

Aiken City Council MinutesREGULAR MEETING

March 26, 2012

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Kim Abney, Larry Morris, Alicia Davis, Glenn Parker, Charles Barranco, Ed Evans, Paige Tiffany, Tim Coakley, Sara Ridout, Amy Banton of the Aiken Standard, and about 40 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:01 P.M. Councilwoman Diggs 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 some questions and comments under Petitions and Requests. Councilman Dewar moved, and Councilman Homoki seconded the motion, to approve the agenda as amended. The motion was unanimously approved.

MINUTES

The minutes of the regular meeting of March 12, 2012, were considered for approval. Councilman Dewar asked that the minutes reflect that he asked the City Manager for a list of the times when Public Safety has responded to non-city incidents such as in donut holes. Councilwoman Diggs moved, seconded by Councilman Dewar, that the minutes of the March 12, 2012, meeting be approved as amended. The motion was unanimously approved.

PRESENTATION

URS  
Keith Wood

Mayor Cavanaugh stated Keith Wood of URS is present to make a presentation regarding URS.

Mr. Keith Wood, Director, Public Affairs, Global Management & Operations Services of URS, stated his goal is to educate Council on URS. He said recently he and Mr. Pearce were in a meeting and he was walking him through the successes of URS and what is based in Aiken. He said they discussed the opportunity for him to visit with Council and share the information with Council.

Mr. Wood distributed a copy of the most recent annual report for URS for the portion of the business that is managed in Aiken. He stated URS is a fortune 500 company that many people don't know about, even in Aiken, though there is a large presence of URS in Aiken. The corporate headquarters is based in San Francisco, California. He stated URS is the name of the company, and it is not an abbreviation for a lengthier name. He said URS is the fourth largest publicly held energy and environment company in the United States. They are the number one DOE environmental management contractor and the number one nuclear decommissioning authority which is the equivalent of the DOE in the United Kingdom. They are a worldwide leader in health and safety, with over 46,000

employees worldwide. With one of the recent acquisitions, that number should grow to about 56,000 to 57,000 employees. He said URS operates in four major market segments: 1. Federal which is primarily all things associated with the federal government, not just the United States, but across the globe, which includes the Department of Energy and Department of Defense work. 2. Infrastructure such as building roads, bridges and dams. 3. Power both on the commercial side and nuclear side throughout the world. 4. Industrial and commercial, which is primarily processing oil and gas, etc.

Mr. Wood reviewed the growth of URS since 1990. He pointed out URS has grown substantially, primarily through acquisitions. Today URS is about \$9.5 billion in revenue with the acquisition of Flint Energy. About 49% of their revenue comes from the federal sector, which includes the Department of Defense, Department of Energy, and the Nuclear Decommission Authority.

Mr. Wood pointed out the office building on Newberry Street, which houses the corporate office of Global Management and Operations Services for URS. This building houses the URS offices and the Community Theater. He pointed out the Global Management and Operations Services is the part of URS that is based in Aiken. Within Global Management & Operations Services there is Safety Management Solutions, which is located in the Centennial Park with about 500 employees. There is also the Savannah River Remediation, which is the liquid waste contractor at the Savannah River site with about 2,000 employees. He said URS has a major presence in Aiken. He said of the 46,500 employee company, about 20,000 employees are managed through Aiken in the building on Newberry Street.

Mr. Wood stated they are world class in safety basis analysis. He said they identify themselves as the world leader, especially when it comes to nuclear safety. Mr. Wood stated the office on Newberry Street manages the Department of Energy sites' contracts as well as those in the United Kingdom. Since 2001 URS has expanded across the United States. He pointed out the contracts they manage not only at SRS, but Oak Ridge, where they are the major decommissioning deactivation contractor for DOE, and the other sites across the U. S. and the United Kingdom.

Mr. Wood stated it all starts with the SRS. He said formerly URS was Westinghouse and won the contract after Dupont left the SRS. They managed the SRS for 20 years. He pointed out the amount of talent that was at SRS. The talent that made up URS has been the springboard for their growth since 2001, going from 4 to 19 DOE sites and 3 UK sites. He felt we should be pleased with the talent that has been at SRS and that is currently at SRS, which has helped the Department of Energy with all their complex technical issues and is now helping solve the nuclear complex issues across the globe, all starting at SRS.

Mr. Wood stated there are about 30 employees based in the Newberry Street URS office managing the corporate business. The Safety Management Solutions is located at Centennial Park in two buildings with approximately 500 employees based in Aiken, with another 200 spread around the country doing work from Aiken. He said this is a large corporate presence in the city limits of Aiken. The Liquid Waste Operations is the contract under Savannah River Remediation at SRS.

Mr. Wood stated he would give an update with what they are with respect to their contract at SRS and what they are trying to accomplish for DOE, the State and for the community. He said as a result of the tritium and plutonium processing for about 35 years at SRS there was the creation of by products and waste, with approximately 37 to 38 million gallons of waste. He said their job as the Savannah River Remediation contractor is to remediate the waste and basically solve the site's number one risk, which is processing high level waste and trying to empty 49 high level waste tanks at the site. He said they are making progress and hope to be able to close two of the tanks shortly.

Mr. Wood stated URS is a partner with Aiken, and it starts with the GMOS corporate headquarters on Newberry Street. Everything is anchored through the Newberry Street office. Not only are employees coming through, but guests and out of town visitors come

through their office. He pointed out a number of UK guests come to Aiken on a weekly basis. He pointed out it all started with the Aiken 20/20 Campaign in the late 1990's when the Site was downsizing. The City of Aiken came to them as Westinghouse Savannah River Company to help support the Strategic Plan. The outgrowth of that really created the Aiken headquarters for URS. He emphasized the comments received from other DOE communities and UK communities that come in and see Aiken and see what Aiken has done through the strategic planning efforts. He said you can't underestimate what that means, because a lot of other communities are not as fortunate as Aiken. He said they are strong supporters of the Aiken Research Campus and in the infancy stage donated 400 acres to Aiken County and leased buildings back to Aiken County for the property. He said they led the effort along with Wade Brodie, Tim Simmons and others to help raise funds for the Railroad Depot. He said URS employees and executives are spread throughout the community and the CSRA, participating in leadership positions and on local boards and commissions. He also pointed out the financial impact that URS makes through corporate and employee dollars in giving back. Recently they provided scholarships to USC-Aiken to help educate engineers based at USC-Aiken and who will further their education at USC in Columbia.

Mr. Wood stated his goal was to help Council fully understand the URS Corporation and their presence and value to the City of Aiken.

Councilman Wells stated we know what a tremendous corporate citizen URS has been and how the City of Aiken has benefitted greatly from URS. He wondered what Mr. Wood sees as URS's future in Aiken.

Mr. Wood stated URS has a very aggressive strategic growth plan for the corporation which goes down through Global Management & Operations Services, which means a huge growth strategy for this part of the business. He said Aiken plays a great role and is a part of the future for URS.

Mayor Cavanaugh thanked Mr. Wood for his presentation and for what URS has meant to Aiken. He said we hope that URS will mean much to Aiken in the future. He said Aiken is fortunate to have URS in Aiken. He asked what the City of Aiken can do to help URS remain in Aiken.

Mr. Wood stated he had mentioned that Aiken was in the forefront in putting together a Strategic Plan in the 1990's. He said that helped immensely. He said they get a lot of requests from around the world to support communities. He said their number one question is to see their strategic plan and how they would fit into the plan. He asked that Aiken continue to be strategic in their thoughts and continue to provide leadership for the community. He felt corporations like URS will continue to work with the city in a very aggressive manner to make sure this is a successful community.

Mr. Wade Brodie, Chairman of the Aiken Corporation, stated the Aiken Corporation had had the privilege of working with this company in the early days when a decision was made to locate in downtown Aiken. He said there is nothing like the facility on Newberry Street in the United States. He said they could have built anywhere in the world, but they selected downtown Aiken. He said Mr. Wood had done a good job in showing their community involvement. He said he feels URS is Aiken's best corporate citizen. He said he wanted to publicly say thank you to URS.

Mr. Wood stated Martin Koffel is the Chief Executive Officer based in San Francisco. Mr. Koffel has had the opportunity to visit Aiken on several occasions. He pointed out on his last visit he spent about four days in Aiken. He got to know former Public Safety Director Pete Frommer quite well. He loves Aiken and he mentions often how he wants to come back. He said they were hoping for him to be in Aiken in the spring, but he was not able to come. In a video presentation for an employee meeting of about 300 people last week Mr. Koffel mentioned a lot of people by name in Aiken and how devoted he was to the community and that he would be back soon.

Mayor Cavanaugh stated he had met Mr. Koffel and that he mentioned what a nice place Aiken was and how much he enjoyed being in Aiken.

REZONING – ORDINANCE

Colleton Avenue  
Williamsburg Street  
Marlboro Street  
Doug Jones  
JannyBijas  
Planned Residential  
Concept Plan  
TPN 121-10-08-006  
TPN 121-10-08-007  
TPN 121-10-08-008  
TPN 121-10-08-009  
TPN 121-10-08-010  
TPN 121-10-08-011  
TPN 121-10-08-012

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to rezone property on Colleton Avenue and Williamsburg Street as Planned Residential.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO REZONE CERTAIN PROPERTY LOCATED ON COLLETON AVENUE FROM RESIDENTIAL SINGLE-FAMILY (RS-10) AND LIGHT INDUSTRIAL (LI) TO PLANNED RESIDENTIAL (PR) AND TO APPROVE PROPOSED CONCEPT PLAN.

Mr. Pearce stated Doug Jones and JannyBijas want to rezone a tract of land they own at Colleton Avenue and Williamsburg Street. It is currently zoned RS-10 and Light Industrial (LI). They seek to rezone it to Planned Residential (PR). Their concept plan for this property, together with a memo from Planning Commissioner Chair Wilkins Byrd, provide insight into their review of this rezoning application. Our Planning Commission voted 4 to 3 to approve the request.

Their approval also contained these conditions:

1. That the development comply with the Concept Plan and Narrative as shown in Exhibit "A."
2. That a waiver be granted from the open space provisions of the PR zone.
3. That conditions of approval be shown on the Concept Plan.
4. That the applicant execute an agreement listing the conditions of approval and that the agreement be recorded by the City at the RMC Office within 90 days of approval by City Council.

Planning Commission in these situations acts as a recommending body. City Council can adopt their recommendations, approve the rezoning without conditions, reject the request, or approve it with a different set of conditions, so long as reasons for them are provided. The property owners have obtained the variance necessary for a tract this size to be zoned Planned Residential. They have also appeared at the work session of our Design Review Board (DRB) to obtain comments on the proposed design of the residences proposed to be built on this tract.

For Council consideration on second reading is an ordinance to rezone property located on Colleton Avenue from Residential Single-Family (RS-10) and Light Industrial (LI) to Planned Residential (PR) and to approve the proposed concept plan. At first reading on January 23, 2012, City Council approved rezoning of the entire tract to RS-10. Since that time the contractor, the Collier Company, is no longer involved with the project. Mr. Joel Moore, of Aiken Cottages, is present along with the two owners Doug Jones and Janny Bijas. They have an update to the concept plan. Originally when the plan was discussed they were proposing as many as 12 lots on the tract. They reduced that number to 10 lots. With Mr. Moore's involvement they are now proposing 9 lots. Four lots

would be on Colleton Avenue with lot widths of 75 feet. Five lots would be on Williamsburg Street with lot widths of 62 feet. The property owners are requesting City Council reconsider its vote on first reading at this second reading and instead approve their original request to zone the entire tract Planned Residential (PR). The reason for the Planned Residential request is to allow them to have lots of 62 feet and 75 feet and to make the project profitable. They are asking for a waiver from the open space provision in the PR zone. He said Mr. Moore was present to show a power point presentation of the configuration of the lots and possible designs of houses.

Mr. Joel Moore stated he builds cottages basically rather than huge houses. He said he was contacted to assist Mr. Jones and Mr. Bijas in coming up with a plan that would complement the Aiken Master Plan. He said he felt the plan works within the Master Plan and complements the architectural size and look of the Aiken community.

Mr. Moore stated the owners are looking at building 9 single family residential units on the property. The average square feet per lot would be 10,275 or .24 acre. They are requesting a waiver from the open space requirement to maintain architectural and space consistency with the Old Aiken Master Plan and the neighbors in the area. The character and architectural style would adhere to the cottage/craftsman/bungalow style of architecture that is in the neighborhood and throughout downtown Aiken. Each unit would be approved individually by the Design Review Board as they are built for the owners. The property is currently adjacent to several properties zoned differently. It is hoped that everything in the area will eventually grow and become part of the Aiken Master Plan and do away with all the old buildings and warehouses. It is felt more residential people will come there. The lots facing Colleton would be 75 feet wide. He said they are asking for a variance for the lots facing Williamsburg Street and for the lots to be 62 feet wide. He said that remains consistent with the architectural size and structures in the area. He said they would build homes approximately 1,200 to 1,500 square feet in size, which is also consistent with the neighborhood. He said that is also consistent with the current trends toward smaller homes in a quiet, close knit community. Mr. Moore presented a map showing the size of the lots in the community. He pointed out that lots in the area vary from .18 acre to .26 acre. He said their lots are proposed to be .24 acre, which is consistent with the area. He then showed some pictures of proposed styles of homes to be built in the area, which would have to be approved by the Design Review Board. He said they had talked with local nurseries about landscaping for the lots.

Mayor Cavanaugh asked if all the driveways would be on the side of the houses. Mr. Moore responded that the driveways would be on the side and the two car garages or carports would be behind the house not seen from the street.

Councilman Wells asked if the trees that border Colleton were on the property or on the street right of way. Mr. Moore responded that he was not sure, but he thought the trees would be on the homeowners property. He said he understands there is also an easement that belongs to the city along the property, so there would be a setback from the street. The Design Review Board would tell them where the footprint of the house can be. He said he hoped the trees would always be there as they are beautiful. Mr. Moore stated the developers want the trees to remain, and they would not cause a problem for the driveways.

Mayor Cavanaugh asked why the request for a variance in lot size. Mr. Moore responded that a variance would allow the properties to remain consistent with the size of the lots in the neighborhood. He pointed out the lots that would be 62.5 feet would have an area of 10,275 square feet. The 62 foot lots would have the same square footage as the 75 foot lots. With a footprint of 30 feet for the houses there would still be a 30 foot separation between the houses.

Ms. Patricia Reed Hunter, 126 Park Avenue, stated she owns two parcels fronting on Marlboro adjacent to the proposed development. She stated Council was familiar with many of the arguments made about how this fits the Master Plan. She said she would like to draw Council's attention to the plight of owners of buildings in this pocket of Light Industrial. This area will no longer support businesses that can generate a return that

would enable the owners to keep them in the condition they would like. She said she was trying to bring power to one of her warehouses, and it appears that an enormous amount of upgrading to code may be triggered by trying to get power. However, without power it will be hard to maintain a use that will be considered a higher and better use for the area. She said she and her husband feel strongly that the proposed develop represents something very valuable to everyone. She said if this development is approved, she plans to sign an option for their properties to be developed in a like fashion.

Ms. Rose Lee Fox thanked Council for allowing citizens to share some of their feelings about the proposal. She said this is not the first time the community has come before Council on this issue. She said she would like to address the claims that the proposed concept is the most appropriate for the neighborhood. She said the neighborhood is a very mixed area. Old Aiken has small houses on big lots, small houses on medium lots, large homes on huge lots and is quite a mixed area. She said there is nothing that suggests there would be a lot of little houses all clustered together on one small acreage such as what the owners wish to develop. She pointed out across the street from the property is a very large horse farm. Beyond that is a large property with one house on the entire block. There are blocks with two houses, three houses, and there are some small homes. She felt to say the proposed concept is compatible with the character of the community is in error. Secondly, she said she had looked at the narrative for the development and its claims it can best facilitate what the Old Master Plan recommends. She said she had looked at all the stated advantages of the plan, and she did not see how anything about the plan is better than the RS-10 plan. She pointed out the ability to plant large growing shade trees. She said they have many large growing shade trees in the area already, and they could have large growing shade trees under the existing zoning, which is RS-10, which was zoned in 2006. She pointed out at that time the owners wanted to put several small houses on the property and the community objected to them not being appropriate. She pointed out the claim for increasing density in the area. She said RS-10 would also increase density in the area but in a more appropriate fashion. The narrative says the development would allow the destruction of old commercial structures in the area, but so would RS-10 zoning. They could build with RS-10 zoning and tear down the old structures. She said if one looks through the narrative and the advantages cited in the narrative, you can't find one advantage that couldn't be accomplished under the current zoning of RS-10. She said she could not understand why there was a waiver for Planned Residential because that type zoning requires a minimum of four acres. She said having gained that waiver, they are now saying they want a waiver from the open space conditions for Planned Residential. She felt that would set a bad precedent. She said there are committees that seek to preserve green space and open space. That is one of the things that makes Aiken so charming and so desirable. To start setting a precedent that says you can have a waiver for the open space is undermining the community. She then commented on the statement of only 80 car trips a day. Service vehicles are required for such a development. There are all kinds of other vehicles beside the private vehicles that are involved. She felt there should be a traffic study to determine what the impact would be. She reminded Council that this issue has come up many times before. She said the area, particularly Colleton, is a street without curves, few sidewalks, and it is heavily used by the residents of the city. People come and park and then jog, walk their dogs, ride bikes, etc. She was concerned about increasing traffic on the street. She said in looking at the layout Council is asked to grant a variance in the size of the lots on Williamsburg Street from 75 feet to 62 foot wide lots in order to get one additional lot on the property. She felt this was a matter of what the owners want by way of profit. She felt zoning for profit is not something the city should be involved in. She felt that would be a dangerous precedent and felt others will want to make similar requests. She asked that Council uphold the RS-10 zoning, which was done in 2006. She felt the RS-10 zoning is appropriate for the neighborhood. Much could be accomplished that would improve the neighborhood. She said they want to see the property developed. She said the residents of the area asked the city to help get the old abandoned warehouse torn down. She said they want to see the area developed in a way that truly would improve the quality in the area and that would be compatible with the neighborhood and best for the city.

Ms. JoAnne Peace, 248 Marion Street, stated she owns the horse property which is across the street from the proposed development. She said she did not understand what is so

different in what is proposed at this meeting from what was proposed at the meeting in January. At the last meeting Collier was the builder. They were proposing having all the access off an alleyway on the backside of the houses so people would not be pulling out on Williamsburg Street. She said Williamsburg Street is a bad place to be backing out of a driveway onto the street. At this meeting there is a totally different builder. At the last meeting there were specs of how the proposed houses would look. They would have brick foundations, hardiplank for the siding, architectural shingles, and detached garages. Now Mr. Moore is talking about carports. She pointed out the size of the houses has gone from 1,500 sq.ft. to 835 sq.ft. She said that was what was presented to them in a computer generated picture. She felt City Council could put in some parameters that need to be met. She said she went to a meeting yesterday and hoped to get on the website of Mr. Moore. She pointed out the website has one page and a page with a partially finished house. She had hoped to be able to see things he had built, instead there was not much there. She wondered why we were backing off the standards. When there was a variance granted before there were standards put in place. She questioned why there are no standards now. She was also concerned about keeping the trees on Colleton and was concerned that they might be taken down, which she felt would be horrible for the neighborhood. She felt the trees that are on both sides of Colleton make the street special. She pointed out in the presentation, the pictures of the style of houses shown are probably not houses someone will build. They are nothing more than computer generated houses. She wondered if the builder has built anything like this before. She wondered if every homeowner has a choice of the style home they want. She wondered if City Council has any ability to say what kind of home can be built.

Mr. Moore responded that the houses would all be 1,200 to 1,500 sq. ft. and there would be more open space. He said they would build what is approved by the Design Review Board and what is most appropriate for the area.

Mr. Pearce stated the proposed plan has nine lots, whereas the previous plan was ten lots. They have reduced the number of units.

Councilman Wells stated if Council were to proceed with the Planned Residential, which was considered at a previous meeting, it would give a builder or developer some flexibility in setbacks, but it would also give City Council a lot of control over the materials used to build the houses and how the houses look. They have to present a concept plan of what the houses will look like. This has to be approved along with the Planned Residential zoning. Then they also have to go before the Design Review Board and get approval. He pointed out that in RS-10 zoning City Council has no control over how the house looks or the materials used to build it. He said we remove Council's purview over the development with the RS-10 zoning. They still go before the Design Review Board with RS-10 zoning, but not before Council. He pointed out the area is zoned RS-10 now and someone could purchase a lot and go before the Design Review Board for their approval, but City Council would have no approval authority. The Planned Residential zoning allows Council to have purview over the development before it gets to the DRB.

Ms. Peace pointed out when requirements such as a brick foundation, cement board siding, etc. were mentioned at the January meeting she asked if that was because City Council required that or was it the builder saying that was what they would do.

Councilman Wells stated that was the plan that the developer brought to Council. Before the request would be approved at this meeting, those things would be discussed and decided before going forward with a Planned Residential zoning.

Ms. Jenne Stoker, 331 Kershaw Street, wondered about the process. She pointed out if the developer does not have an entire plan to present at this time Council can't approve a Planned Residential.

Councilman Wells responded that Council would look at what was originally presented and the homes would have to be built with that material and the foundations that were presented in the concept plan earlier.

Ms. Stoker stated then the design of the houses would be up to the Design Review Board and the lot sizes and the things that could be worked out tonight could be altered from the original plan. Council could approve a Planned Residential based on the new layout as long as the building materials and the other requirements on the lots were the same as originally requested. She felt then there is concern about the development. She pointed out there seems to be more land available adjacent to this proposed development, and the owner wants to rezone the property and develop it as well. Potentially there is room for more RS-10 zoning, as there is more property available in the area and the lots would not have to be cut down with smaller frontage size as more land is available for sale. She suggested starting the development with RS-10 on Colleton and buying more land and developing more lots later, making the lots bigger. She said they did not need to decide now to make the lots smaller and set the precedent for the whole city block with small lots. She said she was also concerned about the waiver of the 20% open space requirement. With RS-10 the open space is mostly defined by the setbacks and limitations and what buildings can be on the lots. She pointed out not many people have garages in the neighborhood as the lots are not big enough for a garage. She felt to give them a waiver from the open space so the houses can have garages would not be a wise move. She felt the 20% open space should not be waived across the board, but should come with the Design Review Board on the individual lots and designs. She said she had been at Council meetings where there were larger Planned Residential developments, and they have come with everything laid out and have a definite concept plan. She said she wanted to make sure Council does not give the developer a waiver on something for which they should not have a waiver. She said she would love to see houses in the area and thought the Planned Residential was a good idea because she thought that would require some uniformity and control of the development, which would be better than houses with no defining theme. She felt the Planned Residential was good, but never thought 20% open space should be waived. She also felt leaving the zoning as RS-10 would be fine, especially looking at the possibility of the whole block being houses. She felt they should not start by setting the precedent with very small lots when there could be the possibility of 24 houses in the block when the average of other blocks in the area is more like 14 houses to a block.

Mr. Moore stated he would like to answer some of the questions that had been raised. He stated RS-10 zoning only mandates 10,000 sq. ft. lots. The proposed development is 10,275 sq.ft. lots which is larger than required under RS-10 zoning. He also pointed out that times have changed in the last few years. The economics of the country have changed. People are not buying 4,000 to 5,000 sq. ft. houses today. They are scaling down. The development proposes to build houses that fit the community and remain consistent with the architectural design of the Aiken community. He said they don't want to see it blighted the way it is now, but want to make it look good. He said they want Council to have a say in how that piece of property is developed. With RS-10 zoning Council does not have a say about the development. Planned Residential would let Council have a say on every house built in the development. He pointed out at the neighborhood meeting held a resident present had concerns about traffic, not additional traffic from the proposed development, but the current traffic that cuts through the area and the speed of the traffic in the area, especially on Williamsburg Street. He said additional houses in the area would be additional eyes that could help control what is going on in the area.

Regarding open space Mr. Moore was not sure everyone understands what open space is. He reviewed the definition of open space from the Zoning Ordinance. He said "open space is outdoor or unenclosed area on the ground accessible for outdoor living, recreation, pedestrian access, or landscaping. Open space shall not include parking areas, driveways, deck or terrace areas, utility or service areas, or any space with a dimension of less than 6 feet in any direction." He further pointed out Chapter 4 Design Standards of the Zoning Ordinance regarding open space. "All open space areas shall be held in common for the enjoyment of the residents of the development or dedicated to the city for the use and enjoyment of the general public. A minimum of one-half of the required open space area shall be improved for passive and active recreational use. Required open space shall be in addition to any required landscape, buffer, or setback areas required for individual uses with the development." He pointed out open spaces shall be held in common, which means the owners own the open space. It is not part of their lot, but is

owned in common by the homeowners. He said that means there should be a homeowners association to maintain the open space. He said the open space sounds like a park which would have to be maintained. In the proposed development they are talking about having money dedicated to each one of the new homes for landscaping so it will look like the rest of the community. He said they are asking that they not have to provide the common area because it is not consistent with the architecture design of the neighborhood. He pointed out the proposed lots would have more space on the lots than probably half of the other lots in the area. The homeowners will be allowed themselves to use the area and landscape it. The developer plans to set aside money to give the homeowners a start to landscape their lot.

Mr. Moore stated the reason for nine lots was at a suggestion of Mr. Pearce at the last meeting. He said there is 95,000+ square feet in the property owned by Mr. Jones and Mr. Bijas. If that square footage is divided by 9 lots you get approximately 10,275 sq. ft. for each lot, which is consistent with the surrounding neighborhood as far as lot size. He said he did not understand the objection to the variance. He said the developer would be giving the city more control over what they plan to build. The developer will maintain the previous building materials for the houses as originally submitted on January 23, 2012. They would use hardiplank, hardwood floors, and block or brick foundations. The homes submitted are examples of thousands of homes on the internet that can be designed to fit the community. Council will have the option to approve the houses. Council would have the option to specify the materials to be used. However, under RS-10 zoning Council does not have that control. The Design Review Board does have control over the design of the houses. If the developer used the minimum lot size for RS-10 the lots would be smaller than proposed in the Planned Residential zone. He said he did not understand the objection, and he also felt everyone did not understand what open space means. Mr. Moore pointed out the additional property which is adjacent to this property is only 1.8 acres, and with the additional property there would be no way to get 20 lots on the property. He said they don't want 20 lots. He said they want to keep the lots at a minimum of 10,275 sq. ft. if and when the time comes to develop the additional property. He said they only have the option on Mrs. Hunter's property and, if they don't have the cash available to buy the property, anyone could buy the property. He said that is way in the future, and the property they currently own needs to be developed first and that would be on a lot by lot sale to individuals that would then have to come to Council to get approval of their proposal. He said Council, along with the Design Review Board, would approve each house.

Mayor Cavanaugh stated his understanding is that in the proposal the lots are larger and there is one less home on the property than previously requested. There would be 9 lots instead of 10. If the property is zoned Planned Residential, Council has more control over the development.

Mr. Moore stated there is one more lot in the Planned Residential proposal than RS-10 zoning would allow. However, RS-10 only requires 10,000 sq. ft. lots versus their proposal of 10,275 sq. ft. lots. They plan to let the homeowners do their own landscaping and not have to have a homeowners association to maintain the open space as that is not consistent with the neighborhood.

Councilman Ebner pointed out that RS-10 zoning requires 75' wide lots. One reason for Planned Residential rather than RS-10 is so the size of the lots can be reduced from 75' wide. He also asked if the new proposed concept plan is on pages 27-30 of the agenda packet.

Mr. Pearce pointed out they are asking to reduce the width of the lots, but they are also asking for a waiver from the open space requirement. He stated the newest concept plan is page 27-30 of the agenda packet. The previous concept plan narrative begins on page 38 of the agenda packet.

Councilman Homoki stated the Planning Commission reviewed the project and made certain recommendations to Council and Council voted a certain way in January, 2012. However, at this meeting there is a new plan between the first and second readings as well as a new contractor. He pointed out this is a new concept that the Planning

Commission has not reviewed. He asked if the plan should go back to the Planning Commission for review and recommendation to Council.

Mr. Pearce pointed out the proposed plan is a less intense use than what the Planning Commission reviewed. The Planning Commission voted 4 to 3 to approve Planned Residential zoning. What Council voted on in January was to have the whole tract zoned RS-10.

Mr. Evans, Planning Director, stated he did not feel there was anything to prevent Council from dealing with a new concept plan if it is Planned Residential. The request is for Planned Residential zoning. He said he wanted to point out that the city's Tree Ordinance would not apply to Planned Residential. The Tree Ordinance applies to multi-family and commercial uses, not to single family detached zones.

Mr. Gary Smith, City Attorney, stated if Council wishes they could send the request back to the Planning Commission. However, Council can also consider it on its own merits without having further Planning Commission review. As pointed out by Mr. Pearce the request is for a less intense use than was originally proposed at first reading. He said he was assuming the developers listened to the comments of the citizens and decided to present a less intense plan. Mr. Smith pointed out as far as trees as part of the concept plan, Council can require that certain trees remain on the property.

Councilman Homoki stated Council has received a concept plan while the area is presently zoned RS-10 and Light Industrial. He stated if Council wants to consider Planned Residential, he wondered if it should go back to the Planning Commission for review and recommendation from the Planning Commission.

Mr. Pearce stated Council could send the proposal back to the Planning Commission for review. He pointed out the Planning Commission looked at the proposal as a Planned Residential with 10 lots, not 9 lots, and voted 4 to 3 to approve it. He stated the current proposal is a less intense development of the property than what the Planning Commission reviewed and approved.

Mr. Bill Reynolds stated he wanted to applaud the applicants. They have come a long way in trying to listen to the neighborhood and come up with a better project. He felt the project would really improve the area, which is badly in need of improvement. It is not what everybody would like, but you never get what everybody wants. He felt the project is close, and he could live with it. The thing he is most concerned about, and he urged Council to proceed very carefully, is on the Planned Residential designation. He pointed out the Planned Residential designation is a precedent. He said if Council approves Planned Residential on this application, he thought this would be the first Planned Residential in Old Aiken. He felt this will send a message. He pointed out that if the first Planned Residential that is approved in Old Aiken is four acres minimum with 20% open space, he felt people will understand that is the standard in Old Aiken. If the first Planned Residential approved in Old Aiken is for 2.2 acres and no open space, he felt that sends a message. He was concerned about where that may go in the future. Certainly Council has the right to turn down any application or change any application, but what will the new criteria be if the first decision made on PR is 2.2 acres and no open space. He said that is his concern, and he would urge Council to think about those concerns. He said the reason he says this should be considered very carefully is if you look at a typical Old Aiken block, which is about 4 acres, you can get about 16 lots in a typical Old Aiken block in a RS-10 zone. With RS-6 zoning you could get about 28 lots in a typical Old Aiken block. However, with Planned Residential zoning the density increases dramatically. For example, currently the maximum allowed is 12 units per acre in Planned Residential after the 20% open space is taken off. Up to 38 units could be allowed in a typical Old Aiken 4 acre block. What the applicants are asking for with no open space could allow 48 units per block. That would be 3,600 to 4,600 sq.ft. per unit. He said unless Council wants to deal with every PR that comes up in Old Aiken, this is the issues they could be looking at. He said that is the reason he was asking Council to consider the request very carefully. Six of the lots are already zoned RS-10. He pointed out if you look at the property within one block of this area, which is what the Design Review Board calls the context area, 80% of the lots in the area are 75' feet wide and

150' long or greater. That means they are 11,250 sq. ft. or greater, which is much bigger than the 10,275 sq. ft. that the applicant is talking about. He said that leads him to believe that Council's first decision, the RS-10 zoning, was the right decision. The applicant at this time has a couple of options. They could make the development RS-10 because six of the lots are already 75' wide. They could have eight lots 75' wide. It would be one lot less than their proposal, but it would be consistent because the minimum in a RS-10 is 75' frontage. The other thing they could do is go to the Board of Zoning Appeals and ask for a variance on the lots along Williamsburg Street. He pointed out if Council approves the PR zoning, they should keep in mind there are several properties for sale in the area and the other property owners might request PR zoning also. With all these considerations setting a precedent of less than 4 acres and no open space for a PR zone might lead to problems. He urged Council to think carefully about the precedent.

Councilman Wells pointed out looking at the block at Williamsburg and Colleton the request is for 9 houses in the proposed PR zone instead of 8 in half of the block. He stated he did not feel that zoning the area PR would set a precedent. He felt from a PR standpoint each request should be considered individually on its own merits. He said if someone bought the other half of the block and came back with the same proposal presented at this meeting, we would be talking about PR with 18 houses, whereas RS-10 would be 16 houses. If the entire block were to be zoned PR there could be 18 houses on the block. He pointed out with the present request there would be 9 houses on half of the block and if the other half were PR with the same plan, there would be 18 houses on the whole block. Instead of 16 houses on the whole block under RS-10 zoning, there would be 18 houses under the PR zone.

Mr. Pearce pointed out that the PR zone was not automatic. The developers had to get a variance to have the area considered for a PR zone because of the waiver from the minimum 4 acre requirement.

Mr. Reynolds asked what constitutes a concept plan. He wondered what constituted their concept plan. He pointed out that any major change to an approved concept plan has to go through the Planning Commission and through City Council. In this case, if it is a design element, it also has to go through DRB. He pointed out as each house is built with each owner wanting to have a say in what the house looks like, he wondered if they would have to go through the Planning Commission, City Council and DRB to approve each individual house. He said we had never had this before.

Mr. Pearce stated the question came up at the information meeting on Sunday afternoon. He said he heard the builder and owners say they were willing to have each individual design go through DRB for approval.

Mr. Ed Evans, Planning Director, stated whether each individual house comes back to Planning, Council and DRB depends on what the approved concept plan shows. He stated minor changes to a concept plan can be approved administratively. If the concept plan that Council adopts is the one before Council at this time, he did not see why each house would have to come before the Planning Commission and City Council. Each one would have to go before the DRB for approval.

Councilman Wells stated Council has in the initial proposal for the Planned Residential a narrative which states the materials to be used and specifications for the homes. Ms. Stoker mentioned some of the specifications and design criteria that were listed in the original narrative and concept plan presented to Council at first reading. He wondered if Council could modify the lot structure and go forward with the original concept plan as presented to Council on January 23, 2012. He pointed out that most people liked the materials that would be used to build the houses in the original plan. He said to him the original narrative and concept plan, except for the modification of the lot structure, could be the concept plan. He said if a homeowner were to choose something different from the original concept plan, they would have to come back to City Council with a change to the concept plan in order to build one of the 9 houses differently. Anything other than minor changes would have to come back to City Council for approval of a new concept plan for that particular one house. Mr. Evans stated that would be a correct assumption.

Councilman Dewar stated we would be getting into semantics. He asked that totally different be defined.

Councilman Wells stated he was speaking of the language in which this was written. He said he did not have anything to do with the way it is written in the manual. When it says if there are "significant changes" the plan must come back to Council, he felt this would have to go to whoever inserted that and get their definition of "significant changes." He felt Council has detailed information in the narrative of the first reading of the ordinance for the concept plan, which includes the materials and specifications. He said he was saying if the developers are willing to abide by the concept plan presented at first reading why should we start all over again with the concept plan.

Councilman Dewar stated the reason he raised the question is that in the past the normal process for Planned Residential is that the developer gives Council in good detail a sense of what is going to happen in the development. He said he was not sure we have to start over. He stated the plan started with 12 units. It went to 10 units and now it is at 9 units. The only thing changing is the schematic and lot size. He said it is wonderful to say the lots are going to be bigger, but the neighbors are saying they don't want to have lots 62' feet wide, but they want to keep the 75' wide lots because to them that looks more acceptable for their neighborhood. He said that is really what they are looking at. He felt Bill Reynolds makes an excellent point, and Council needs to be very, very cognizant of the precedent that they would set by zoning the property Planned Residential. He said this is a part of town that we would love to see developed, but if the first time a proposal comes in and Council is willing to waive the rules that have essentially made Aiken what it is, there could be problems in the future. He said Council had never approved a Planned Residential zone of less than 4 acres. He said 4 acres was chosen as the size for a Planned Residential for a reason. He felt Council needed to be very careful about waiving too much for the first project that comes into the area.

Councilman Wells pointed out Council did not waive the 4 acre minimum for a PR zone, but it was done by a variance.

Councilman Dewar stated Council did not waive the 4 acre minimum. He said the Board of Zoning Appeals authorized a waiver of the 4 acre minimum, which sets a precedent. However, it is up to Council to approve a PR less than 4 acres, and the request presented is for a PR for a 2.2 acre area.

Mr. Pearce asked that the City Attorney make a comment on the BZA order. He said it was his understanding that if we had a BZA order that the developer was granted that variance as to size. He said a BZA order is only appealable to the Circuit Court; it is not for City Council to decide. He pointed out acreage is not an issue at this time as that waiver was granted by BZA. The City Attorney confirmed that.

Councilman Dewar stated if Council does not approve the RS-10 zoning, then Council is talking about a 2.2 acre Planned Residential.

Councilwoman Price pointed out a portion of the property is already zoned RS-10.

Mr. Pearce pointed out there is one portion of the property zoned RS-10 and a portion zoned Light Industrial. They are asking for Planned Residential zoning, and are also asking for 5 lots on Williamsburg Street to be 62' wide and a waiver of the 20% open space requirement, and 9 lots. The question of whether the size of the entire tract of 2.2 acres could be zoned Planned Residential has already been through the Board of Zoning Appeals. The BZA voted to allow a variance in the size to allow Planned Residential zoning on a tract that was 2.2 acres.

Councilman Homoki stated if the Board of Zoning Appeals has already approved applying Planned Residential to less than 4 acres, if Council rejects Planned Residential for the area, what does the Board of Zoning Appeals ruling do. He wondered if Council's ruling would override the BZA ruling. He stated if Council does not approve Planned Residential zoning, would the developer have an appeals process based on the Board of Zoning Appeals ruling. He wondered if the developer could appeal the RS-10 zoning.

Mr. Gary Smith, City Attorney, stated Council is not obligated to rezone property in a particular way simply because the Board of Zoning Appeals approved a variance. Council still has final say on how the property will be zoned. If the developer did not agree to have the Light Industrial property zoned to RS-10, but Council chose to zone it RS-10 any way, they could appeal that decision because that is not what they applied for.

A citizen that owns property in the city, but not in this area, stated her question is what happens to the property that is not in discussion at this time but is on the block and zoned Light Industrial.

It was pointed out that zoning would stay the same. For it to be rezoned someone would have to go through the process to request rezoning.

Councilman Ebner asked if page 44 of the agenda packet would be the concept plan approved if the property is zoned Planned Residential, except that it would only be 9 houses. He felt if the rezoning is approved to Planned Residential, a concept plan would need to be submitted. He pointed out the drawing on page 30 of the agenda packet does not show the landscaping, etc. and a PR concept plan would have to be approved by Council.

Mr. Pearce pointed out there had been revisions to that drawing included in the packet on page 30. It was pointed out that page 44 would not be the concept plan.

Mr. Gary Smith stated Council can make their concept plan as general or as specific as they wish.

Ms. Nancy Henze, 339 Williamsburg Street, stated she had been very interested in following this request. She felt it is confusing. She said she would boil it down to, "If it ain't broke, don't fix it." She said the RS-10 zoning seems to work. She said it seems the only thing that would be achieved by changing to Planned Residential is one additional lot with narrower frontage which would go to developer profit. She said with the economy as it is she does not see any development taking place very quickly. The proposed builder said at the Sunday meeting that lots would be developed once they were purchased. She did not feel that 8 or 9 lots would be purchased very quickly given the real estate situation. She felt we were looking at a long time line. The other point she would like to make with respect to the very careful deliberation of City Council, is would Council want to be looking at this kind of development question every time someone buys property, given that there are designated departments in the city government that do review and set standards. She pointed out Council's time is valuable. She said Council can zone a property in a way that sets a standard that may be further refined by the Planning Department. She wondered how much Council wants to be involved in reviewing every house or lot in a development. She felt Council should keep it simple.

Mayor Cavanaugh stated Council had talked about this property and proposed developments for many years. He said there had been many proposed developments for the property. He pointed out Council voted for RS-10 zoning in January, 2012. He felt there had been some good comments about the development again. He said his point of view is that he has not heard anything tonight that would change his view for zoning to anything else other than RS-10. He wondered if Council could bring the matter to a close.

Mr. Moore pointed out the area which is 1.8 acre. If you divide that by the size lots they propose which is 10,275 sq. ft. there could be 7 additional lots, not 9 or 12 lots. He stated that is in the future. He said the property owner has to agree to sell that property to them first. He pointed out the property could remain Light Industrial for a long time as long as the owners don't want to change the purpose of the property. He pointed out the proposed development had been decreased to 9 lots and increased the square footage per lot based upon a suggestion made by the City Manager. He said they have a little over 95,000 sq. ft. in the 2.2 acres that they currently own. He said they want to have the development consistent with the architectural size and development of the area. He pointed out a map which shows lots in the area which have a lot size of .17 of an acre

with a frontage of 50 feet. The proposed development would have lots that would be .24 of an acre, which is consistent with many of the lots in the area. He said they want to have the Design Review Board help them keep the neighborhood the way it is. He said the area would be a beautiful neighborhood if those old buildings could be taken down and the land rehabilitated and made into additional structures. He said with the additional land they would only have 7 additional lots, which would be 16 lots at the maximum in the block. He said that would only be if they are able to sell lots. It would be understood that any design home they chose would have to be reviewed by the Design Review Board. He said they are willing to agree to what was already stipulated as far as how the construction has to be done and the materials used. He pointed out the lot size and stated the land would all be owned by the individual home owners, who could landscape their lots. There would not be open space to be maintained by a homeowners association. He pointed out they had gone from 10 to 9 lots, increased the lot size with a drive into the back with a garage. He pointed out the layout would give the individual homeowners more control over the land. They would not have to have a homeowners association, which would be inconsistent with the area. He pointed out open space is a common area which has to be controlled and maintained by somebody, and that has to be the homeowners.

Mayor Cavanaugh stated he appreciates what Mr. Moore has to say. A lot of people have talked. It will be up to Council to make a decision.

Mr. Pearce stated he would like to clarify one point. He asked Mr. Moore if the clients want the property all zoned PR or to leave it partially RS-10 and Light Industrial. He pointed out that at the meeting in January, 2012, the vote was to zone all the property RS-10. The question is do the owners want to either have the property all PR or leave it as it is with partial Light Industrial and partial RS-10. The other choice is to zone all the property RS-10.

Mr. Moore stated the property would be better used as PR because you get more space for the new residents. He said he thought they want to get the entire 2.2 acres zoned PR.

Mr. Doug Jones stated he would like all the property zoned Planned Residential.

Councilwoman Price stated since 2006 we have been debating this issue regarding what this area should look like and how it should be zoned. She said people who live in the area have called and said they would like the property to remain compatible to the houses already in the area. Other people in the area have said they are looking at a long range vision of the area and feel that the property should have a RS-10 designation. She said she was tired of discussing the issue over and over again. She said she feels we should leave the property zoned as it is with part zoned RS-10 and part Light Industrial.

Councilwoman Price moved that Council deny the request to rezone 2.2 acres at the corner of Williamsburg Street and Colleton Avenue as Planned Residential. The motion was seconded by Councilman Dewar. The motion was unanimously approved to deny the request for rezoning.

EASEMENT – ORDINANCE 03262012

South Carolina Electric & Gas Co.

SCE&G

Undergrounding

Newberry Street

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to grant SCE&G an easement to establish nonstandard (underground) service for the Newberry Street area.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AUTHORIZING THE CITY OF AIKEN TO GRANT AN  
EASEMENT TO SOUTH CAROLINA ELECTRIC & GAS COMPANY.

Mr. Pearce stated one Strategic Plan goal, that has funding available in the one-cent sales tax revenues and our Franchise Agreement with SCE&G, is undergrounding (i.e. non-traditional service) of overhead power lines. We have approximately \$1.4 million committed towards undergrounding of electrical service. Under the franchise agreement approved several years ago with SCE&G, they set aside money to match city money for undergrounding. We have an opportunity to finish undergrounding the overhead lines on Newberry Street at the Festival Center. We believe establishing this nonstandard service will reap similar benefits to what we have seen in our downtown, most recently as part of the Bee Lane project final phase construction. We have a site for the necessary transformer adjacent to City Hall. Mr. Morris had a discussion with people from SCE&G and SCANA as far as using this money and actually completing some of the undergrounding that we have begun in the downtown area. Bee Lane, between The Alley and Richland Avenue, is an example of the most recent undergrounding. For SCE&G to commence the undergrounding project, they will need an easement to hook into the transformer at the back of City Hall. The proposed ordinance authorizes the city to enter into an easement for the underground lines to hook to a transformer adjacent to the existing transformer at the back of the Municipal Building in The Alley.

City Council approved this ordinance on first reading at the March 12, 2012, meeting. For Council consideration on second reading and public hearing is an ordinance to grant SCE&G an easement to establish nonstandard service for the Newberry Street area.

The public hearing was held and no one spoke.

Councilman Dewar moved, seconded by Councilwoman Diggs, that Council pass on second and final reading an ordinance to grant SCE&G an easement to establish underground service for the Newberry Street area. The motion was unanimously approved.

CITY SOLICITOR – ORDINANCE 03262012A

City Code  
Amendment

Mayor Cavanaugh stated this is the time advertised for second reading and public hearing on an ordinance to amend Section 2-281 of the City Code regarding the City Solicitor.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO AMEND SECTIONS 2-281 ET SEQ OF THE AIKEN CITY CODE REGARDING THE AIKEN CITY SOLICITOR.

Mr. Pearce stated, as he pointed out at the last Council meeting, city staff and the City Attorney had conducted a review of the City Code regarding our Legal Department. This review, and our selection--with Council approval--of Paige Tiffany as City Solicitor, has provided us with an opportunity to update the City Code. These revisions better reflect the City Solicitor position as a full-time city employee, responsible to the City Manager's Office, as has already been our practice for many years.

These recommended amendments were prepared by our City Attorney after his review of our City Code.

We believe these revisions will provide a better opportunity for overseeing the daily operations of our City Court by our City Solicitor.

City Council unanimously approved this ordinance on first reading at the March 12, 2012, meeting. For Council consideration on second reading and public hearing is an ordinance to amend the Aiken City Code regarding the City Solicitor.

The public hearing was held and no one spoke.

Councilman Wells asked, with the City Solicitor coming as a hired employee under the City Manager's Office, if that would subject the City to any more liability versus the City Solicitor being appointed by Council, an elected body.

Mr. Gary Smith stated the City Solicitor enjoys prosecutorial immunity and being able to prosecute cases without having to be concerned with being prosecuted or sued civilly for whatever actions they may take while prosecuting city cases. The prosecutor has that immunity. He said that was not an immunity that would apply to Council.

Councilman Wells stated Council had always followed the City Manager's advice, and on his recommendation appointed the recommended City Solicitor. He wondered from the standpoint that Council are elected officials and they are appointing a City Solicitor, would that give any greater degree of protection.

Mr. Smith stated he did not feel that it would. He did not feel that it would be problem for a future prosecutor or for City Council or the City Manager.

Mr. Pearce stated the intent would be to still bring the City Solicitor appointment to Council, but just clarify that the City Solicitor works for the City Manager. This would be just so there could be no question in City Court that the person is acting with the authority of the city.

Councilwoman Price asked for clarification on the proposed change.

Mr. Pearce responded that the change was that the City Code shows the City Solicitor working at the pleasure of Council. He pointed out that when he was City Solicitor for ten years, he always reported to the City Manager and had annual reviews by the City Manager. His salary was set by the City Manager. He said the actual practice is that the City Solicitor is shown in the budget as a full-time employee of the City. The City Manager is typically tasked with supervision of all employees of the city. This was one exception that needed clarification. He pointed out that practice and what was being done and what the City Code said were different. The proposed ordinance would make the practice and the Code consistent.

Mr. Smith stated the Mayor had asked what other cities do regarding the City Solicitor. He said the City of Columbia has an onboard legal staff, and the City Attorney has a staff of lawyers which he hires and fires through the normal hiring process as well as the City of Greenville. This is done with the involvement of the City Manager in these cases.

Councilman Ebner moved, seconded by Councilman Dewar, that Council pass on second and final reading an ordinance to amend the City Code regarding the City Solicitor. The motion was unanimously approved.

#### REDISTRICTING – ORDINANCE

6-1 Plan

District Lines

Single Member Districts

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to redraw the City Council member districts to implement a 6-1 Districting Plan.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING SECTION 14-1 OF THE AIKEN CITY CODE TO PROVIDE FOR THE MAYOR TO BE ELECTED AT LARGE AND SIX COUNCIL MEMBERS TO BE ELECTED FROM SINGLE MEMBER DISTRICTS AND AMENDING SECTION 14-2 OF THE AIKEN CITY CODE TO PROVIDE FOR THE TERMS OF OFFICE FOR MAYOR AND COUNCIL MEMBERS.

Mr. Pearce stated we have completed our public hearings for the new Single-Member District City Council Plan. A proposed ordinance adopting a plan for implementation in the 2013 City Council elections, or for any other necessary City Council elections before

the next regular Council election, is being presented for Council's consideration. Mr. Pearce stated Jim Holly is back to answer any questions on the proposed plan. He stated Mr. Holly has worked with the city through the referendum phase, the results from the US Census, and the passage of the referendum in which the citizens voted to change the method of election from the 4-2-1 Plan that was in effect for some 20 years to a more current single member district plan to be in compliance with federal law. He said Jim Holly is present and Will Roberts, from the Division of Statistics of the Budget and Control Board, is also present to answer any questions. He said they are present to talk about a plan for single member districts and have a map of a proposed plan.

Mr. Holly stated the ordinance before Council for first reading adopts the first 6-1 Plan provided to Council. It also provides that districts 2, 4, 5 and 6 will be up for election in November, 2013. Then districts 1 and 3 will be up for election in November, 2015. This schedule will preserve the terms of existing Councilmembers. The ordinance also states that it will not become effective until the Justice Department signs off on it. Mr. Holly stated Council had held two public hearings, and he and Mr. Pearce had attended both public hearings. He said there were very few comments and very few people in attendance at the public hearings. There were a couple of comments on which action was taken. One was to provide a map that showed how the voting precincts overlaid over the 6-1 plan. That map has been provided for Council's review. He pointed out that it is necessary, as it is in most redistricting, to cross precinct lines in setting up the new 6 districts. There also was a request to modify District 6, which is the district in which Councilman Wells resides. There is a finger that runs north of U.S. 78 on the plan. On the map for Plan 1, District 6, the finger area (part of District 5) runs through the middle of District 6. On Plan 2 the finger area has been removed so District 5 is more compact and District 6 is more compact without the finger. There was also a request from a member of Council asking if it would be possible to make District 6 more compact. He briefly reviewed the proposed changes to District 6. The result of those changes brought the deviation from the most populated district to the least populated district from 3.32% up to 4.33%. This is still within the optimum level of less than 5% deviation. He said that was done pursuant to a request from a Council member.

Mr. Holly pointed out the map and plan that is part of the ordinance for first reading is Plan 1. The Plan 2 map contains changes that were made pursuant to comments made at the public hearings. The Plan 2 map was prepared for Council to see how the changes would look compared to Plan 1.

Mr. Holly stated the ordinance prepared for Council's consideration is for Plan 1. He said it is up to Council to decide whether they want Plan 1 or Plan 2.

Mayor Cavanaugh asked that Mr. Holly explain how the districts need to be as equal as possible in population to meet the federal laws.

Mr. Holly stated the objective is to keep the deviation between the most populated district and the least populated district, based on the 2010 Census, less than 5% if at all feasible. Also, to continue the commitment of the city under the Voting Rights Act, there needs to be two minority districts. No changes have been made to Districts 1 and 2 as a result of any consideration of any other plan. The changes were made from Plan 1 simply to show Council what changes would look like if comments made at the public hearings were addressed. He pointed out Council may or may not agree with the comments made at the public hearings and from one Council member. He said they are showing the changes on map Plan 2 in case Council wanted to pursue the changes after review.

Mayor Cavanaugh asked how the changes drawn on Plan 2 would affect the districts. He pointed out the population for each district must be as equal as possible.

Mr. Holly stated for Plan 1 the deviation was 3.32% and for Plan 2 the deviation is 4.33%. Plan 2 has a greater deviation.

Councilman Dewar asked if Council would be provided the changes and the source of the changes that made Plan 1 and Plan 2.

Mr. Pearce stated he had sent the statistics for Plan 1 and Plan 2, as well as the Plan 2 map, to the City Council members.

Councilman Dewar asked if Council was supposed to understand the changes made for Plan 2 concerning District 6 from the statistics sent to Council. He pointed out Mr. Holly had stated Districts 1 and 2 had not changed. He wondered if all the other districts had changed.

Mr. Holly stated proposed changes had been made by the Office of Research and Statistics as a result of comments from the public hearings using the standard formats to create lawfully drawn districts.

Councilman Dewar stated in looking at Plan 1 in a larger size map it is clearer. However, it is still difficult to determine what district some streets are in when the line goes down the street. He pointed out the line for his district goes down Richland Avenue. He said he assumes that the south side of Richland Avenue would be in District 3 and the north side of Richland Avenue would be in another district.

Mr. Holly stated this is the standard way all maps are drawn. If the street is the color of the district then that side of the street is in the district. He stated the map presented has the street names on it.

Councilman Dewar asked if Council would get a data base to show the new voters in the districts. Mr. Holly stated a data base would not be provided unless the city wants it, and the city has to pay for it. He pointed out a map is provided, as well as the statistics and a chart which shows what census blocks and tracts are in each district. He said he had never heard of anyone providing a data base.

Councilmember Ebner asked about the voter vault and wondered if the voter vault had to revise its records.

Councilman Dewar asked when the information would be provided to the Elections Commission so they could possibly get it from the Election Commission.

Mr. Will Roberts stated once a preclearance letter is received from the Justice Department by Council, it is given to the Voter Registration. At that time they can implement the change and change the voters, but they cannot do it until the letter is received from the Department of Justice.

Councilman Dewar stated once Council approves a 6-1 Plan and receives preclearance from the Justice Department he understands no more changes can be made until the next census. Mr. Roberts responded that was correct.

Councilman Dewar stated a Councilmember is running for another office. If that Councilmember gets elected, and we knew that today, would that affect how the district lines were drawn. Mr. Roberts responded it possibly could.

Councilman Dewar asked if Council could wait until the results of the election to hold second reading on a plan for the district lines.

Mr. Holly pointed out presently there are four Councilmembers elected from districts. Those four members have to be taken care of as well as the remaining Councilmembers. He said there are five districts that we know generally how they should be drawn. He pointed out we are talking about one district that is a minor part of the overall plan. There is one district compared to five others that we know how they should be drawn. He said the final piece of the puzzle will be dictated to a large extent by what we already have with the five districts. You have to keep it within the parameters of one person one vote. It is possible there could be some changes, but how significant the changes could be might be rather limited. You might be able to move a block here and there, but not be able to redraw it significantly.

Councilman Dewar stated we drew lines trying to meet the one person one vote, trying to preserve the two minority districts and organize it so we did not redistrict any of the incumbents out of office. He said if Councilman Wells wins the election and leaves City Council that gives the option of redoing that district and possibly some others. He stated he felt the district boundaries are terrible as they are so jagged. He said it may be that way all over the country because everybody is redistricting because you try to make numbers equal. He said he was not sure we had a choice, but he wondered if we might be able to get more acceptable districts if we did not have to consider preserving at least one of the five Councilmembers' district. He pointed out his district. He said he lives in Houndslake North and his district goes all the way downtown. He felt his district had the worst disparity in the city.

Mr. Pearce pointed out District 3 was divided by Hitchcock Woods, which has a lot of wildlife and not many voters. He pointed out historically that the district had gone to the downtown. This is not a recent thing.

There was a statement that District 6 was drawn like it is because a person lives there. Mr. Holly stated that is part of the reason, but not the whole reason. He pointed out that Districts 1 and 2 basically have to remain as they are drawn. He pointed out that districts for the two other Councilmembers, Districts 3 and 4, who are currently elected from single member districts, will be similar to what they currently have. They will be smaller, but will be configured generally the same as they are. He said we could possibly wait until after the election to see if Councilman Wells wins the election, and there could possibly be some changes. He said, however, he was not sure there would be a wholesale change because of the restrictions for Districts 1 and 2.

Councilman Dewar suggested moving some of the lines downtown so the lines could make more cohesive districts. He would like for the lines to be moved so he could keep some of the area which he currently represents if the numbers could be worked out to meet the requirements. He asked if those changes could be considered.

Mr. Holly stated it may be possible to move some of the lines, but he was not sure what the number results would be.

Mr. Roberts pointed out that moving the lines down from the area suggested would actually cause other lines to be moved, as the population would have to be balanced. Changing one district will trickle, causing other lines to have to be moved.

Councilman Dewar stated, assuming Councilman Wells wins the election, he would not be a factor in drawing the lines for District 6 to include him. He said moving the line would probably create an area where no one presently on Council lives. He said what he was looking for was for his district to be consolidated more into his neighborhood instead of having him represent downtown. He asked that the Research office consider moving the lines so District 3 would be more consolidated.

Mr. Holly pointed out the proposed configuration is similar to what exists now. Mr. Holly stated he and Mr. Roberts represent Council, and if there is a consensus that Council would like for them to look at moving the lines, they would be glad to look at it.

Mayor Cavanaugh asked how much time it would take to look at moving some district lines.

Mr. Holly responded possibly a week or longer.

Councilman Dewar pointed out there is plenty of time, as the election is not until June 12, 2012. He felt there was no reason to hurry. The next Council election is 2013.

Mr. Pearce pointed out there could possibly be a special election.

Mr. Holly stated he felt the Statistics office could look at the suggestions and see what the calculations might be and provide something for Council to view.

Mayor Cavanaugh stated he felt we should look at the map to see if any lines could be moved, since a Councilmember has asked that it be considered.

Mr. Pearce said to move the process, Council could go forward with first reading on Plan 1 at this meeting. When a potential Plan 3 is made, it could be distributed and possibly have a second reading at the end of April.

Councilman Dewar stated he felt Council could not hold a second reading until the results of the June election are known, as it may or may not be an issue.

Mayor Cavanaugh wondered about the timing for the whole process.

Mr. Pearce pointed out the Department of Justice has 60 days to review any submittal. If they ask for additional information, they have another 60 days to review the submittal.

Mr. Holly stated the concerns are that Council not wait and get too close to an election that is impacted by the Plan. He said the Department of Justice takes 60 days. He said they try to allow more time because, if DOJ asks for any further information, then the time is extended another 60 days. He said you don't want to get too close to an election. Also, you would like for a plan to be in place well before an election so anyone who wants to run for a seat has time to consider running.

Mr. Pearce pointed out if Council waits until June, during the summer Council usually meets once a month. If Council waits until after June 12, you will be looking at 60 days and a possible extension for preclearance. That could push the issue into October or November before getting preclearance from DOJ.

Mr. Holly stated if Council waits until June, it probably would be September or October before there would be a response from the Department of Justice if everything goes smoothly. Mr. Holly stated in making voting changes or election plan changes after a census, a jurisdiction is concerned about two things—one person one vote and the Voting Rights Act compliance. He stated the current plan is not in compliance with one person, one vote. Possibly someone could take action against the city, so the quicker a plan is put into place the less chance someone would be concerned about taking action, or a court would consider it, as Council would have set in motion and passed a law to comply with the new census. He said there were no problems last time after the 2000 census, but a plan was put in place well before the election. He said this is a risk to be aware of. He said the current plan has an issue of whether Council is in compliance with the one person, one vote law. Council is in the process of complying with it after the census, and the sooner a compliant plan is in place with an election coming up the less risk involved with it becoming an issue for a court.

Councilman Dewar pointed out Council has moved in a forward direction. We have submitted to the voters approval of a 6-1 Plan. We have worked with the State to get a plan. Council is discussing it and moving forward. He pointed out a plan is a 10 year plan. If Council could do it better by waiting until June, given that the next election is August, 2013, it seems that should be considered.

Mr. Holly pointed out it is better to have a plan in place. He said this is a decision for Council to make in its deliberations and how it wants to proceed.

Councilman Ebner asked when the term for the House of Representatives starts. Councilman Wells responded that the term would start in January, 2013. It was pointed out Aiken could possibly be without a Councilmember in January, 2013. The normal primary election would be held in September, 2013, so a special election should be held in January, 2013, to fill the unexpired term from January, 2013, to September, 2013.

Mr. Holly pointed out a new plan should be in place before that time.

Councilman Ebner said potentially there could be two elections in 2013.

Councilwoman Price stated she would like to make a motion that Council pass on first reading an ordinance approving the proposed 6-1 Plan 1 and schedule a second reading. She asked for Council's consensus as to when to hold the second reading.

Mr. Gary Smith, City Attorney, asked if it would cause a problem to have second reading of the redistricting plan in June, such as notice requirements, etc.

Mr. Holly stated after reviewing an additional draft plan, and if Council changes the proposed plan, it would probably be good to consider additional public hearings to show people the revised plan. He said the additional public hearings would strengthen the case of fairness and that all the citizens were provided ample opportunity to comment. He said this would be good, especially if there will be a gap of time from first reading to second reading. He said a revised plan could be available in a few weeks. He felt it would also have to be explained to the Justice Department why there was such a long gap between the readings. He felt to be sure Council is committed to public input, there should be another opportunity for public hearing.

Councilman Homoki asked if Mr. Holly had the comments that led to the changes from Plan 1 to Plan 2 and the rationale.

Mr. Holly responded one comment was from a lady at the meeting at the Weeks Center. The comment regarded the finger area of District 5 which extends into District 6. She felt the area seemed illogical and felt that the finger should be reduced so more of District 5 was lower and not protruding into District 6. The other comment came from Councilman Dewar who asked if it was possible to make District 3 more compact and not extend all the way downtown.

It was pointed out the question was asked by Ann Willbrand. Mayor Cavanaugh stated he felt the question was good as there is a finger area from District 5 which does extend into District 6.

Councilwoman Price stated she felt Mr. Holly and the Statistics Office had done a good job in trying to get the population as close as possible to the average of 5,000 in the six districts. She pointed out Plan 1 is a plan that is close to 5,000 in population in each district.

Mr. Holly pointed out that the less deviation in the districts, the longer the plan is likely to comply with the one person, one vote, even with growth.

Mr. Roberts stated state law allows adjusting precinct boundaries thru the legislative process after the redistricting process is done. He said they can adjust the precinct boundaries to alleviate the ballot combinations for the precincts, to cut down on how many people go to the polls and end up getting different ballots for representatives. He said there is an option for the Legislative Delegation to come back after this is done and adjust the precinct boundaries to minimize the ballot combos and make it easier on the voters and cut down on voter confusion.

Mr. Pearce pointed out there are two plans—Plan 1 and Plan 2. He pointed out the other maps are the precinct lines and Plan 3 shows the precinct lines for Plan 1 and Plan 4 shows the precinct lines for Plan 2.

Mr. Holly stated he would suggest that Council go forward with Plan 1, as that is what the public hearings were held on. Then if Council makes changes, the changes would be made one time to Plan 1.

Councilman Dewar stated the proposed motion was to pass on first reading Plan 1. However, at second reading Council could approve Plan 2 or an alternate if the Research Office provides another plan that Council finds acceptable.

Councilwoman Price moved, seconded by Councilman Dewar, that Council approve on first reading an ordinance to approve Plan 1 for the 6-1 district boundaries. The motion

was unanimously approved. The date for second reading was left open for Council to view some possible changes and then set a second reading and public hearing.

Mr. Holly suggested leaving the date for second reading open to provide flexibility. Then if Council wants to have a second reading before June, they could do it, or they could set some other date.

#### ACCOMMODATIONS TAX COMMITTEE RECOMMENDATIONS

2012-13

Mayor Cavanaugh stated Council needs to consider approval of the Accommodations Tax Committee recommendations.

Mr. Pearce stated each year, the Accommodations Tax Committee reviews numerous requests for funding from area events that promote tourism by visitors more than 50 miles from Aiken. They have met again this year, and their recommendations to Council for funding are as follows:

<u>PROJECT</u>	<u>AMOUNT REQUESTED</u>	<u>AMOUNT RECOMMEND</u>
Citizens Park Bid Fees	\$ 14,000	\$ 11,300
Exhibition and Arts Center Marketing	\$ 28,000	\$ 15,000
Antiques in the Heart of Aiken	\$ 28,000	\$ 16,000
Woods Promotion (includes Aiken Horse Show)	\$ 13,507	\$ 9,000
Marketing for Concert Series	\$ 5,500	\$ 4,000
Aiken Trials	\$ 44,792	\$ 15,000
Prep Fest 2012	\$ 11,850	\$ 9,500
Juneteenth/Center for African American History, Art & Culture	\$ 6,508	\$ 2,000
Promotion of Downtown Aiken	\$ 15,020	\$ 13,000
Aiken Spring Classic	\$ 12,425	\$ 12,425
Battle of Aiken	\$ 27,900	\$ 25,000
Aiken's Makin'	\$ 10,000	\$ 7,500
Aiken Fall Steeplechase	\$ 25,050	\$ 19,000
SC Agricultural Educators Conference & Tour	\$ 3,000	\$ 3,000
Aiken Bluegrass Festival & Mini-Fest	\$ 15,000	\$ 5,000
Aiken Polo Club Promotions & Magazine	\$ 26,423	\$ 15,000
	<u>\$ 286,975</u>	<u>\$ 181,725</u>

Mr. Pearce stated this year the Accommodations Tax Committee has recommended funding approximately \$181,725 in appropriations to the specific entities listed in Chair Peggy Penland's memo to Council. Requests for funding were \$286,975, so the Committee put a great deal of effort toward honoring requests in a fair manner.

For Council consideration is approval of Fiscal Year 2012-13 recommended appropriations from the Accommodations Tax Committee in the amounts listed.

Councilwoman Diggs asked why the Juneteenth/Center for African American History, Art and Culture was only recommended to receive \$2,000 while their request was \$6,508.

Mr. Glenn Parker stated Regena Brackett, a member of the Accommodations Tax Committee, was present at this meeting. The meeting of the Accommodations Tax Committee on February 29, 2012, was her first meeting with the Committee. He said he did not remember the specifics why the Committee cut the Juneteenth event. It was pointed out that no representative was present at the Accommodations Tax Committee meeting. Mr. Parker pointed out that representatives for the events are given the opportunity to sell their event and tell the Committee why they need the funds. The Committee then discusses each request. The Committee has information for the event such as where each ad would be spent, the number of visitors that have been to the event, etc.

Councilwoman Price asked how much money would be left after distribution of the funds. Mr. Parker responded there would be about \$5,700 in the Contingency Fund. He

said he usually has to come back to Council with a request for funds in mid-year for some event.

Mr. Pearce pointed out the request for the Aiken Trials was about \$45,000 and \$15,000 was recommended.

Councilman Dewar asked how the number of people who attend the events from out of town is measured.

Mr. Parker stated the A Tax Committee is very interested in knowing how many people from out of town attend the events. He said they are required by the State to do some surveys. He pointed out staff had put together some surveys for the hotels to find out how the events affect the hotels. The survey wants to know if the hotels are seeing visitors for the Battle of Aiken, Aiken's Makin, or any other events. He stated each applicant is asked to take surveys from people who attend their events. Each applicant files an application for funding for their event. That data is provided to the members of the Accommodations Tax Committee. Each Accommodations Tax Committee member gets a copy of the application for each event. Each event can choose to use a survey form supplied by PRT, or they can develop their own survey form. Certain questions need to be on the survey form, but other questions can be added as information to help their event. These forms show the A Tax Committee members how many people came from out of town for their event. Mr. Parker stated that hoteliers on the A Tax Committee know if visitors for a certain event have used their hotels for overnight stays. He pointed out presently there are four hoteliers on the A Tax Committee.

Councilman Dewar asked if the Citizens Park bid fees were for out of town tournaments. Mr. Parker stated most of the teams come from out of town.

Councilman Dewar pointed out that some of the events don't seem to be very specific, but are worded generally. Mr. Parker responded that the project listing is staff taking the application and using a few words naming the project.

Mayor Cavanaugh pointed out that previously he had heard a lot about "heads on beds." He wondered if that was still part of the formula. Mr. Parker stated the number of visitors to hotels is part of the discussion. The State changed the definition of a tourist a few years ago to now mean someone that travels 50 miles or more to an event. The State does not require a tourist or visitor to spend the night. The A Tax Committee realizes, however, that the money is generated from visitors who spend the night in Aiken, and they look at that very closely.

Councilwoman Price stated she would like to see the allocation for the Juneteenth event at least doubled. She pointed out people travel to Aiken and plan their vacation around this event. They also come from Columbia and other places. She said she would like to see the amount for the event increased by \$2,000, making an allocation of \$4,000.

Councilman Dewar stated this happened last year, and he felt this defeats the purpose of the Accommodations Tax Committee's work. He stated last year the Juneteenth event was not funded the full amount and money was added to the event. He said we could add to others also. He felt it might not be fair to the others who also did not get their full request for their event.

Ms. Regena Brackett, a member of the Accommodations Tax Committee, stated there were several organizations that requested money but they did not provide the documentation to show that they were actually bringing people in and that they were actually placing people's heads on beds. She said this was one matter the A Tax Committee considered in their recommendation.

Mayor Cavanaugh stated that historically there is some money that is not spent each year for the events and so there may be some money available later in the year.

Mr. Parker pointed out that the money available is an estimation. The State requires that the City project what will be received during the twelve month period. Several years ago

we were working with actual figures after the money was received. However, at this time we use a three year average to determine what the revenue might be. He pointed out that the City has had an increase in Accommodations Taxes over the last three years. He said normally there is some money left over at the end of the year.

Mayor Cavanaugh stated he supports Councilwoman Price's request to add \$2,000 to the \$2,000 recommended by the A Tax Committee, for a \$4,000 allocation for the Juneteenth event. He said he would rather go ahead and change the allocation rather than waiting until the end of the year. Otherwise someone else might ask for monies for another event and the money might be allocated to them.

Ms. Jo Anne Saunders, Development Coordinator for the Center for African American History Art and Culture, stated she would like to say that the surveys given to them in June, 2011, were filled out at the Juneteenth Celebration last year. Those surveys were given to Lisa Hall for the Accommodations Tax Committee. She pointed out that the Juneteenth is a nurturing project. She said they understand the money is to be used for events to bring people in from out of town. That is what they plan to do. They will market the Juneteenth as a family reunion destination. Their intent is to bring people in, and they would appreciate any help from the Accommodations Taxes. She said some people came from out of town just to attend Juneteenth.

Councilwoman Price stated she knew of some people who have planned their vacation time and family reunions around the Juneteenth event.

Councilman Dewar stated he would like to add \$2,000 to the Antiques in the Heart of Aiken event, making an allocation of \$18,000.

Councilman Ebner stated he would like to go back to the procedures. He said he was understanding that the City used to wait until the money was actually in hand rather than estimating the revenue to be received.

Mr. Parker stated about four years ago the State changed procedures. The City had been making allocations after the money was received. Now the State is saying that we need to make the allocations now in anticipation of the money that will be received. He said the City went through a cycle where we really had to be careful, as we were spending money that we did not have yet from the A Tax. He said money starts coming in July 1. However, if there is an event July 10, and the applicant starts sending in receipts that match their application the City reimburses them for the advertising. He said staff normally estimates the revenue very conservatively and usually receives more than estimated. In the past staff has come back to Council to allocate money received over the estimated revenue. It was pointed out that one year all the allocations were funded 100% after the money was received.

Councilwoman Price moved, seconded by Councilwoman Diggs, that Council approve the allocations recommended by the Accommodations Tax Committee and that \$2,000 be added to the Juneteenth event, increasing the allocation to \$4,000, and that \$2,000 also be added to the Antiques in the Heart of Aiken event, making a total allocation to them of \$18,000 as requested by Councilman Dewar. The motion was unanimously approved.

#### WATER AND SEWER RATES – ORDINANCE

Rates

Meter Costs

Tap Fees

Water Rates

Sewer Rates

Mayor Cavanaugh stated an ordinance had been prepared for Council's consider to increase water and sewer rates.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE ESTABLISHING NEW CHARGES FOR WATER AND SEWER SERVICE.

Mr. Pearce stated Engineering & Utilities Director, Larry Morris, provided extensive information to Council regarding our water utility system at this year's Horizons retreat. Last summer, we experienced a significant increase in calls for service due to water leaks occurring. We have put in place several measures to address the challenges brought on by our aging water utility system, as well as by these increased calls to fix leaks.

In order to repair leaks in a more timely fashion, we are requesting an 8% increase in our rates. This increase will help us meet inflationary pressures, pay higher fuel expenses, and add a six -member crew to repair leaks.

In addition to these costs, it is time to increase our tap fees and material cost schedule to cover the cost of materials and labor to install them. We have not changed these fees since 1995. We propose this new fee schedule:

Meter Cost	5/8" x 3/4"	\$580
	1" x 3/4"	725
Tap Fees	5/8" x 3/4"	350
	1" x 1"	425

We would charge actual cost for meters in excess of 1".

In the past Council has had water rate and sewer rate increases in 2010, 2008, 2007, 2006, 2003, and 2002. The Enterprise Funds, including the Water and Sewer Fund and Stormwater Fund, have typically been money losers. There have been tremendous increases in the number of water leaks throughout the city. As Mr. Morris pointed out at the Horizons presentation he has determined that there is defective pipe causing the leaks. He said literally the crews would repair a leak and then just a few feet down the line another leak would occur. In response to that, Mr. Morris has identified a pipe material that has been used on Sandshifter Court which has worked very well. Those leaks were repaired earlier this year, and we have received no calls in that area, whereas we were averaging at least one call a month on just that one street.

Mr. Pearce stated staff does not want to come to Council asking for rate increases and tries many efforts to avoid a rate increase. However, with the new water plant, water wells on Silver Bluff, and the DHEC order the city is under to address concerns with the Shiloh Springs water source and the radium reading that we have had, staff has talked about this prior to the Horizons meeting and after Horizons. Staff believes that an 8% increase in water and sewer rates will help to not only meet inflationary pressures of 2%, but the 6% additional will also help provide six additional staff members. The additional staff members would give three new crews that can address water leaks. Instead of just putting a band-aid on the leaks, we can replace the service like we did on Sandshifter Court using a new pipe material. In addition staff is recommending an increase in tap fees, which have not been changed since 1995. We will begin replacing our water meter service and sender units because of the technology of the Orion system that has been developed. He said if Council has questions Mr. Morris could answer the questions.

For Council consideration on first reading is an ordinance to increase water rates by 8% to cover costs and adequate staffing and increase tap fees to cover actual materials and installation costs.

In response to a question by Councilwoman Price regarding the last water and sewer rate increases, Mr. Pearce responded the increase was 11.3% and was in 2010. Since that time the City has had a significant increase in the number of water leaks that have to be serviced with the failures in the water lines. Mr. Pearce pointed out that even with the proposed increase in water and sewer rates, the City of Aiken rates would still be lower than most cities in South Carolina, except for Myrtle Beach. The state average rate is 46% higher than Aiken's rates. He said 800 cubic feet is a typical water account for the

city. For 800 cu.ft. usage the bill would increase \$3 per month. He said last summer there were a lot of calls about water leaks and a long list of leaks that needed to be repaired with long waits. He said staff does not like to have to ask for rate increases, but feel that with the modest increase the city can address the leak problem and get the lines replaced with a better pipe material. It was pointed out it is proposed to add three crews, with two people to a crew, to work on the leaks.

Mr. Morris pointed out that as discussed at Horizons rather than hiring all entry level positions, three of the six positions would be a higher level so there would be immediate productivity. In response to a question as to the cost for hiring six workers at a higher level, Mr. Morris stated he did not consider that as he did not have enough Maintenance Worker I employees to work with the higher level employees.

Councilman Ebner pointed out that Council will be working on the budget shortly. He pointed out that at Horizons Ms. Abney, Finance Director, had stated that basically the city's revenue will be flat again this year. He pointed out this will be the fourth year that the city's revenue has been flat.

Mr. Pearce stated that the headlines in the newspaper had been that the State Legislature is cutting back on the local government funds. He said staff expects a decrease from last year's funding from 76% funding to 71% of what the State statute mandates that the State is supposed to give to local government. He also pointed out that Aiken County is also cutting back on the dual tax funding and other contributions to the cities.

Councilman Ebner stated he understands that the Enterprise Funds are supposed to be self funding. He asked if the rates are increased 8% will that make the funds self funding in relation to the water pumped and sewage treated. He pointed out repairs are different. He said we need to be sure the funds will be self funded for everything needed, operating and capital, except for fixing the leaks.

Mr. Pearce said more detail could be provided for second reading. He said his thought was that the increase will help defray the operating costs for trying to fix leaks. He said there is capital money in the third round of the One Cent Sales Tax to help with some of the infrastructure. Whether it would cover all, he could not answer at this meeting. He said this increase would go a long way toward addressing the leak problem and to replacing the meter services.

Councilman Ebner asked that more detail information be provided for second reading. He pointed out that in the Local Option Sales Tax third round, there was about \$7 million for infrastructure. He said he thought the intent was to use that money to replace pipe for older neighborhoods with old pipe versus using it for 10 year old neighborhoods. He asked that staff analyze the \$7 million to determine whether the money is to be used for 40, 50, 60, or 80 year old pipe or use it on 10 year old pipe. He felt the intent was to use it for older neighborhoods.

Councilman Dewar pointed out that at Horizons Council received some flow charts, but due to circumstances these were never reviewed for Council. He felt these needed to be reviewed for Council.

Mr. Pearce pointed out the One Cent Sales Tax is only for capital projects and not for operating costs. He stated that in the 8% increase, 2% is for inflationary measures, and 6% is for the new crews to repair leaks.

Councilman Ebner asked that Mr. Pearce address at the next meeting if the 2% increase would get the Enterprise Fund on a zero base budget or be self supporting.

Councilman Ebner read a portion of the memo from Larry Morris regarding the water rate increase. "The budget includes funds for the Shiloh Radium Treatment Facility as required by the SCDHEC....." Councilman Ebner stated Council had already voted on that, which is a legal requirement. He said we need to be sure that the funding over the next three years from the Enterprise Fund is sufficient to cover these costs. Mr. Pearce responded that funds for that expense were included in the operating expenses in the

Enterprise Fund. Councilman Ebner suggested that staff look at the spend out for the radium treatment project. He pointed out we have to buy and install new water meters, which needs to be included in the budget. He also mentioned the purchase of additional sewer capacity and wondered if funds for that purchase were in reserve. He asked that information on the budget cost for the sewer capacity be provided. He pointed out these costs are large. He was concerned that all these costs are included in the budget and that the proposed increase would take care of these large expenses. He pointed out a spend out in 2010 for the Silver Bluff water treatment plan. He asked that the charts showing the projects be updated as they have Enterprise payouts. He wanted to be sure all the numbers are factored in for these projects.

Councilman Ebner continued to read from the memo—"The budget request was reviewed to reduce costs. This review resulted in a reduction in the budget request in excess of \$900,000 by delaying equipment purchases and reducing operating cost estimates." He said his concern is that we want to be sure that whatever we reduce is not something that will cost us more to maintain than to purchase it.

Mr. Pearce stated some municipalities have deferred maintenance because it was a quick, easy thing to do, but now they are paying the price later because they have major infrastructure replacement because they did not maintain what they had. Mr. Pearce said staff would keep this in mind in reviewing the budget process. He said we were trying to cover 2% inflation and 6% to cover the new crews.

Councilman Ebner pointed out the memo states, "The budget request was reviewed to reduce costs." He was concerned about delaying equipment purchases and reducing operating costs. In an inflation mode he said that bothers him. He asked for an explanation of these items and how the costs are covered. He pointed out \$900,000 has been defrayed, and he wondered if 2% would be enough to cover costs that the city will be facing.

Mr. Pearce stated staff tried to be very conservative, tried to figure out what was needed to address the problems discussed at Horizons and came up with the figure.

Councilman Ebner stated he would write his concerns in an email to be sure we have covered all the other entities in the Enterprise Fund in the 2% increase. He pointed out he was concerned about the budget coming up. He stated we have an issue with the cost for garbage collection.

Councilman Homoki asked if there will be a time when we will get back to an even level for collecting money for water and just have costs for routine maintenance. He said it seems we are on a spike for repairs. He wondered if we would get back to the normal repairs.

Mr. Pearce stated that is the city's goal. He pointed out, however, that cities all across the country are facing the same issue, aging infrastructure. Until we modernize and bring all the infrastructure up to new technology, we will continue to have leaks.

Mayor Cavanaugh pointed out we have been in a down economy. We have not had a property tax increase in many years. He felt it is up to Council. They have always tried not to have to raise taxes. We may be at the point where we have to increase rates for the issues being discussed. He wondered what it might cost to go even further and if Council would be willing to increase the rates more. He wondered if we "need" to, or if it is a "got to" rather than just a "want to."

Councilman Ebner pointed out the water leaks are expensive. He pointed out we are pumping three-quarters to a million dollars a year of water into the ground. We won't stop all the leaks, but over the years these leaks should be reduced. The proposed projects should go a long way to help the problem. He said he wanted to be sure we were looking at all the issues because the numbers are big.

Mayor Cavanaugh wondered if we would be able to say that if the rates are increased 8% there will not be an increase next year.

Councilman Ebner responded that he felt we could not say that we would not increase the rates next year.

Mr. Pearce responded that he also felt we could not say we would not increase the rates next year. He pointed out every couple of years staff comes to Council for increases because of the cost or issues.

Councilwoman Price pointed out we have been modest in our increases to minimize the impact on the citizens. Mayor Cavanaugh stated the charts show we have made modest increases as Aiken, even with the proposed increase, will be the second lowest in the state.

Councilman Dewar stated about a year ago SCE&G increased their rates. He wondered if this was factored into the proposed increase.

Mr. Morris stated that increase is factored into the figures we have. He pointed out he worked with the City Manager to reduce the \$900,000; they did not reduce fixed costs. That is one of the fixed costs. He said he was comfortable with the fixed costs. He said what they tried to adjust was looking at equipment that would normally rollup for replacement and not replace some of it because of low mileage, etc.

Councilman Dewar pointed out the statement that "the present unaccounted water averages 15% each month." He wondered how soon we could expect that 15% number to start going down.

Mr. Morris stated that is a hard question to answer. He said they would start fixing the leaks as soon as they have the new employees. The new employees' goal will be to do 1,500 to 2,000 new services in the coming year, which is a very aggressive goal. We would target the worst leak areas so we would cut down the greatest leak areas. He pointed out that in the 15% there are also about 12,000 water meters that are losing speed and are running slow due to age. These meters could be running 2% or more slower. As these meters are replaced over the next three years, we will see a drop in the number also.

Mr. Pearce pointed out it is a combined approach. It is not just fixing the leaks; it is also replacing the meters, which is a three year project. We would expect to see progress every year.

Councilman Dewar asked if Council approved the rate increases, when would the new crews be working on leaks. He wondered if the city would continue our proactive efforts to identify underground leaks.

Mr. Pearce stated the increase would be effective with the May 1, 2012, billing. The employees would be in the July 1, 2012, budget for approval and the employees would be hired over the summer as soon as possible. He said the city would continue its efforts to identify underground leaks.

Councilman Ebner moved, seconded by Mayor Cavanaugh, that Council pass on first reading an ordinance to increase water and sewer rates by 8% to cover costs and increase tap fees to cover actual materials and installation costs. The motion was unanimously approved.

WATER TANK – ORDINANCE

Cell Tower Lease  
York Street  
Whiskey Road  
South Boundary  
Lease  
Black Dot Wireless  
SunCom Wireless  
T-Mobile USA, Inc

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to approve a cell tower lease with Black Dot Wireless for the water tower at York Street and South Boundary.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING A LEASE OF SPACE ON THE WHISKEY ROAD, SOUTH BOUNDARY AVENUE, AND YORK STREET WATER TOWER TO BLACK DOT WIRELESS.

Mr. Pearce stated we have been contacted by representatives of Black Dot Wireless to renegotiate terms of the original water tower lease for cell phone antennae installation for T-Mobile Communications. Since our initial lease with SunCom, changes in the cell phone industry have brought this request for renegotiated lease terms with SunCom's successor, Black Dot Wireless. They propose that the lease be renewed effective July 1, 2013, with an annual base rent of \$13,225. The initial lease term would be 60 months (5 years). After 60 months, the lease amount would increase 15% and increase 15% every five years. The initial lease is for five years with two renewals of five years each, for a total of 15 years.

Engineering and Utilities Director Morris and Finance Director Abney have reviewed this proposal and do not have any concerns with the proposed new terms.

For Council consideration on first reading is an ordinance approving a new cell tower lease with Black Dot Wireless as agent for T-Mobile Communications for the water tower at York Street, South Boundary Avenue, and Whiskey Road.

Councilman Dewar pointed out that the cell tower had been approved in the 1990's. He said at that time the Historic Preservation Commission, now Design Review Board, approved the placement of the cell tower on the water tank, since it is in an historic district. He wondered if the Historic Commission (DRB) had been contacted regarding the proposed renewal of the lease. He wondered if there would be the same number of antennas. He also asked if the antennas had always been allowed.

Mr. Pearce stated usually the DRB only approves the initial design of the installation of the tower. There would be no change in the design. The antennas would not change; they would just remain in place. Since the appearance would not change there is no requirement to go back before the Design Review Board. Mr. Pearce stated at one time there were three towers, but there are just two now. He pointed out the antennas are a non-traditional installation on top of the water tank hidden behind a wall as opposed to a monopole design or a constructed tower. There was a request for a tower several years ago near the Carolina Bay that was not approved by the Planning Commission. Then the applicant built the tower in the county a short distance away from the original request.

Councilman Ebner moved, seconded by Councilwoman Diggs, that Council approve on first reading a cell tower lease with Black Dot Wireless as agent for T-Mobile for use of the water tower at York Street and South Boundary and that second reading be held at the next regular meeting. The motion was unanimously approved.

DEPUTY SOLICITOR – ORDINANCEPart-Time PositionDeputy SolicitorLegal DepartmentAmend Budget

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to establish a part-time position of Deputy City Solicitor.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE FISCAL YEAR 2011-2012 BUDGT TO  
CREATE THE POSITION OF DEPUTY CITY SOLICITOR.

Mr. Pearce stated after our review of Legal Department operations, and in order to provide our City Solicitor with choices for staffing prosecutors to assist in trying cases, an Ordinance has been prepared by City Attorney Gary Smith. The amendments would give the City Solicitor flexibility as to whether she would want to hire outside professional legal services on a contract basis or potentially as a regular part-time position. Presently we do not have a part-time position in the budget this year, but we wanted to go ahead and establish that position.

This ordinance establishes a regular part-time position of Deputy City Solicitor. This Deputy would report to the City Solicitor, who would in turn, supervise the Deputy's prosecutory work in City Court.

For Council consideration is first reading of an ordinance amending the 2011-12 budget to establish the regular, part-time position of Deputy City Solicitor in the Legal Department.

Councilman Ebner asked if it would be open to hire someone on a 1099 and pay their insurance if they were working for a large law firm and wanted to stay with the firm. He wondered if we could hire them as a contractor as long as they are covered.

Mr. Smith stated the city would have that option. There is a separate line item for Legal Services.

Mr. Pearce stated in the City Solicitor budget there is a line item for Salaries, for Legal and for Other Professional Services. For a salary position, the position will be listed in the budget on the salary sheets as a part-time position as Deputy City Solicitor.

Councilman Homoki asked if the position would be advertised, and Mr. Pearce responded that under state law the position would be advertised.

In response to a question by Mayor Cavanaugh regarding the City Solicitor having an option of employing a Deputy City Solicitor on a contract basis or as a regular part-time employee, Mr. Pearce stated that was what Councilman Ebner was talking about. He pointed out that a 1099 employee would be a contract employee. The other option is to hire a part-time employee. Mayor Cavanaugh was concerned about the immunity problem with either situation.

Mr. Pearce stated there is a case pending in the U.S. Supreme Court regarding this issue. A decision will probably be made over the summer that will settle the matter. The ordinance provides the City Solicitor the option of how she wishes to proceed. If someone wants to work for the City who is not comfortable on a contract basis because of liability issues, it does give the City Solicitor the option to employ the person if she wants to employ the person as a regular part-time employee.

Councilwoman Price asked if the part-time employee would have liability coverage.

Mr. Pearce stated as an employee the City does have a city general liability policy that covers employees who are working for the city.

Mayor Cavanaugh asked if that would cover all immunity, such as Worker's Comp, etc. He asked if being a part-time employee would bring with it all the legal immunities necessary.

Mr. Pearce responded that with an employee who is appointed as Deputy City Solicitor it is his understanding that brings the immunity of being a prosecutor representing the city in City Court. There is a separate liability policy that the city carries for all actions by our employees. Also, the part-time employees are covered under Worker's Comp. If the person is a regular part-time employee there would be no business license required for the work that they would do for the city as a part-time employee. If there is other outside work, they would need a business license for the other work.

Councilman Ebner moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to amend the 2011-12 budget to establish the regular, part-time position of Deputy City Solicitor in the Legal Department. The motion was unanimously approved.

### COUNCIL COMMENTS

#### Awards

#### United Way

#### CAFR

#### Public Safety Department

Councilman Dewar stated he would like to congratulate three members of the staff. He congratulated Alicia Davis for her United Way Award, Kim Abney for the award for the CAFR, and Chief Barranco for the Public Safety Department being an Accredited Law Enforcement Agency.

Mr. Pearce stated our Public Safety Department is an Accredited Law Enforcement Agency which means that the Public Safety Department meets national standards in how the department operates. There is an additional distinction that they received Saturday night as an Agency of Excellence. In South Carolina there are only three such agencies, Charleston, Goose Creek, and Aiken. Nationwide there are less than 50 such agencies. This is a very high honor for the Aiken Public Safety Department.

#### Community Services Division

Councilman Dewar stated there was some information about the reassignment of Community Service Division employees. He was concerned whether the reassignments would affect coverage on the south side of Aiken. Mr. Pearce pointed out this would not affect the regular coverage on the south side of Aiken.

#### City Manager

#### Staff Contacts

Councilman Dewar stated he had asked that there be a permanent item on the agenda for Council to make comments. He said this had seemed to raise a little furor with the chain of command. He said he was aware of the fact that Council has no authority to direct staff to do anything. The only person who can direct staff is the City Manager. Beyond that there is an element of confusion in his mind. He said at one point he was not given a telephone directory because he should not be calling anyone on staff, but should be calling the City Manager. He said that frustrates him at times when all he wants to do is ask a simple question. A good example is when he had a problem with a computer and a quarantine message. He said he had talked to IT staff and found out he was not able to do what he wanted to do because he has a Mac and he doesn't have Explorer. He said at times he does have questions for staff. He said he would like the flexibility to contact staff members at times on mundane issues to save the City Manager time. He said at times all of Council has talked with staff. He said he sees staff at public events. He felt there should be a reasonable balance with this matter. He said he understands what the law says. He said he felt he had not violated the law. He said when he first got elected he received a call from someone who wanted him to call the Chief of Police and get a

person out of jail. He said he knew he did not have the authority to do that. He said he brought this matter up for comment.

Mr. Pearce stated he would like to address publicly that the City Manager's Office stands ready to help Council in any way. When Council has questions sometimes it may seem that a particular person on staff could answer the question. However, sometimes it involves more than one department to get the answer. He asked that Council continue to work through the City Manager as that works best for our operation. Otherwise, we don't know what the questions are and who said what about what. He said he wanted to make sure that Council gets the best information possible. He said the reason for the thicker packets that Council gets is that we are trying to push a lot more information to Council so we can have good discussions. He said it works better if Council could use a single contact point, and he would get a response to Council as soon as possible.

Councilwoman Price stated this was very difficult for her after 20+ years having the flexibility of calling staff to get a quick response. She said she was trying to figure out where she had gone wrong if she was calling someone to ask a quick question for a quick response. She said she had violated the rules over the weekend. She said she had called Chief Barranco to ask him a quick question about someone who had made an inquiry regarding an event in the community. She said she did not want to bother the City Manager with small things that require a quick 5 second response. She said she had called Larry Morris with a quick question. She said she would have to get accustomed to the micro-managing. She said she had not experienced that in her 20+ years as a Councilmember.

Mr. Pearce stated there is no intent to micro-manage Council or staff. It is just helpful to him if Council could run a question through him. He said if the question is what time do we open or close, he has no problem with that. He said he was just trying to make sure Council is getting the best information possible when it is not just a basic question.

Mayor Cavanaugh stated he felt we should make it clear that there is nothing wrong with Councilmembers asking questions of staff. He pointed out Council cannot direct staff.

Councilman Homoki stated there is a difference between someone talking to Larry Morris and asking him to take care of something or just asking him a question. He felt there was nothing wrong with asking a question. He pointed out he and Councilman Dewar had worked with big organizations. He said they know you can ask questions, but you don't direct staff. He said there is a difference. He said the law insists that Council not give direction or try to bypass the City Manager. He said he did not see a problem with asking questions. He said if the law says he can't ask questions he won't. He felt Mr. Pearce may be misinterpreting by being a single contact for information. He said by being a single contact Mr. Pearce controls information that Councilmembers get. He said Mr. Pearce prepares the Council agendas also and this really controls the information that Council gets. He said by only getting that information Council may not know any differently. He said Council may never really find out what is going on by not being allowed to talk some people who work for the City Manager. He said Council is not giving direction. They are only asking questions.

Mr. Pearce stated he was not saying Council should not talk to staff. He said he agrees that Council should not direct staff. He said staff takes calls all the time from the public with questions for information. He said he was not trying to filter information or not give information. He said he does know that staff gets asked questions that involves more than one department. He said he was just trying to make sure Council gets all the information and not incorrect information. He said as far as simple questions as far as operations or the time of an event, etc. he was not saying Council could not ask staff that. However, he was just trying to say that when we get into issues that involve budget, department needs, and operations he needs to be involved in those conversations to make sure Council gets the right information and the complete information. He said he was not trying to micro-manage or obstruct Council's access to staff. He is trying to be the City Manager and needs to know what questions Council has. There may be a question in one area that other areas are also involved. He said he wanted to make sure we are doing the best we can with operating the city.

Councilman Dewar stated he raised the question to respect the City Manager's time and not to bother him with the mundane things that can be handled elsewhere. He said he had had a job like the City Manager job, and he understands where he is.

Mr. Pearce stated he answers a lot of questions every day, and he does not have a problem with it. It does not bother him at all.

Councilwoman Price stated she was glad for the clarification as she had misinterpreted what she was supposed to do and being retrained after 20+ years.

Mr. Pearce stated he was here to help Council. He was not here to frustrate Council or keep information from Council. He said he was here to get information to Council and let Council make informed decisions. He said that is all he is trying to do every day. He said he puts in a lot of hours to get that information to Council.

Councilman Dewar stated hopefully there is no problem with staff people that talk with them as they see them at a social event.

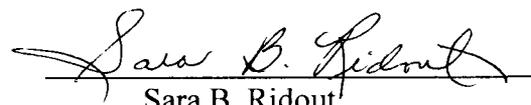
#### BESIDE THE BADGE

Councilman Wells stated the spouses or partners of our Public Safety Officers have joined the organization called Beside the Badge and formed a chapter in Aiken. They are having a fundraiser. He distributed some information on the fundraiser and what the funds from the fundraiser will be used for. He pointed out some funds will be used to send some fellow officers of Scotty Richardson to Washington to get his name put on a plaque. That is this year's project. Next year's project will be to raise funds for fellow officers to go to Washington for Sandy Rogers to get her name on the plaque of fallen officers. He said he wanted Council to be aware of what was going on in the community. He commended the ladies for this effort and urged support for them.

Mr. Pearce pointed out that the community has stepped up in other ways to support the trip for the memorial. Apparently the way the memorial works on the national level is that a death in 2011 is recognized in 2012. Then the 2012 death will be recognized in 2013.

#### ADJOURNMENT

There being no further business, the meeting adjourned at 10:38 p.m.

  
Sara B. Ridout  
City Clerk