordinance is that the Use Table would not be changed, and the five interpretations would be incorporated into the ordinance. He said what he had heard at this meeting is that no one wants the Use Table changed. He asked if there were any objections to incorporating the five interpretations into the ordinance.

Mr. Gary Smith pointed out that there would be a second reading and the people could review the amendments between now and the second reading. Then they could make any comments to Council at the next meeting.

Councilman Dewar asked what would happen if a business not listed in the Use Table wants to open a business.

Mr. Pearce stated the request would go to the Planning Department, the Planning Commission and then City Council for approval.

Mayor Cavanaugh called for a vote on the motion to approve the proposed ordinance on first reading regarding Planned Commercial zoning districts to retain the existing Use Table, incorporating five previously issued Planning Director interpretations made since adoption of the Zoning Ordinance and related to Planned Commercial development, and clarifying Council's waiver authority regarding this section of the Zoning Ordinance. The motion was unanimously approved on first reading with second reading and public hearing set for the next regular meeting of Council.

CONCEPT PLAN – ORDINANCE

The Ridge at Chukker Creek

FPA, Inc.

Hollow Creek Preserve

Ron Monahan

Bill Kolarek

Development Plan

TPN 124-09-01-002

TPN 108-11-01-001

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to amend The Ridge at Chukker Creek development plan.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CONCEPT PLAN FOR THE RIDGE AT CHUKKER CREEK.

Mr. Pearce stated a couple of months ago he had walked The Ridge Subdivision with Councilmember Ebner, Bennett Tucker, Mary Guynn, and some members of the Aiken Land Conservancy. He said they walked the equestrian trail in the subdivision. A concept plan was approved by Council in 2006 that shows a buffer and equestrian trail. He pointed out this is shown in the agenda materials. When they looked at the development there was some question about the developers intent regarding the equestrian trail because it is on the back side of some lots in the subdivision. When they did an inspection they saw a trench with a large riprap in it. On further inspection he said they were not able to identify some connectors that were shown on the original concept plan. The initial trip was followed up with Larry Morris from Engineering and Utilities, Ed Evans of Planning and Richard Pearce meeting with representatives of the developer and expressing their concerns to them.

Mr. Pearce stated city staff has continued to work with the principals of FPA, Inc. and Hollow Creek Preserve, LLC who are building the Ridge at Chukker Creek Subdivision. City Council approved annexing this property and its development Concept Plan as part of the 2006 ordinance approving both annexation and development of these tracts.

Since that time, Planning Director Ed Evans has notified these principals, Ron Monahan and Bill Kolarek, of seven situations from the development done so far which need attention or appear to deviate from the approved development plan.

Deviations from the 2006 approved concept plan include:

1. Gaps in the required vegetation buffer.
2. Equestrian trail designated area is now filled with large rock/riprap.

3. Planting needed in the 10 foot-wide buffers for the perimeter of the development.
4. Removal of between--lot connectors originally described as for equestrian use.
5. Detention pond silting.

Since that meeting Mr. Pearce stated he had met with the developer Ron Monahan, Tilden Hilderbrand, and Bill Kolarek about the status of the development. He said it does not appear, based on the conversation that he had with Mr. Monahan on Friday, August 5, that he necessarily wants to amend the concept plan. He said since this is on the agenda and concerns had been brought to staff which had been followed up with a letter, it seemed an appropriate time, after five years of the development being underway, to get some clarification and some matters before Council so Council could understand the intent of the original concept plan and the intent of the developer regarding the development. He said Mr. Bill Kolarek was present to make a presentation on the status of the development and the intent going forward.

Mr. Bill Kolarek stated the developers were not present to request an amendment to anything including the development plan. He said because there were some concerns which were brought to their attention by the community, Mr. Pearce thought it would be a good idea to give Council an update on the project and how they are addressing the issues that have been brought to their attention. He said he had been working with Ron Monahan in various capacities since he began conceptualizing developing The Ridge at Chukker Creek in 2004. He said since it had been five years since approval of the initial concept for The Ridge, they were present to provide Council with a progress update and to address several issues that have been brought to their attention by representatives of the City of Aiken. He said Mr. Monahan began developing The Ridge at Chukker Creek in 2006, with the projected date of completing the community by mid-year 2010. The initial intent was to market The Ridge as an equestrian community featuring smaller homes and lots with a community horse barn and five miles of riding trails. Though the barn and trails have mostly been completed, it became obvious in June, 2007, when Phase I home sites were ready for sale, the market for equestrian properties had collapsed. After serious consideration and debate and without any changes to the original concept plan they redirected their marketing strategy towards a different target audience--retirees seeking to relocate to Aiken. The change required a significant increase in the marketing budget, since it meant advertising on a national scale rather than just to a local horse community. Though there was much interest generated by the national advertising campaign, sales were slow. As Council is aware, 2008 brought financial crises and total collapse of housing. Sales and buyer interest at The Ridge ceased. He suggested to Mr. Monahan that it might just be best to lock the front gate and wait out the storm until the market improved, but being an eternal optimist he refused. He continued building roads and infrastructure, maintaining property, not because he had to, but because he had promised a few property owners who had purchased lots that he would. While other developers were throwing in the towel and forcing municipalities to expend funds and resources to maintain the unfinished developments they inherited, Mr. Monahan continued forward believing the market would again someday turn in his favor. Not an easy decision, given the cost of developing land without any prospect of immediate return. At the beginning of 2011 he and Mr. Monahan met again to revise the marketing strategy for The Ridge in an attempt to appeal to the Aiken market. After interviewing several building companies, Mr. Monahan was able to engage a builder willing to construct quality aesthetically pleasing homes which met his standards at a price of interest to local buyers, especially those desiring to have their children attend Chukker Creek Elementary school. Once again, Mr. Monahan expended funds to build roads and infrastructure to develop the first section of Phase II of the community. Since April, 2011, twenty-four homes have been sold and added to the tax rolls of the City of Aiken. Buyer interest remains strong and will be enhanced by plans to construct the swimming pool facility, complete with a community center, workout room and children's playground in the near future. As every developer knows, until the last square foot of land is stabilized the battle

with the elements of Mother Nature, especially rain never ceases. It is important to remember that The Ridge at Chukker Creek is a work in progress and will be so for many years to come. Every new road or home constructed affects the full stormwater runoff and must be taken into consideration on a case by case basis. At present, though Mr. Monahan is committed to completing the development in accordance with the approved concept plan, many temporary sediment control measures are in place which require constant maintenance. As homes are completed and lots stabilized, more permanent measures will be implemented. Three issues of concern have been brought to their attention. The first is the temporary riprap drain and associated structures installed along the boundary with Woodside. As the rear yards of the homes constructed along this border are completed, a permanent drainage swale, as referenced on the approved plan of development engineered by Hass and Hilderbrand, will be graded, sodded and stabilized and gradually converted to an equestrian trail, as referenced on the concept plan. The timeframe for completing the trail is dependent on the sale of lots contiguous to it and subject to developer discretion. The sediment pond which supports the drain will continue to be maintained as conditions dictate. Issue two is a vegetative buffer along the same shared boundary with Woodside. Council has the proposed plan by Hass and Hilderbrand and approved by Ed Evans of the Planning Department. This plan depicts the areas which will be planted and enhanced with trees native to our area when weather suggests it is prudent to do so. A serious concern which they bring to Council's attention and ask for guidance is during their study of the buffer area it was discovered that the six foot high stockade fence constructed by Woodside Development encroaches onto Mr. Monahan's property an average of 1.5 feet. Since this fence is just under 1,000 feet in length and the vegetation behind it has been cleared, Mr. Monahan has lost approximately 1,500 feet of natural buffer area, some of which he is now burdened to replace. Issue three concerns the various out lots scattered through the community. At the present time the out-lots are owned and controlled by the developer. At some future date, per the covenants which control the community, the developer will deed the ownership of any out-lots not used for other necessary purposes to property owners for their use, care and enjoyment. It is necessary that the developer have ownership of all out-lots at the present time, since structures such as the sewer system lift station and detention ponds are located on several of these out-lots and will eventually be deeded to the city for maintenance. He said Mr. Monahan is a true environmentalist interested in preservation and sustainability. He said he learned much from Mr. Monahan with regard to best development practices, gained through his many years of developing and building communities in Boulder, Colorado. He said he was certain if you cut him, he would bleed green. He said he had watched in amazement as he has persevered while so many others have quit. He is accessible and willing to assist those inconvenienced by development at The Ridge at Chukker Creek in every reasonable way. He said they hope the sales momentum continues, and they will not be back before Council in another five years for another update.

Mayor Cavanaugh thanked Mr. Kolarek and Mr. Monahan for being present and updating Council. He wondered if Council had any questions.

Councilman Ebner stated he had met Mr. Monahan, but he had not met Mr. Kolarek. He wanted to make sure they understood that he was not looking at the development as to whether they change the plan. He said his interest is in the general area shown on the concept plan as common areas, natural areas, or equestrian trails. He said as far as what happens to the lots of the homeowners, he would leave that to Mr. Monahan and the homeowners. He said his interest is keeping the areas where they are usable for their initial use, which are an equestrian trail and a natural area. He was also concerned about the erosion. He said they probably have a different feel for what erosion is on the area which he essentially calls finished. He said he wanted to be sure he was not looking at how he was developing the houses, but he was looking at the infrastructure. He said he had been reading the city specifications for five years. He wondered if there are any problems with the city specifications or if they had asked for an exception and did not get an exception. He said he was asking that because there have been

some serious misinterpretations on some of the areas. He wondered if Mr. Monahan felt the specifications were standard or if there was something wrong with them. He pointed out they had been in effect since 1987. He said the specifications he was referencing were the Design Specifications and Standards, Landscape Development Procedures, and the Code book. He said, since these have been in effect since 1987, there would not be anything that they would be required to do that somebody would not be. Another part that concerns him is the runoff. He felt they could see the erosion that is downstream of the sediment basin. He pointed out it is digging a hole in areas that should be the 25 foot buffer and the 25 foot equestrian trail. He said his first question is how they were going to address getting the 50 foot buffer back in order down the entire length of the northern boundary.

Mr. Kolarek asked if he was talking about prior to the sediment pond or after the sediment pond, and Councilman Ebner responded both of them. Councilman Ebner stated he understood the comment that the rock may be a temporary issue that was put in. However, in the end one should be able to ride a horse down the trail.

Mr. Monahan, developer of The Ridge at Chukker Creek, stated he had the answers. He said five years ago he left the Council Chambers with the unanimous approval from Council of The Ridge project which he felt was a great idea. He said in this economy they are doing well at The Ridge. There is a lot going on. Erosion and erosion management are part of it.

Councilman Ebner stated he encouraged him to shuffle it like he had been doing in the development of the houses to get the right mix of people coming in. When people move in it creates a tax base.

Mr. Monahan stated he was the developer and Mr. Kolarek takes care of the day to day activities. He said as far as the erosion, he complies with DHEC, but he also is going beyond that. Six years ago he hired CSRA a testing agency certified with the state, and every seven days they check the erosion control. He said this goes way beyond what most developers are able to put in their budget. He said water quality is a very important issue to him. He said water erosion is a very big problem, especially with the soil conditions. He said in six years he had never not been in compliance with the erosion control. He pointed out some weekly reports from CSRA on the erosion control. These reports are sent to the state to state the erosion control is in compliance. He said he is working on the erosion control. He said the riprap is temporary erosion control. When the homes get built, and the water flows where it is designed to flow, it will be a grassy swale and an equestrian trail like indicated on the plan. He said his plan is turning out to be successful. He pointed out they had brought 25 homes into the city this year and over \$600,000 to the tax base. He said they are a bright spot in the residential market now. He said the erosion control is temporary, and it will be completed as approved on the plan five years ago. In response to a question as to the timeframe, Mr. Monahan stated it depends on the market. He said as each home is completed, the landscaping gets done behind it which controls where the water is supposed to go. He said he could not give a date as to when that would be completed. However, in the meantime, a temporary erosion control is in place. He said even if he could make the horse trail now he would not introduce horses behind homes under construction. He said he had built another five miles of horse trails in the other direction, and he would be happy to show that to anyone. He said they are going beyond their requirements, but in the one particular area they have a lot of homes under construction, probably 20 homes. He said, however, the trail is not ready to be a horse trail yet, but it will be according to the plan. He said if that is not possible, he would come back to Council and ask for an amendment but he does not foresee that happening.

Councilman Ebner asked about the sediment basin downstream of the pond.

Mr. Monahan stated it was all engineered, and it will all be built according to design. In the meantime, temporary erosion control is being done. They are not affecting the watershed in any way, but are in full compliance with DHEC.

Councilman Ebner stated he felt each of them was seeing two different things downstream of the pond. He pointed out some improvements had been made in the upstream. He asked if the sediment basin was supposed to hold water or not. He said he wanted to know if it was a sediment detention or a sediment retention pond. He said the drawings and what is there do not match, but perhaps there has been a change.

Mr. Monahan stated that was an engineer question, and he would ask that Tilden Hilderbrand answer that question. Mr. Hilderbrand stated it was a sediment detention pond and water should run out of it within 24 to 48 hours unless sediment has accumulated blocking the hole that allows discharge from the pond. He stated that is an ongoing process.

Councilman Ebner asked if it should be a detention pond or a retention pond for the next couple of years. He pointed out that now it has been a retention pond because it is holding water. During this period of time it probably should be a detention pond. He pointed out the pond had water in it today and there is no way that water will drain out.

Mr. Hilderbrand stated it should be a detention pond. He said detention detains and retention retains and detention will dry up. In answer to the statement that water is not draining out, Mr. Hilderbrand stated it needs to be cleaned out so it will drain.

Councilman Ebner asked Mr. Hilderbrand if he had looked at what is installed there versus the drawings on record with the City. He pointed out the basin does not have the 5 inch diameter hole. It is similar to a vertical weir where the water goes out. He asked that Mr. Hilderbrand working with the city inspect that.

Mr. Hilderbrand stated he had looked at it, and there was some discussion about the outlet pipe size. The outlet pipe size is smaller than the one shown on the plans. He said Park Engineering and Joel Seemans prepared the plans, and he just inspected the site and observed the site. He said if a 5 inch diameter hole is what is on the approved plans, then the 5 inch diameter hole needs to be installed. Mr. Hilderbrand stated he would inspect that with Mr. Morris.

Councilman Ebner then discussed the 10 foot buffer around the boundary which is in the flood plain. He wondered if the flood plain would protect that around the rest of the area. He said he had a number of other things that are miscellaneous. He said since this is not an ordinance, he would propose to the City Manager that perhaps Council have a worksession with the appropriate people, including the neighbors, and talk about some of their issues. He said he had asked his key questions, but he had some others on infrastructure.

Mr. Monahan stated this had been checked every 7 days for the last six years and the answer is yes.

Mayor Cavanaugh asked if any of the neighbors would like to speak at this time.

Ms. Judy Miller, of 103 East Pleasant Colony Drive, stated she would like to respond to Mr. Monahan's comments. She stated she would request that for any steps that are forthcoming that the City be very, very specific with this developer as to dimensions, specific plantings in terms of species, size and maintenance. She would suggest that the City monitor the process during implementation and hold the developer accountable for meeting all the plans as accepted. From a historical perspective, she brings her concerns due to, in her opinion, what has brought everyone here at this time. She said her problem began in October, 2004 when the property across the street from her home was undeveloped and heavily

wooded and to her knowledge was owned by a lumber company. In October, 2004, she said she observed Mr. Monahan placing at least a 5 x 6 foot wooden No Trespassing sign on the property. She went over and met Mr. Monahan and asked what was happening on the property. He told her he had just purchased the property, and when she inquired as to what he was going to do with the property he said something like "the only thing I am not allowed to put there is a brothel or a Walmart." She said she began to actively monitor the development. She said she, her husband and her neighbors attended the Planning Commission sessions when the concept plan was presented and heard the comments on the plans that were presented. She said they were present in large numbers for those meetings, and they left with an assurance that this would be a very pristine, equestrian community. She said one of the reasons, in her opinion, that the City approved the equestrian development was because the riding trails would be included. At that time neighbors abutting on Chukker Creek, who were also equestrian folks, presented both verbal and written comments to City Council that Mr. Monahan assured them that this would create a riding segment of trails that people from outside the development could utilize. The plans showed specific plantings that would be afforded in the property line going between Chukker Creek development and East Pleasant Colony Drive and a 50 foot buffer, 25 feet of which would be maintained as an undisturbed vegetative area plus a 25 foot equestrian trail. She said her concerns began when the property started to be developed. At that time Councilman Dick Smith dealt with some of her concerns when the road was first put in, and she was concerned about whether the distance was correct from the property line. Councilman Smith measured and found that it was not correct. Then began the questions that arose in their minds. She said in her opinion evidence of non-compliance with accepted plans continued in August, 2010, when the demolition of trees began along the property line. At that time she contacted the Planning Department and was told that the City would wait until construction was complete and then require any corrections necessary. When construction was started on what looks like a retention pond to her, along the property line she contacted the Planning Department. On the original concept plan there was no evidence in her recollection of a retention pond. She called the City, and they suggested she contact the Engineering Department to view the initial accepted concept plan. When she arrived at the Engineering Department she was told that the plans were in Planning. She then went back to Planning on a Monday, and when she arrived at the office she was told that the final plan had been received the previous Friday, and they had not been reviewed yet. Her question was how could a retention pond be built when final plans had not been presented for construction. She called the Planning Department in September, 2010 after she heard two workmen discussing the size of the pipe state "no one will crawl down in the hole to measure it." She said she crawled down in the hole and measured it with her Councilman and found, in fact, what she believed on the plan to be 36 inches was 18 inches. She said she was glad to hear that the retention and riprap were only temporary, but she was concerned about the pond because it is holding water in this time of very dry weather. Her concern is for infestation of mosquitoes and diseases. She said their homes are close to the pond. If that retention pond had been on the concept plan, they would have addressed those issues with Council. Her understanding is that DHEC after the fact might have required that, but her concern is that the way it is currently built it has been overflowing and digging into the area next to the property line. In her opinion in terms of engineering, if we were to have a heavy rain repeatedly it could potentially flood across the property line and into her yard. She said she was also concerned about the way it is flooding that it would go down into a wetland area that still remains on the Chukker Creek property. She said she contacted Councilman Ebner when she was not receiving assistance from the city department she had been calling repeatedly since last August. Her concern is who monitors developments after concept plans have been accepted? Who holds developers accountable when plans are changed after acceptance? Does the City expect the concerned citizens such as herself to monitor developers? She said her neighbors had asked her to be the spokesperson, but all are very concerned about what they are seeing along their property line. She would like Council and others

to help her understand the process and how accountability will be maintained with Chukker Creek.

Mr. Dacre Stoker, 331 Kershaw Street, stated he wanted to thank Council, especially Councilman Ebner for taking on this concern. He felt what Ms. Miller was talking about was very important. He said we have a wonderful city, a great county and we have a lot of development. He said we need more people like the people present. The people who are developing here need to be held at higher standards because Aiken is such a great place to live. He said he was not saying Mr. Monahan has a bad development, but he does have great lofty plans. Mr. Stoker said he was director of the Land Conservancy when Mr. Monahan brought the plans to Council. He felt conceptually Mr. Monahan had done a great job and has great plans. He felt there may be some issues during the building phase. He said he is no longer with the Land Conservancy, but as a citizen he has some concerns. Being a member of Hitchcock Woods he is very aware of erosion issues. He said if a blind eye is turned by mistake or oversight, or if things sneak passed BZA or the Planning Commission and end up in the gray area between DHEC and who is actually looking, we can end up in some serious problems. He said he knew the City did not want to end up with Hitchcock Woods II or anything even remotely like it anywhere. He said he was very relieved when he heard from Mr. Monahan that the riprap on the equestrian trail is only temporary. He said he has no reason not to believe him, but he is skeptical. He said he would believe it when he sees it. He felt it was going to be a challenge because it is a very steep slope and very sandy. He pointed out that all the trails in Hitchcock Woods that are steep like that and sandy are not easy. He felt that with the oversight that can be brought to this, and with increased awareness by Councilman Ebner, we will make sure that the development and the plan that he brought to the city will be followed through and make sure it is the way he said it will be and we will not have problems five years from now.

Mr. Scott Robinson stated he was a resident of The Ridge at Chukker Creek. He said he was not from Aiken and has no local ties. He said his understanding of the issues is that people in Woodside are a little upset because the land was developed, so they are now trying to nitpick anything done. He said many times during the last couple of months, he has had people from Woodside walking through his property measuring and looking. He said there was a 50 foot buffer zone on his side. He wondered if there was a 25 foot buffer zone on their side. He said he had walked the buffer and there is lawn furniture, wood, bird baths, etc. in the buffer zone. He said if we have to be in compliance they should also. He said he did not appreciate people coming in his yard.

Ms. Janice Thomas, 216 Equinox Loop, stated she has a 50 foot buffer behind her. She was not happy when the riprap went in either because they had not built yet. However, Mr. Monahan assured them that it would be done in the equestrian trail like he promised. She said she moved from Ohio six months ago. They chose Chukker Creek at the Ridge because of Mr. Monahan. She felt he was a man of integrity and has done everything he said he would do. She said she agreed that it seems they are getting nitpicked. She said she had seen people in her backyard measuring. She said she is a taxpayer too, but she might not have the money that they have in Woodside. She said she did not like people coming in her backyard. She said she can't go in their backyard and measure because she can't go into Woodside. She said she loves The Ridge and thanks Mr. Monahan for everything he has done to make The Ridge a nice family community.

Mr. Phil Haggerty stated he lives at 137 East Pleasant Colony, which is the development area on the north boundary of The Ridge at Chukker Creek. He stated he realizes it is important for the City to work with developers who are adding improvements required for the growth of the city to provide a suitable business climate and do whatever we can to provide a friendly, mutual, beneficial working relationship. He said he was an engineer, and he realizes that sometimes concept plans and final plan drawings change due to unforeseen circumstances, such as economic climate. He said the developer of Chukker Creek submitted a

concept plan in 2006 and a final plan in 2010. He said in 2006 the Commission voted 5 to 2 against the motion to approve except for the following changes which included: "that single attached family residential buildings follow the tree preservation provisions of the Zoning Ordinance." He said he was not sure that had happened. There was to be a 50 foot deep visual buffer along the perimeter of the northern boundary of the site consisting of a 25 foot deep horse trail and a 25 foot deep undisturbed vegetative buffer. The developers submitted a detailed plan on September 10, 2010, but the retention pond had already been built. The retention pond currently extends through the 25 foot equestrian trail and through 3 to 5 feet of the buffer area, which is supposed to be undisturbed. He stated some magnolia trees had been planted, but they had died because of lack of water. The equestrian trail as it exists today passes through a steep slope which is too steep to walk up, as it is about 20 feet high, and there is about 100 yards of riprap which the developer says he is going to remove. Then there is a retention pond which he could swim through. He said the developer had totally ignored the requirements for the 50 foot buffer. Even if the buffer and equestrian trails were repaired, the horses would still have to go through mud. The retention pond is beginning to fill with silt. It is full of algae and is a mosquito breeding place. He said he was looking forward to Mr. Monahan removing the retention pond as he promised, because he is going to need the 25 foot buffer for the horse trails. He said if he is going to meet the concept plan he will have to move the retention pond. He said the engineering firm that designed the retention pond required a 36 inch diameter drain, but an 18 inch drain was installed. He installed a weir, so there is no control over the water going into the drain. He said he can't find any indication that the developer advised anyone in city management before making a significant change to the design. He suggested that the developer correct the drain pipe or provide engineering analysis that the drain is adequate. The developer has proposed plantings in the buffer area, but the plantings are not appropriate for the area. He suggested that the developer present a detailed landscape plan of what he is going to do. He pointed out there was a section in the material called Key Points of Development Covenants and Restrictions that was submitted by the developer with the concept plan. It says specifically no clear cutting of lots. He said he had counted 67 lots that have been clear cut and another 20 to 30 lots he couldn't count because there are no lot markers installed. He said there are probably 75 to 100 lots which have been clear cut, in specific disagreement with what was said in the concept plan. The concept plan said they would not cut any trees over 4 inches in diameter, so this was totally ignored. He said he would have a horticulturist identify specimen trees so they could be saved. He doubted that had been done. He said the concept plan said side entry garages would be used wherever possible with minimum front garages. Today there are 18 lots built or under construction and there are 18 frontage garages. A horticulturist survey obviously was not done. The plan called for a 50 foot buffer consisting of a 25 foot untouched natural buffer and a 25 foot equestrian trail. He said he would comply with the Tree Preservation provisions of the zoning ordinance. He said he felt the developer has ignored his commitments in the conceptual plan and his initial plans. He has consistently violated everything he said he was going to do. He may have a nice development, but he did not do what he said he was going to do and follow his commitments. He said he felt the city and the developer had an agreement. Based on the approved plans, it appears the developer has arbitrarily and unilaterally modified those plans without advising the city. He said he was concerned that the developer had not followed the plans he submitted. He said he would suggest that an updated and detailed plan be submitted by the developer and incorporate any amendments before any amendments are acted upon. He felt a detailed plan should be submitted by the developer stating what he is going to do, what plants he is going to plant and where, whether he is going to move the retention pond as he promised, and whether he will repair the buffer trail. He said when he reviewed the area with a Councilmember and others they found a series of Woodside survey pins at all the corners. It appeared that the Woodside boundary was consistently 1 1/2 feet inside the survey pins. He wondered if the survey pins were in the wrong place. He said it appeared that the Woodside fence was 1 1/2 feet inside the boundary.

He submitted photographs of the retention pond, the erosion, and the riprap. He said there are drainage problems.

Mayor Cavanaugh stated notes had been made of the issues and staff would look at these matters. He felt some of the matters mentioned tonight need to be checked to see what is happening. He said issues about not following the approved plan concern him also. He felt staff should go over the things that have been reported at this meeting and see what is right or wrong and what can be done to correct the matters.

In response to a question by Councilman Homoki regarding the location of the fencing for Woodside, Mr. Haggerty stated they walked the fence, and they found that all of the corner points of the fence were marked by survey pins and those pins were 1 1/2 feet inside Woodside boundaries. He said the Woodside fence is 1 1/2 feet into the Woodside property if the survey pins are in the proper location.

Mr. Bill Kolarek stated Mr. Monahan had had his property surveyed by Tripp Surveying and the survey shows that the Woodside fence is 1 1/2 feet onto The Ridge property. He said the surveyor brought this matter to their attention.

Councilman Ebner stated this matter had been brought to his attention about four years ago. He said there are survey pins there. He said he had thought that the 1 1/2 feet was taken care of then, but evidently not. He said Mr. Pearce would follow up on this matter.

Mr. Monahan stated it was very hard to sit and hear the gentleman say he had done a lot of things wrong when he felt he had not. He said he had adhered to the plan. He said he was made aware of the outlet box in the retention pond which has an 18 inch pipe which should be a 36 inch pipe. However, it has been confirmed that the 18 inch is a better scenario because it slowly releases water. He said they would change it if it is drawn as 36. He said he is understanding from an engineering standpoint that an 18 inch is better, as it slowly lets water out. He pointed out, regarding the drainage slot that Mr. Haggerty was talking about, there is a 5 inch orifice, and there is a stainless steel device that goes across the 5 inch orifice, and it has several layers of screens to keep debris out. At this stage this is temporary. He said he was notified of this meeting a week ago. The meeting was put in place before he was contacted by Woodside or the representatives. He said no one had ever talked to him about the issues. They have been following the development for several years as the neighbors have seen them measuring. He said no one had come to him. He said he would be happy to meet with them and explain the concerns and put the fires out before it gets this far. He said he was a good neighbor. He felt he was doing a good development, but it is a challenging site as the ground is not flat. He said he will build the trail. He said it was hard to sit and listen to all the comments about violations. He was concerned about his reputation.

Mayor Cavanaugh stated he thought a lot of Mr. Monahan, but he felt we need some accountability. He pointed out Council is hearing a lot of complaints, and he was not sure where the fault is. He felt there does need to be communication between the parties. He said the City will work on the issues and see what inspections the City should be doing.

Ms. Robin Verenes stated she had lived in Aiken 57 years and was married to a native Aikenite whose father once owned a business in downtown Aiken. She said they have an extended family in Aiken so they are very committed to Aiken and very committed to diversity in Aiken. She said she and her husband were one of the first ones to move to Phase II of The Ridge at Chukker Creek. She said their house is a brick house next to the retention pond that has been such a controversy. She said they have a house in the country, and she has gotten more mosquito bites from the house in the country than she had from her present backyard adjacent to the retention pond. She said when they had a problem with torrential downpours this summer, she emailed pictures to Mr. Monahan and

within two days he contacted her. Within another two days he had people there looking at the backyard and coming up with the temporary boulders to address the erosion. She stated the point is that she lives in the neighborhood. Mr. Monahan has addressed every concern they have had far more quickly than she had ever gotten from anyone else. She said Mr. Monahan addresses their concerns. She said she had full faith and confidence that Mr. Monahan will take care of adjusting the back of her lot when the other houses are built in the area. She said she had paid dearly for her house, and if she had any issue that Mr. Monahan was shooting her a line she would be the first to complain. She pointed out that Council is hearing a lot on one side from a neighboring subdivision, but for those who live there, walk there and have to deal with Mr. Monahan, they would appreciate your also listening to their world.

Ms. Charlene Harris, 107 East Pleasant Colony Drive, stated her home is located directly across from the detention pond. She said she would like to echo some of the earlier comments about the health hazards. She felt they should be concerned about possible health hazards with the standing water. She pointed out in the proposed plantings she did not see any new plantings specifically in her area, but some had been done in other areas. She pointed out that between the detention pond and her home the plantings had permanently been removed so what is left is small volunteer plants. Both sides have a limited vegetative buffer to provide the privacy that both sides are looking for. This becomes worse in the fall because 90% of the vegetation on her side is deciduous, so this leaves a clear view for about 5 months. She said as a landscaper she has serious concerns about the plantings that have been removed, especially those discussed before City Council in 2006 with a promise that those plantings would be left to provide a vegetative buffer and privacy for both sides. She said she was not aware that specimen trees were identified by a professional horticulturist so they might have been preserved. She pointed out that the 6 magnolias that were planted are now dead and actually were planted too far apart to provide a buffer for privacy. She said she would like to suggest that instead of planting more magnolias, which are slow growing, that perhaps Mr. Monahan could look at plantings that are fast growing, drought tolerant, evergreens that provide a dense privacy barrier and have a growth rate of three feet or more a year and still grow to the height of magnolias, which attain 50 feet. She suggested some plantings that could be used and a way to plant them. She said she would like to be a good neighbor to those in The Ridge and would extend her hand.

Mr. Robin Thomas stated he lives in The Ridge. He said when the problem regarding erosion first took place he was one of the first people to inspect it. He said he is an engineer, and he knows that conceptual drawings are not final drawings. He said he has to submit designs and they get changed. The original problem with erosion was shocking. He said he was assured by Mr. Monahan who has done everything that he has asked to take care of the problem. When the boulders were put in, it was a temporary solution. He said it takes care of the problem now. He said he was comfortable with the fact that it will be fixed, and it will be completed as the houses progress. According to his plan as the houses are built down the hill, so will the solution. He said he had spent several hours with Mr. Monahan one day going over options on what to put in the area as far as vegetation to make it aesthetic and beautiful to please the homeowners in The Ridge as well as the adjacent homeowners. Mr. Monahan has been very concerned and very vocal about pleasing everyone on both sides of the fence. He said he had never met a developer who has backed himself up the way Mr. Monahan has. Mr. Thomas stated he was from out of state. He felt The Ridge is going to grow, with many people from Aiken and from out of town. He said the neighbors had met each other and formed friendships, and The Ridge is a community that is growing. He said the residents hold Mr. Monahan accountable. He said he was one of the first to demand that someone look at the situation and something happened within a week. The trees that were removed were taken down because there was improper drainage. He said a new tree had been planted in his backyard, with the intention of adding to that as the development grows. He said he was comfortable with the progress though it may seem slow to some.

There is very little one can do as long as the land is being developed. Until the excavators get done and until the dirt is brought in and the land is elevated the way it is supposed to be and decisions are made on four lots between him and the Verenes, not much can be done. He said they are devising a plan to take care of it. He said he was confident that they will come up with a plan that will satisfy everyone.

Mr. Pearce stated that he has a lot of information regarding the issues. He said he would meet with staff the next day. He said it may be appropriate since the proposed ordinance will not be considered at this time to take the matter under advisement and he could make a report to Council at the September meeting.

Councilwoman Price stated she had known Mr. Monahan and had spent some time with him. She said what had been described in terms of his lack of attention is not the man that she knows and would not knowingly ignore things if he were aware of them. She pointed out there had been some good comments about his credibility. She said she appreciates the Woodside people extending a good neighborhood hand. She said it takes patience, working with your neighbor and being a good neighbor. She appreciates the effort to work together on the matter.

Councilman Ebner asked who would be responsible to follow up with Woodside to get the issue straightened out regarding the fence and survey line. Mr. Pearce responded that staff would look at the matter.

Mayor Cavanaugh thanked everyone who was present to talk about the matter. He said Council will take the matter as information and under advisement, knowing that staff will be looking at the issues mentioned and bring back information to Council.

GREEN SPACE – RESOLUTION

East Pine Log Road
TPN 122-06-08-010

Mayor Cavanaugh stated a resolution had been prepared for Council's consideration to purchase property for green space.

Mr. Pearce read the title of the resolution.

A RESOLUTION AUTHORIZING THE PURCHASE OF 0.5 ACRE OF REAL PROPERTY LOCATED IN THE CITY OF AIKEN ON EAST PINE LOG ROAD ADJACENT TO THE CITY OF AIKEN DEEP WELL WATER FACILITY.

Mr. Pearce stated he and Engineering and Utilities Department Director Larry Morris had visited a parcel immediately adjacent to the deep well building on East Pine Log Road, on the southside of Aiken. Oswalt Family Real Estate owns this tract. The tract is approximately a half acre. He said the City had had an appraisal done and understand the tract is about a .41 acre tract. The property is for sale for \$95,000. We were interested in pursuing a contractual arrangement to purchase this property which is adjacent to the City's well site for \$60,000. The appraisal shows the value to be \$51,000. There were two contingencies in the proposed contract of sale provided to Council. One was that Council approve the purchase with the second one being that the property appraise for at least \$60,000. A proposed contract of sale was provided to Council for consideration for purchase of the property. Mr. Pearce stated he would ask for Council approval for purchase of the approximately half acre at an offer of \$51,000 the appraised amount.

We believe purchase of this property not only protects green space on our southside of town--along a stretch of heavily-traveled roadway that has seen a lot of commercial development--but also preserves additional, beneficial buffer between a residential development, a manufacturing facility, and the city's deep

well water facility.

For Council consideration is approval of a Resolution to purchase a 0.41 acre tract on East Pine Log Road for \$51,000.

Mayor Cavanaugh pointed out this property is adjacent to the City's property on which a water well is located on East Pine Log Road.

Mr. Pearce stated there was a question as to whether there were any easements on the property or a wetlands area. There is no wetlands area and there are no easements through the property. There is just a drainage ditch through the property. It was pointed out that the City already owns some other property in the area. There were comments about houses on other lots in the area, but this lot had not been built on.

Councilman Dewar asked why the City needed the property. Mr. Pearce responded that in the Strategic Plan approved last year one of the goals was the acquisition of green space. There will be opportunities in this economy to purchase green space. Staff looks for available green space adjacent to our existing city facilities.

Councilman Dewar stated his thought in asking for money to be set aside for green space was not this. He felt it was for the purchase of property that would be enhanced by the City's purchase and not developed and left as open space or maybe land that could be purchased for use as a park. He said this land was just a lot, and he could not see that it has any value for the city to purchase. He said this was not what he thought most people thought the city would purchase for open space. He said he could not see what purchasing the property would give the City. It will not be a parking lot, and we would not be able to do anything with it. He said he could not see a valid reason to purchase the lot.

Mayor Cavanaugh stated he understands as he had questions also as to why the City would want to purchase the property. He pointed out the reason the City may want to purchase the property is that it is contiguous to some property the City already owns and on which there is a water well.

Mr. Pearce pointed out that for open space you would not necessarily do anything with open space. He said it was felt this was an opportunity to avoid commercial development adjacent to a city facility.

Councilman Wells asked Mr. Larry Morris, Engineering and Utilities Director, the purpose for the purchase of the lot on East Pine Log Road. Mr. Morris responded there were a couple of reasons he would like for the City to purchase the lot. The drainage area which comes through the lot goes into the Mallard Lake system. One of the recommendations on a study several years ago was to try to find more property north of Pine Log Road so there could be an area for drainage. He pointed out a ditch does not run through this property. The ditch is immediately adjacent to the City's water treatment facility. In his opinion this property was not developed because it had a sewer pump station immediately adjacent to it, about 5 feet off the property line. This sewer pump station took care of the Gatewood area, the area toward Millbrook Church and was rather large. It was noisy and smelly. This pump station was moved several years ago near the Willow Wood development. He felt this property would be valuable for the City in being able to do some excavation for a small detention pond and still have some green space left. He said with the ditch, the City's existing property, and the new property this could help alleviate some of the flooding downstream. He said anytime we can get some property to provide drainage facilities north of Pine Log Road it would be worth it. The reason for recommending the purchase now is that funding is available now under the One Cent Sales Tax funds.

Council continued to discuss the proposed purchase of the lot on East Pine Log Road. They discussed the property that is currently owned by the City of Aiken

and the proposed use of the lot. Mr. Morris stated the property could be used for detention facilities.

Councilman Ebner moved, seconded by Councilwoman Clyburn, that Council approve the resolution for purchase of a lot on East Pine Log Road for open space at \$51,000.

Councilman Homoki stated perhaps the City could offer \$30,000 for the property. Councilman Dewar pointed out the City always pays the appraised value for the purchase of property. Mr. Pearce pointed out the property is listed for \$95,000. He pointed out Council insisted that staff get two appraisals for the purchase of property and it has been Council's direction to purchase property for the appraised value.

Councilwoman Price wondered if the property owner had come to the City asking the City to purchase the property or did the City go to him. Mr. Pearce responded that the property was listed for sale. The property is contiguous to city property, and that was the reason for pursuing the purchase along with the other reasons mentioned with it being north of Pine Log Road and used to help with drainage problems.

Councilman Dewar pointed out that the City had purchased the George property with one appraisal, as well as the Ark property. He said if there is a policy for two appraisals we should comply with it. He said he could not argue with the rationale given by Mr. Morris, as the rationale given could be used to buy any empty lot in the city, as any empty lot in the city could be used for retention.

Councilwoman Price stated she could not support this request.

Mayor Cavanaugh stated he supports the Engineering and Utilities Director if he says we need the lot and that it could be used for good use. Mayor Cavanaugh stated he was for getting anything at the lowest possible price.

In response to a question regarding the price of the lot, Mr. Pearce stated it was listed for sale for \$95,000. The City would offer the appraised value which is \$51,000. He pointed out that \$51,000 is what he would recommend. He pointed out the resolution is for \$60,000 as they thought the appraisal would be \$60,000, but it has appraised for \$51,000.

Councilman Dewar pointed out the city has a policy for two appraisals. Mr. Pearce stated staff would get another appraisal before purchasing the property. Mayor Cavanaugh stated he would also suggest that staff get another appraisal. He said he agreed that the city should get at least two appraisals from now on if recommending purchase of property. He said we go through this every time, and we only have one appraisal.

Councilman Ebner stated he would like to withdraw his motion for approval of the purchase and Councilwoman Clyburn withdrew her second of the motion.

Mr. Pearce stated Council could proceed with the resolution contingent upon the second appraisal confirming the \$51,000 price. He said Council could either withdraw the motion for approval for the purchase, or the request could be carried to the September meeting and another appraisal could be done in the meantime. Or, Council could approve the resolution contingent upon an appraisal for \$51,000, which would mean that the property could be purchased for \$51,000 or less.

Councilman Wells moved, seconded by Councilwoman Clyburn, that Council approve the resolution for purchase of the lot on East Pine Log Road adjacent to the city's property, with the contingency that a second appraisal be obtained, with the purchase to be \$51,000 or less, depending on the second appraisal. Those in favor of the motion were Mayor Cavanaugh, Councilmembers Clyburn and Wells.

Opposed were Councilmembers Dewar, Ebner, Homoki and Price. The motion failed.

Councilman Homoki moved, seconded by Councilwoman Price, that Council ask staff to get a second appraisal on the property on East Pine Log Road and bring the matter to Council at the next meeting. The motion was unanimously approved.

Mr. Pearce stated he was understating that Council has asked that staff get a second appraisal and bring the resolution back with both appraisals for Council to review.

BUDGET CLOSE OUT

FY 2010-11

Mayor Cavanaugh stated Council needed to approve the year-end budget report for FY 2010-11.

Mr. Pearce stated that Finance Director Kim Abney had provided the FY 2010-2011 budget final report. She has reported unspent and (overspent) funds as follows:

General Fund (001)	\$935,022
Utilities Fund (002)	3,664
Storm Water Fund (006)	(271,748)

Fortunately, we have reserve funds to cover the expenditures that took our Stormwater Fund (006) over its budgeted amount. An unexpected sinkhole at the Jeweler's Loupe on Richland Avenue contributed to this additional spending.

The Utilities Fund unspent funds of \$3,664 will be carried over to FY 2011-2012 needs.

The unspent money in our General Fund needs to be applied as follows:

<u>Total to be Applied</u>	\$935,022
Worker's Compensation Insurance, Deductible	\$200,000
General Liability Policy, Deductible	100,000
Health Insurance, Cap on Individual Claims	125,000
Northside Revitalization Projects Infrastructure	150,000
Crosland Park Revitalization Infrastructure	150,000
Public Safety, Body Armor Purchase	37,950
Council Chambers, Renovations	10,000
Parks, Recreation & Tourism, Call Boxes	5,000
Parks, Recreation & Tourism, Security Installation	5,000
Parks, Recreation & Tourism, Woodward House Fence	5,000
Parks, Recreation & Tourism, Trolley Replacement	30,000
Parks, Recreation & Tourism, Tennis Court Sidewalks	16,500
Total	\$834,450
Remaining Unspent General Fund Balance	\$100,572

Mr. Pearce stated that Council had discussed the raising of the city's deductible on the insurance policy in order to realize premium savings. He said it was being

recommended that a portion of these unspent funds be put in a special reserve account designated as the deductibles for the Worker's Compensation, General Liability policy, and health insurance, with \$200,000 for Worker's Compensation, \$100,000 for General Liability, and \$125,000 for health insurance. Staff would also like to apply \$150,000 to the Northside Revitalization project and to the Crosland Park Revitalization project. He stated the city is renovating houses. Funds are committed to the renovation of those houses which consist more of a revolving fund. We renovate a house, sell a house and purchase other houses that need to be renovated. The \$150,000 would cover expenses that are not designated for the renovation of homes, but would represent the work being done in the neighborhoods in addition to just restoring homes. The remaining items represent monies that we have not yet spent because those items have not been completed. These items were budgeted last year, but not completed. We would like to complete them this budget year. That leaves a General Fund balance of \$100,572 that has not been spent.

As discussed with Council in our budget hearings in June of this year, Council approved a 1% cost of living increase for city employees. At that time he told Council he would not implement any COLA employee salary adjustment until it had been identified that there were funds to cover the expense. He said his proposal is to take the \$100,572 and apply it to the cost of living adjustment for city employees paid out of the General Fund. Some employees are paid out of the Utilities and Stormwater Fund, and it is felt that there will be funds to cover a 1% cost of living for those employees as well. He said he would like to proceed to apply this remaining unspent balance to a 1% cost of living salary adjustment for the employees beginning with their September 30, 2011 employee pay checks.

Our employees have worked extremely hard this past year to help contain our costs, limit our expenditures, and work to obtain an unspent balance of General Funds to remain in the General Fund for carry over to FY 2011-2012.

For Council approval is designation of these itemized unspent funds for the expenses listed.

Councilman Ebner asked for clarification on the Northside Revitalization and Crosland Park Revitalization. He said it sounded as though the funds would be used for infrastructure, which he felt was okay. However, he did not feel that these funds should go towards renovations. He asked if the funds could be designated for infrastructure so there would be no question later.

Mr. Pearce responded that the funds would be used for anything except for renovation of houses.

Councilman Dewar asked how much more money we plan to send to the Northside Revitalization and Crosland Park work. He pointed out there are funds in the One Cent Sales tax for both of the projects. Mr. Pearce responded there is money in the One Cent Sales tax, but that is for renovation of houses. The unspent money from last fiscal year is proposed to be used for infrastructure which could be stormwater, sidewalk installation, and street lighting. These improvements would increase the property taxes over time.

Councilman Dewar stated he did not agree with the comments on the 1% pay increase. He stated he did not get the impression that Council approved the pay raise in the budget. He said he clearly understood that Mr. Pearce would come to Council in December if the money was available.

Mr. Pearce stated the budget has salary levels that included a cost of living adjustment. He said he had told Council that he would not implement the cost of living adjustment until he made sure that we had the revenue to pay the cost of living adjustment. He said he had commented that we should know by December for sure whether we had adequate revenue to pay the cost of living adjustment. With the unspent funds from the 2010-11 budget we now know that we have

sufficient General Fund monies to pay the cost of living adjustment if we implement it with the September 30 pay check.

Councilwoman Clyburn stated city employees work hard, and she did not know why we should not give them the 1% increase.

Councilman Dewar stated there are a lot of people in Aiken that work hard and don't get pay raises. He asked if we have to spend the money. Why not consider returning it to the taxpayers.

Mr. Pearce pointed out the money city employees had saved in the Worker's Compensation insurance premium. He stated the city has a Safety Committee, and they have worked hard to reduce injuries with training, etc. He stated the insurance carrier from Columbia told staff the premium for the Worker's Compensation policy would be \$606,768. However, based on the city's working experience and the lack of claims that other cities have, Aiken received credits of \$559,722. That meant our Worker's Compensation premium was only \$47,000. He said the employees had helped get the credits so the city did not have a high premium. In addition every October employees talk about ways savings can be identified in the procurement process. These discussions have proven very helpful in finding goods or services at much lower prices. Employees work hard to try to get goods or services at the lowest price possible. Public Safety subscribes to a military surplus equipment service that entitles the city to get military surplus equipment at a cost of \$1,400 a year. To date we have obtained about \$200,000 in equipment that is used in law enforcement which we got for \$1,400. He pointed out these are just a few examples of employees doing their best to find savings for the city. He said our employees very carefully use our resources and stay within their budgets, work safely and participate in our programs like the Wellness Program and others. He felt this is an opportunity to say we appreciate what you do for the City of Aiken and give them a 1% cost of living adjustment.

Councilwoman Clyburn moved, seconded by Mayor Cavanaugh, that Council approve the suggested designations for the unspent funds for fiscal year 2010-11. The motion was unanimously approved.

WATER

Councilman Dewar stated there was a water line break on Whiskey Road and after repairing the leak word was sent to the residents to boil the water before use. A resident in Aiken Estates did not get the word and used the water before boiling it. The resident asked what the City's procedures were in getting the word out to the citizens.

Mr. Pearce stated the departments work with the local media, the information is posted on the website. After the Whiskey Road water line burst, Mr. Pearce stated he had talked with Pete Frommer, Public Safety Director, about the situation. He pointed out we are in an era of social media. We now have the opportunity to take the information, share it with the Public Information Officer who is on duty for Public Safety, and we can also tweet and facebook post the information. If people want to get alerts they can sign up. We will continue to use the internet website. Usually a Public Information Officer is assigned for weekend duty. However, many water line breaks are on the weekends or in the evening. He said a list had been prepared of those on duty so those going to repair lines will have a list of the contact person. The contact person will take the information and put the information out. After the line is fixed if follow up action needs to be taken by the citizens that information will be put out. The response is tailored to the nature of the incident. If health is at risk, the city will do whatever they need to do to make people aware of any situation. Another way that can be used is to send a text message to a cell phone and people have to sign up for this service. Notifying the Homeowners Association President in some cases might work.

BOARDS AND COMMISSIONSAppointments

Mayor Cavanaugh asked if Council had any nominations for members to boards and commissions.

Councilwoman Price stated she would like to recommend that Leroy Myrick be reappointed to the Community Development Committee and that John Wallace be reappointed to the Recreation Commission.

Councilman Dewar recommended that Rose Lee Fox be reappointed to the Recreation Commission.

EXECUTIVE SESSIONPersonnel Matter

Mayor Cavanaugh stated Council needs to go into executive session to discuss a personnel matter.

Councilman Dewar moved, seconded by Councilman Ebner, that Council go into executive session to discuss a personnel matter. The motion was unanimously approved. Council went into executive session at 11:15 P.M.

The executive session ended at 11:57 P.M. Councilwoman Clyburn moved, seconded by Councilman Homoki that Council come out of executive session. The motion was unanimously approved.

Mayor Cavanaugh stated Council went into executive session to discuss the annual City Manager review for Richard Pearce. Mr. Pearce reviewed a listing of things that he had been able to accomplish during his first six months as City Manager. After discussion Council offered Mr. Pearce a 5% salary increase which was approved by Council and accepted by Mr. Pearce.

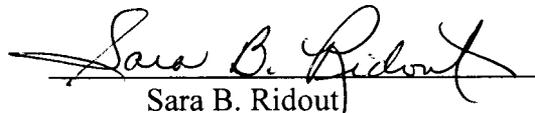
Mr. Pearce stated he appreciated the opportunity to work with City Council and the citizens of Aiken. He felt we will have some great accomplishments in the years to come.

Mayor Cavanaugh thanked Mr. Pearce for the work he has done so far and stated Council looks forward to continuing to work with Mr. Pearce.

ADJOURNMENT

Councilman Dewar moved, seconded by Councilman Homoki, that Council adjourn the meeting. The motion was unanimously approved.

There being no further business, the meeting adjourned at 11:59 P.M.


Sara B. Ridout
City Clerk