

Aiken City Council MinutesREGULAR MEETING

February 25, 2013

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

Others Present: Richard Pearce, Gary Smith, Stuart Bedenbaugh, Glenn Parker, Charles Barranco, Tim Coakley, Kim Abney, Ed Evans, Larry Morris, George Grinton, Alicia Davis, Sara Ridout, Amy Banton of the Aiken Standard, and about 35 citizens.

CALL TO ORDER

Mayor Cavanaugh called the meeting to order at 7:00 P.M. Mayor Cavanaugh led in prayer, which was followed by the pledge of allegiance to the flag.

GUIDELINES

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

MINUTES

The minutes of the regular meeting of February 11, 2013, were considered for approval. Councilwoman Diggs moved, seconded by Councilman Ebner, that the minutes be approved as written. The motion was approved by a majority vote, with Councilman Dewar abstaining since he was not present at the last meeting.

BOARDS AND COMMISSIONSAppointmentsJason RabunRecreation Commission

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

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

Councilmember Ebner has recommended that Jason Rabun be appointed to the Recreation Commission to fill the position vacated by John Brookshire. If appointed, his term would expire September 1, 2014.

For City Council consideration is approval of one appointment to the Recreation Commission.

Councilman Ebner moved, seconded by Councilman Dewar, that Council approve the appointment of Jason Rabun to the Recreation Commission, with the term to expire September 1, 2014. The motion was unanimously approved.

Councilman Ebner stated he would like to recommend the reappointment of Catherine Thomas to the Arts Commission.

Mayor Cavanaugh stated the recommendation would be on the next agenda for Council's approval.

LEASE – ORDINANCE 02252013

H. N. Willing
Mason Branch Reservoir
Hamelin Road
Ryan Martin
Ally Burgess Martin
TPN 116-00-01-026

Mayor Cavanaugh stated this was the time advertised for second reading and public hearing on an ordinance to approve transfer of a lease agreement and easement between H. N. Willing and the City of Aiken to Ryan Martin and Ally Burgess Martin.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE APPROVING ASSIGNMENT OF A LEASE BETWEEN THE CITY OF AIKEN AND H. N. WILLING TO RYAN AND ALLY BURGESS MARTIN.

Mr. Pearce stated H. N. Willing owns approximately 50 acres immediately adjacent to the Mason Branch Reservoir that is located north of Interstate 20 and near Hamelin Road. In 1981, when City officials wanted to develop Mason's Branch Reservoir to provide an emergency supply of water for our water customers, Mr. Willing entered into a lease agreement for 9.60 acres with the City to provide access to his property. He also conveyed to the City 10.56 acres for the sum of \$20,000 at the same time. Copies of the 1981 Lease Agreement and deed were provided to Council for reference. Our total acreage for the Mason Branch Reservoir is 20.16 acres.

Mr. Willing obtained a roadway access easement and fishing rights for himself and certain family members. Now that he is older, he has entered into a Contract of Sale to convey this 50-acre tract to his nephew, Ryan Martin, and his nephew's wife, Ally Burgess Martin. A copy of Mr. Willing's letter was included with the agenda packet.

In order for the Martins to obtain a loan to purchase this land, they must be able to show that they have a written access easement from a public roadway to this tract. H. N. Willing built this access road in 1962. Ryan Martin seeks assignment of this lease to him and to his wife in order to qualify for this loan.

They also seek City Council approval to assign the fishing rights granted to H. N. Willing to them. No changes are sought to the 1981 lease agreement, merely assignment of it by City Council from H. N. Willing to the Martins. Since this request involves City-owned real estate, it must be done by a City Council ordinance.

For Council consideration on second reading and public hearing is an ordinance to approve assignment of a lease, the egress/ingress/regress access easement across the dam, and fishing rights from H. N. Willing to Ryan and Ally Burgess Martin.

The public hearing was held and no one spoke.

Councilman Dewar moved, seconded by Councilwoman Price, that Council approve on second reading an ordinance approving the assignment of a lease agreement and easement between H. N. Willing and the City of Aiken to Ryan and Ally Burgess Martin. The motion was unanimously approved.

ANNEXATION – ORDINANCEDale PedersonAndrea Wells912 Banks Mill RoadTPN 121-19-08-005

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration to annex 0.5 acres owned by Dale Pederson and Andrea Wells located at 912 Banks Mill Road and Zone it Limited Business (LB).

Mr. Pearce read the title of the ordinance.

AN ORDINANCE TO ANNEX TO THE CORPORATE LIMITS OF THE CITY OF AIKEN CERTAIN PROPERTY CONSISTING OF 0.5 ACRES MORE OR LESS OWNED BY DALE PEDERSON AND ANDREA WELLS AND TO ZONE THE SAME LIMITED BUSINESS (LB).

Mr. Pearce stated Dale Pederson and Andrea Wells own a half acre of land at 912 Banks Mill Road. They are interested in potentially opening an antique business on this property. Since it is contiguous to the Aiken City limits, they have filed an application to annex this property. They seek to zone it Limited Business (LB). An antiques shop is just one permitted use in this zone. A copy of the relevant use table showing all the uses permitted in the LB zone was provided as information.

The Planning Commission met February 12, 2013, and unanimously voted to recommend annexing this property into the Aiken City limits upon these conditions being met:

1. Any vehicles, trash, and other debris be removed from the site.
2. If any Significant or Grand Trees are removed from the site prior to approval of a site/landscape plan by the City, that this annexation will be void.
3. Owners sign a document agreeing to these conditions, and this document be recorded at the Aiken County Register of Deeds.
4. All conditions be met within 180 days of any City Council approval, or this annexation shall be considered null and void.

For Council consideration on first reading is an ordinance for annexation of the property at 912 Banks Mill Road into the Aiken City limits and to zone it Limited Business (LB).

Councilman Ebner moved, seconded by Councilwoman Diggs, that Council approve on first reading an ordinance to annex property at 912 Banks Mill Road and zone it Limited Business (LB) and that second reading and public hearing be set for the next regular meeting of Council. The motion was unanimously approved.

ZONING ORDINANCE – ORDINANCEOutdoor StorageTemporary StoragePortable Sheds

Mayor Cavanaugh stated an ordinance had been prepared for Council's consideration on first reading to amend the Zoning Ordinance regarding commercial business temporary outdoor storage.

Mr. Pearce read the title of the ordinance.

AN ORDINANCE AMENDING THE CITY OF AIKEN ZONING ORDINANCE AT THE REQUEST OF THE BOARD OF ZONING APPEALS REGARDING TEMPORARY OUTDOOR STORAGE.

Mr. Pearce stated the Board of Zoning Appeals Chair Larry Ogletree has requested City Council review of potential amendments to the Zoning Ordinance. He has pointed out

that the Board has seen an increased number of applications for temporary outdoor storage units at area businesses, typically during the annual holiday season in November through the end of December. The Board of Zoning Appeal has recommended amendments to Sections 4.3.3.C, 4.3.4, and 3.4.2F of the Zoning Ordinance to provide for the location of temporary outdoor storage units in light of recurring variance requests they have received.

After review City Attorney Gary Smith has recommended proposed amendment language to Section 4.3.3.C, Aiken Zoning Ordinance, Outdoor Storage, Temporary. The recommendation is to have the Planning Commission consider allowing the period of the presence of the temporary portable storage not just for three days, but from November 1 to December 31 each year and have the Building Official determine what would be an appropriate number of temporary units based on the space proposed for the location of the storage units.

Under our ordinances, City Council can pass this proposed ordinance on first reading, and then transmit it to the Planning Commission for their review and recommendations. It would not be brought back to City Council until the Planning Commission makes their recommendation to Council.

For Council consideration on first reading is an ordinance to amend the Zoning Ordinance regarding commercial business temporary outdoor storage units.

Councilman Dewar stated he understands the proposed ordinance would go to the Planning Commission and then come back to City Council for consideration on second reading. He asked if the Planning Commission would deal with the location, the number, type, etc. Mr. Pearce responded the Planning Commission could deal with those issues, or they could defer to the Building Official as the proposed ordinance is drafted.

Councilwoman Price moved, seconded by Mayor Cavanaugh, that Council approve the ordinance on first reading to amend the Zoning Ordinance regarding commercial business temporary outdoor storage and refer the proposed ordinance to the Planning Commission for review and a recommendation. The motion was unanimously approved.

RESOLUTION 02252013A

Public Safety Records
Records Retention Schedule
Retention Schedule
SC Archives and History

Mayor Cavanaugh stated a resolution had been prepared for consideration to adopt S.C. Department of Archives and History Protocol for Public Safety Records Retention Schedule.

Mr. Pearce read the title of the resolution.

A RESOLUTION TO ESTABLISH A RECORDS RETENTION POLICY FOR THE AIKEN DEPARTMENT OF PUBLIC SAFETY.

Mr. Pearce stated as part of the Accreditation of our Public Safety Department, a policy must be in place for the retention schedule for documents related to Department operations. Greg Carter, Aiken Department of Public Safety Records Manager, has worked with the South Carolina Department of Archives and History to develop a comprehensive retention schedule for these records.

Pursuant to State law, City Council must approve this schedule in order to make it effective. Therefore, for City Council approval is a Resolution to adopt the Records Retention Schedule for our Department of Public Safety.

City staff has reviewed the proposed retention schedules and are asking that Council approve the recommended retention schedules.

Councilwoman Diggs moved, seconded by Councilman Homoki, that Council adopt the resolution authorizing approval of the retention schedules recommended by the State Archives and History Department for Public Safety Department records. The motion was unanimously approved.

PETITION

Gem Lakes Extension

Roadways

Mayor Cavanaugh stated a petition had been received from the residents of Gem Lakes Extension Subdivision regarding the roadways.

Mayor Cavanaugh stated he was glad that residents of Gem Lakes were present for discussion of their concerns. He said he wanted the residents to know that City Council, the City Manager and staff want the residents to know that their concerns are their concerns. He said the city wants the problems fixed as soon as possible, and he was sure the developers do also. The City has worked along with the developers to solve the problems and will continue to do so until they are solved. He felt there are other things that can be done that will be discussed. He pointed out some comments in the community handout and stated he would like to address some of them. He pointed out the statement in the flyer "Time to get angry or meekly accept roads as they are!" He said the City does not want the residents to do either of those things. He said anger will not solve the problem or help anything, nor is accepting the roads as they are the right thing to do either. He said the City of Aiken has not accepted the roads in the Gem Lakes Extension Subdivision and will not until it is proven that they are in good condition over a period of time. The roads are owned by Mr. Todd Gaul and Mr. Steve Kisner. They have indicated that they will work to get the roads right. He pointed out the statement "You're paying taxes for roads the city won't repair!" He said as mentioned earlier the roads are not city roads, but are owned by the developers. He said the City does care for the residents' home investments and the neighborhood. He said the City will support the developers in any way possible as they continue to work to complete the job. He thanked the residents for being present and coming to discuss the issues.

Mr. Pearce stated residents of Gem Lakes Extension Subdivision have petitioned City Council with concerns they have regarding the roadways in their neighborhood.

Mr. Pearce stated last summer he had met with residents of Gem Lakes, along with Mr. Kisner and Mr. Gaul, and Mr. Morris. He said there was a discussion about a path forward with a concern about the roads in the Gem Lakes Extension area, particularly on Moultrie and Huron streets.

A copy of various actions taken by City staff, the residents, developers Steve Kisner and Todd Gaul, and others was included in the agenda packet. Richard Decker has sent a letter dated February 18, 2013, with exhibits, that was also included in the agenda packet.

At this time, these roadways do not belong to the City of Aiken. City staff has alerted the developers about a city-generated "punch list" of items related to these roads, and the developers have attempted repairs to them.

In addition, residents were concerned that water in this area was related to leaking water line pipes. Staff has said that city sonar testing has shown that water seen is natural runoff or excess water from residential irrigation systems. No leaking water lines have been found at this time. Ground Penetrating Radar (GPR) studies were performed in the subdivision, and it was determined from those studies that the water sources were either from household irrigation systems or naturally occurring water. Staff has had conversations with the developers. They are aware of the water problem. He said it was his understanding that the developers are under contract with CSRA Engineering, and CSRA is looking at the situation to develop potential fixes to keep the water out of the roadway. He stated also that George Grinton, of City staff, has worked with the company

that the developers hired to patch areas of the roadway. There was an option under the approved development plans for a 6 inch stone base under the roadways. He said he understands that was done in the area of the detention pond for the development, and there is sand and clay base under the rest of the roadway system. He said there was some concern from the petitioners that the roads be as the roads were in other areas of Gem Lakes. He said Phase J of Gem Lakes was done in 1983. Phase N, included Lakeside Drive from Savannah to the cul de sac. The Oaks section of Gem Lakes was done in 1992. These all have sand/clay based roads in the subdivision. He said staff had spoken with Tilden Hilderbrand, Engineer, that worked with the developers on the original development. He said their understanding is that the sand/clay base is something that is also approved in Aiken County for road bases. There were some cracked portions of the road. Mr. Grinton worked with the developers. In that area there was a 24" deep installation of gravel that was proof tested and the asphalt added. From the petition and the photos included, immediately next to some of the patches and in a couple of the patches, you see some cracking roadway. That was the reason for the sonar study with the ground penetrating radar. The belief is that an engineering firm will have to look at this occurrence of water in the roadway. Water is the common enemy. As far as other roads in the subdivision, we looked at Lakeside Drive, the older sections of Moultrie and Huron and saw where those roads had been patched over time as well. The conversation with the developers is ongoing. The understanding is that with the result of the radar study, and with the hiring of the engineering firm, that the developer does not have a report in hand at this time, but will be receiving a report and using that to do further work on the roadways either in late spring or summer.

City staff is informed that the developers remain committed to addressing needed repairs to these roads. Once these repairs are completed this Spring, a one-year developer warranty period will commence.

After this one-year warranty period is completed, the developers can seek dedication of these roads to the City of Aiken. City Council will vote on this request when it is made at a public hearing.

Councilwoman Price asked if the developer who owns the road has kept the community informed about the progress and work that has been going on with the roads.

Mr. Pearce stated Mr. Kisner would have to answer that question. He stated the City has done the sonar study and he sent a letter to residents of Gem Lakes in October, 2012, and sent an additional letter to the residents. He said there were some ongoing conversations by Mr. Decker with Mr. Grinton and Mr. Morris. When the company was cutting out sections of the roadway with the cracks, Mr. Decker had other residents in the subdivision talk with the contractor and had conversations with Mr. Kisner as well.

Councilwoman Price said Councilman Ebner had mentioned city standards and the construction of the roads. She wondered if that had been resolved.

Mr. Pearce stated the City has a road development standard, and that is used to develop a punch list. After the roads were put in, a punch list was developed. When the City met with the residents last summer the residents were informed that the developer had a punch list of items to address prior to the City approving the roads and starting a one year warranty period. We are not in the warranty period because the punch list is still being worked on since we still have the reoccurrence of the water. It is our understanding from the developers that the CSRA Engineering group will be working on some potential installations that would help abate the water concern.

Councilman Ebner stated he felt the key word is "recurring" in places in the area. He said that is one of the key issues, the reoccurrence of the same type thing caused by the water.

Councilman Ebner stated Mr. Fairchild will give the presentation and present the petition that the neighbors have signed. A lot of background work has been done, especially since August, when we had the meeting at the Gem Lakes pavilion. He said usually

Council has the presentation and other residents speak. He said he would also like to have Mr. Morris state the facts from his position with the City and expound on some of the comments that have already been said.

Mr. Jim Fairchild, Pastor of Southside Freewill Baptist Church, read the petition from the residents of Gem Lakes Extension Subdivision.

BACKGROUND INFORMATION:

Prior to City of Aiken permitting, the city was presented with plans and design specifications for infrastructure improvements that would occur in the Gem Lakes Extension Development. Approval for development of the Gem Lakes Extension was contingent on city approval of these plans. Designs for the roads and other infrastructure improvements were compiled by licensed engineers, submitted and approved by the city. It was intended that the roads were to be deeded to the City of Aiken, but only after inspections showed them meeting design specifications. It was public and common knowledge that the roads would not remain in private hands; but, four years after initial paving the roads are still in private hands and have still not passed inspections. It is not clear why permitting and development was allowed to go forth when infrastructure, and repairs to deficient infrastructure, could pass neither inspections nor dedication attempts.

Disintegration of the roads began immediately after initial paving and before any development had occurred. Since that time, the roads have continued to crack and break apart, despite having been repaired many times. It may be logical to conclude that either the plans submitted to the City of Aiken were faulty in design or did not take into consideration issues that arose, or, the implementation of the plans was not properly carried out, or, a combination of the two. A properly engineered, paved, and inspected road should, before massive failures occur, have a life expectancy that exceeds a few months or years! Claims have been offered that the problems were known early on and that permanent repairs would be forestalled until the completion of construction, however, knowledge of ongoing problems did not stop attempts to have the roads dedicated to the City of Aiken on at least one occasion.

The roads have satisfied neither residents nor the City of Aiken, and numerous attempts to rectify the problems and pass City of Aiken inspections have failed.

Importantly, attempted repairs have left the roads an unsightly and disgraceful mess which does not meet the expectations of homeowners and citizens, all of whom have made significant investments in the purchase of Gem Lakes Extension properties. The repairs, and leaving the roads without repaving, should not satisfy the City of Aiken or elected officials either.

To date both the developer and the City of Aiken Engineering Department are on record as not understanding what is causing the roads to deteriorate; be that from a singular cause, such as water undermining the road, or from a combination of problems. To date there has been no comprehensive forensic engineering study which addresses the causes of the failures.

Even without such an engineering study, in a letter dated October 4, 2012, Mr. Richard Pearce, the City of Aiken Manager, has proposed a 6 point plan to address the road issues within the Gem Lakes Extension. A copy of that letter is attached for those who have not seen it.

THE PETITION:

WE, THE UNDERSIGNED, do not find the October 4, 2012, plan as outlined by Mr. Richard Pearce, the Aiken City Manager, to be complete and meeting our expectations;

WE, THE UNDERSIGNED, believe that because of the long history of failures of these roads, that, the City of Aiken should require that an independent forensic engineering study be performed on the roads in this development. That, the purpose of doing such a

study is to insure that the roads will be properly repaired; and, that lacking such a study City of Aiken taxpayers will quite likely be faced with hidden costs and higher taxation which will be needed to effect repairs after dedication of the roads to the City of Aiken has occurred;

WE, THE UNDERSIGNED, in the strongest of terms possible, further state that after engineered repairs are completed that any solution which does not include resurfacing of the road will not suffice nor meet our demands;

WE, THE UNDERSIGNED, therefore appeal, and respectfully request, that the City of Aiken Mayor, the Honorable Fred Cavanaugh, and our City of Aiken Councilman, Mr. Reggie Ebner, should take up this cause to insure that our concerns and demands will be brought before the City of Aiken Council in order that there will be a successful conclusion to our concerns;

WE, THE UNDERSIGNED, also request that we should be kept fully informed of the dates of any meetings regarding these roads and that this be done in advance so that citizens may allocate time to attend in order that our views may be heard and recorded. And, that any further proposals regarding the roads and repairs, or any other actions contemplated to resolve the aforementioned issues be disseminated to the residents;

WE, THE UNDERSIGNED, further state that, we have read the above petition, that we are in agreement as to the actions requested. That we are residents of the City of Aiken, County of Aiken, State of South Carolina, and that we are legally entitled to sign this petition. And, that we have not signed this petition more than once.”

Mr. Fairchild presented the signed petition to City Council.

Mr. Richard Decker stated he is retired and moved to Aiken several years ago. He said he views the issue as a City responsibility. He said members of Council are elected by the citizens to ensure that the roads and infrastructure in the city meet standards. He said City Council proposes regulations. The City Manager is to enforce the regulations. He said we could talk all night how we got to this point. He said he had reviewed the records extensively—the Land Use Regulations, the bonding regulations, etc. He said he was not sure that serves a purpose at this point. He said what is needed is for the City to honor its commitment to its citizens to provide them with a road that matches visually and structurally the roads surrounding them in Gem Lakes. He said anyone who has traveled down the road can attest to the roads’ condition. There is no other road in any other development or in the city in a new development that is like what the residents of Gem Lakes Extension are faced with. He said Mr. Kisner and Mr. Gaul have attempted to repair the problems. They have made numerous attempts to repair the problems, going back four years. Those attempts have not succeeded. He said, as the petition asks, there needs to be an independent engineering study so they can know what needs to be fixed. Initially it was felt there were some cracks in the road and some problems, and they would do some patching. However, they now have third generation patches—patches on top of patches on top of patches. They were assured in August that some of the patches would take care of the problem. He said now there are patches that are sinking and cracking. Areas around the patches are sinking and cracking again. If the problem is water, he felt water might have been taken care of if the six inches of gravel that was called for in the specifications had been followed. Somehow, that six inches of gravel is not there. He felt that having gravel maybe would channel the water underneath the road away from the problem area and might have helped. He said his request is that Council honor its obligations to the citizens to provide them with the roads that every citizen has the right to expect in the city. He felt the petition states the requests of the citizens clearly.

Mayor Cavanaugh stated they would ask that Mr. Kisner speak at some point about what is new and what is being done. He pointed out there is work going on. He said the issue is a strange situation. At first some felt the city had leaking water lines in the area. It was determined that was not the case. He pointed out Mr. Kisner and Mr. Gaul have a

wonderful reputation in the City of Aiken, and he felt they want to do what they can to get the problem fixed.

Mr. Decker stated water is running off the properties onto the road, and that is by design. By City code the water is not allowed to flow onto a neighbor's property, so swales are installed to channel the water from the property onto the road. The residents pay a stormwater fee to have the water removed from the road. There is no other place for the water to go. He said it is true at this time we don't know the cause of the water problem, and attempts to repair the problem have not addressed the issues because the issues are not known. He pointed out that at a meeting in August in Gem Lakes the City Engineer and Mr. Kisner said they did not know what is causing the road to deteriorate. He said the issue he had with the solution in Mr. Pearce's letter outlining what steps were to be taken is that they were going to be faced with a road with patches on top of patches and the solution was for more patches. He said that was not acceptable.

Mr. Steve Kisner stated he was not prepared to speak, but to sum up the matter, they are aware there are problems with the roads, and they have continued to try to determine the cause for the failure of the roads. He said they are currently working with CSRA Engineering out of Augusta and Hass and Hilderbrand in Aiken. He said they are learning a lot by observing what is happening with the work they have done in an attempt to repair the roads. He said they are learning a lot by knowing what they did to the patches that was different from what was done in the original installation and evaluating the deterioration of the patches. That has been helpful information in going forward and trying to determine what to do next as far as patching goes. He said the City has provided a lot of data, and CSRA and Hass and Hilderbrand continue to provide data. The current plan is to go through spring and rainy season, do more observation, and then in early summer make a determination of what to do as far as further repairs.

Mayor Cavanaugh asked if water is coming from the residents' yards onto the roads, and if water is going into the sandy part of the road, is there any way to put something down deep so the water would not go onto the road, but go down deep under the road.

Mr. Kisner stated French drains had been installed on both sides of Moultrie. However, they don't seem to be effective. He said Mr. Morris has some information on something like a barrier to prevent moisture from migrating underneath the road system. He said about 45 days ago they did some borings up to three feet deep, and they saw the moisture content of the subgrade being very consistent from directly under the asphalt all the way to three feet. He said some of the data received from some of the testing done by the City show that the moisture level is pretty consistent up to six feet under the roads. He pointed out when the roads were paved it was a pretty severe drought time. Some of the input received is that with the rain received in the last 12 to 18 months, the water table has changed, and now we have a moisture or water problem under the roads which they did not have when they paved the roads. In response to a question by Mayor Cavanaugh as to whether there is a way to solve the problem until the water is stopped from getting under the road, Mr. Kisner stated he felt the problem would not be solved by trying to stop the water from going under the road. He said the way to solve the problem is to put a product or a road base or structure there that can stand up to the situation. He said it is important to evaluate the patching which has been done to see how that holds up, and that will help determine the next step.

Councilwoman Price asked if the problem could be described as being attributed to development as Mr. Decker has implied. She said the water has to have some place to go, and it has been the roads. Mr. Kisner stated the type development in the area is not what was originally planned. He said the home builder has lowered the lots and tiered the lots and in some cases lowered the elevation of the lots up to 5 or 6 feet. That dirt has been removed and placed on other lots. He felt that has added to the problem, as far as the water table and the amount of water coming from the upper section of Gem Lakes down to Moultrie. He said originally they were going to build houses on crawl spaces. The homes that are built now are on slabs. He said a lot of excavation has to be done to put a house on a slab.

Councilwoman Diggs stated she had heard a lot about patching. She wondered if the road had ever been resurfaced. Mr. Kisner stated on one occasion there had been an overlay on one section of the road.

Mayor Cavanaugh stated Mr. Kisner had said they are learning things from the other patches that have failed. He wondered when Mr. Kisner felt they would have information to know what to do about the problem. Mr. Kisner stated the current plan is to make a final assessment by the end of the spring and make the necessary repairs during the summer of 2013. Mayor Cavanaugh wondered how Mr. Kisner felt about the plan and the information being learned. Mr. Kisner stated he felt with the information they could provide patches that will stand up. He said he was hearing from the residents that they want a uniform consistent road that does not have patches, but he felt that would not happen. He said they could not make patches and then make the road look like it did not have patches.

Mayor Cavanaugh stated that unless a way is found to stop the water from going into or under the road, how can it ever be a sure thing that there will not be some failure in years to come. Mr. Kisner stated that was a good assessment. He said they have had failures from the beginning, so he did not feel that they would ever be able to guarantee that there will not be any failures. He said, however, he did not feel this should be a forum where we get into discussing what the engineers are going to recommend. He said he would be glad to come back to Council with what they plan to do before doing any work, if that is acceptable.

Mr. Jim Williams, of Moultrie Drive, stated there are roads and there are patches. He said they don't want the patches fixed. They want the roads fixed. They do not want new patches on a bad road. They want a road that is correct, so they can appreciate the investments that they made in the community. He said none of the residents built their house with the expectation that they would look out their front door in less than two years and see the roads falling apart. If the work was not done ahead of time, those houses should never have been built. He said no one in the room signed on for that. He said it is disgusting to look at. He said they know there is a problem, but patching is not solving the problem. It is patching the problem. He said let's fix the problem, and get it right. Let's put the road back the way they intended. He said he was not present to bad mouth Mr. Kisner or Mr. Gaul, but appreciated their efforts. He said he did not spend his hard earned money on a subpar home and walk away and let the builder deal with it. He felt they fixed the problems that he compensated them for. If the houses were not built the way they were intended to be built, that should have been solved before a single house was sold. He said that was not their problem as homeowners. He said they have heard for the last 12 to 18 months that the roads have been deteriorating. He said soon he would have been in his home for two years. He said his home was one of the first homes on the extension of Moultrie. He said he had heard comments like the house across the street waters their yard too much and there is heavy traffic. He said nothing so far has lived up to what they are entitled to. He said he has to pay his taxes and whatever is due. He said the grading of the lots should have been discussed before they were able to purchase the homes. He said the residents ask for Council's help and guidance. He pointed out some of the residents put their life savings into their homes in the area. He said if someone had invested their money into their home and have to look at what they have to see every day, he felt they, too, would find it unacceptable.

Mayor Cavanaugh stated at this point we don't know what the problem is or how to fix it. He felt that Mr. Kisner and Mr. Gaul are trying to determine what the problem is, and he was sure they want the problem fixed. He said they are working with CSRA Engineering Company to try to determine the problem. He said if anyone knows what the problem is and how to fix it, he would like to hear from them. Mr. Williams stated they were told the roads would be fixed last fall, but they are now hearing it will be summer. Mr. Williams stated he was expressing the frustration of many of the homeowners whose signatures appear on the petition. He said if he knew the answers he would have taken them to Mr. Kisner and Mr. Gaul. Mayor Cavanaugh stated there are patches on the road where he lives and just about every road in Gem Lakes has a patch on it. He said he was not suggesting that every road needs a patch, but it does happen. He felt that Mr. Kisner and Mr. Gaul are working as hard as they can to fix the problem and are seeking help

from others. He said City Council does not like having the problem either and does not want it to go on for years. Mr. Williams pointed out that patches had not worked repeatedly, and there are several generations of patches. He said there is no question that Mr. Kisner and Mr. Gaul have worked towards solving this matter. However, there are several generations of patches throughout the area. Some patches have been dug out and there are bigger sections of patches. He pointed out the road is not a correct road, but there are pieces where different things have been tried.

Councilman Dewar stated he felt we need to keep in context that the residents of the area have been dealing with the issue for four years. He said no one had said anything negative about the developer, but they have a lot negative to say about their roads. They are frustrated and are coming to Council asking for help. He said four years is a long time. He said he would like to think that when the City of Aiken approves a development, they would be able to ensure that the proper roads are being built. He said he could empathize with the people. They bought a house and all they can see is a patch work of a road. All they have heard is excuses, and no one has been able to positively determine what the problem is. He said he felt Council needs to recognize that there is a lot of impatience in the room tonight. He said Council approved the development and something has gone wrong somewhere. He said the fact is that the residents have bad roads. They have money invested in their homes. The City is part of the process.

Councilwoman Price stated Mr. Williams was exercising a great deal of diplomacy as he made his comments to Council. She said perception is reality. She pointed out all of us, including the city, are in this together to resolve the problem. She felt the City has a part in the issue, but the City does not own the roads. She felt four years is a long time to be dealing with the issue. If one keeps getting excuses, you wonder what is valid. She wondered how much the community was informed about what was being done on the problem.

Mr. Williams stated residents asked for a meeting, and Mr. Pearce, Mr. Gaul, Mr. Kisner, and Mr. Morris and many of the neighborhood residents came to be informed and asked questions. He said the residents wondered what to do. He said it had never been their goal as a community to throw anybody under the fire. The frustration has come because they have invested their hard earned money, and they expect something for it. Simple questions did not generate simple answers or solutions. As far as the timeframe, it has not moved fast enough. He said there was a meeting, and Mr. Pearce sent out a letter several months later. Things have not gone according to plan. He said the frustration rises when there is nothing but more deterioration every day. He said they have had technical details, research and emails going back and forth. He said Councilman Ebner has been a big help for them. He said they are not trying to finger point and blame anyone other than the situation. He said they want the roads fixed. They do have concerns. To have \$300,000 in a home and look out at patched roads is not what they expected. He said the City nor Mr. Kisner and Mr. Gaul have the answers. He said certainly Mr. Kisner and Mr. Gaul want to have the answers because the problem is costing them significantly. He said if the residents knew what the problem is, they would not be before Council. They would have presented the answer and expected the roads to be fixed. He said he is concerned and upset about the issue, but he is not blaming any particular individual. He said he does want an answer and feels he is entitled to one.

Mr. Fairchild stated the group is here because they are concerned. He said what they are hearing, they went through in August. He said they heard the same things at the pavilion in August. He said as a neighborhood, they want their road like the road they expected when they moved in. He said they expect to be protected by the regulations of the City. They expected that the roads would be as satisfactory a year or two years after they moved in as they were the day they moved in. He said he did not feel that that was too high of an expectation for the road. He said they do not know what caused the problem, and that is not their job. He said the residents pay to live there and somebody made money off of them moving into the neighborhood, and they expect the road to be what it was when they bought their houses. He said they are hearing the same excuses they heard in the August meeting at the Gem Lakes Pavilion. They were told the repairs would start in two weeks and should be done in six weeks. Work was done and patching done, but now the patches are broken and cracking. He asked at what point does the city say it is

time for the city to take over and get involved. He said the neighborhood is asking for an independent forensic engineering study on the road. He felt someone, not paid by the contractor, should come in from the outside, look at the road, and say what the problem is and how to fix it. He said residents have bought into the community and invested a lot in their homes, and in two years the road looks like trash. He said a road can be built in the middle of a swamp in Florida, and a road should be able to be built in Aiken, South Carolina, that lasts. He said they are asking as a community for an independent forensic engineer to come in and review the road, determine the problem, and then have the road look like it should look. He said they don't want to argue with Council and really don't want to be before Council. He said the residents trust Council and appreciate what they do. He said the residents have had to give up their evenings and find baby sitters for their children because they have invested a significant amount of money in their homes. He said they are asking Council to protect them and their investment.

Councilwoman Diggs asked after the punch list of repairs is completed at the end of the summer, if there would be some intervention by the City of Aiken.

Mr. Pearce pointed out the letter he had written to the Gem Lakes residents on October 4, 2012. He pointed out item 1 states the city will develop a punch list and have the developers look at it. Item 2 states the city would have a city-sponsored sonar unit to determine the cause and extent of water problems. He pointed out that if the water is caused by a water line leak, city crews will repairs any line leaks. The sonar showed that it was not a water line leak so the city did not have to repair water lines. If it is a natural spring, diverting it would be added to the punch list for the developers to address. He said the City knew that they would need that additional piece of information before going forward. There was a time for the punch list items to be completed. It was hoped that would have been in the fall, but with the water problem being naturally occurring, that is something the developers are having the engineering firm take a look at. Only after the completion of the punch list items does the one year warranty period begin. He said the City will be involved because they will monitor and observe the roads to see if the work done is something that works on a continuing basis. After that, the developer would have to request the roads be accepted by the city and there would be a public hearing. He said he heard the developer say that before they would implement repair to the roads, they would come back to Council and present their findings in late spring before doing the work in the summer. He said the City would continue to be involved through the one year warranty. He said the path forward described in the letter of October 4, 2012, letter is being followed. He said he had had no objections to the path forward in the October 4, 2012, letter until the petition was filed in January.

Ms. Roxanne Roybal deDiaz, of Moultrie Drive, stated it is very disheartening when you move into a new home and you look out and see patches on the road and geology trucks driving around. She said it makes you wonder how solid the area you are living on is. She said she expects, and feels the community expects, that when you buy a brand new home, that the roads be equal to your new home. She said the roads do look like a patchwork quilt. She said to hear tonight that it is going to be patched again is bothersome to her and does not satisfy her. She said she concurs with what has been said. She asked that something be done as soon as possible. She pointed out that things are being done as people are looking and trying, but if it could have been done yesterday it would be great. She said it does make one wonder about the ground on which their home is built on when the streets in front of the homes are crumbling. She asked that something be done as soon as possible and that the streets look like the rest of Gem Lakes.

Mr. Sean Derrick, 1117 Moultrie Drive, stated he had just moved into the area in August. He said they like the neighborhood and the people. He said the road in front of his house is starting to crack, but has no patch work on it yet. He said he had listened to the talk about terracing the houses and putting a slab versus a non-slab for the foundation for the house, so he had an engineer look at his house before he bought it. He said it was explained to him that because of the type trees and the soil type in the area that most of the houses had to be dug down 5 to 7 feet for the foundation. He said it was stated one would not want a pillar type versus a slab because of the amount of roots underneath which would start to rot out and sink. He said his concern in listening to Mr. Kisner is

that they have had two springs and two summers to work on the road and nobody has an answer. He pointed out that Mr. Kisner has stated that he could not repave the road. He asked what if that is the problem, and the road needs to be repaved. He said if that is the problem and Mr. Kisner is not willing to repave the road what will happen. He felt an independent expert who is not financially tied to the project needed to be called in to look at the problem now to get an honest opinion.

Mayor Cavanaugh stated it had to be determined what the real problem is before it can be fixed. He pointed out an independent comprehensive forensic engineering study had been mentioned, and he would like to have that done. He asked Mr. Kisner if that was in his plans. Mr. Kisner stated his plan was to continue to work with the two engineering groups that they currently have. Mayor Cavanaugh asked if the study would be an independent comprehensive forensic engineering study. Mr. Kisner responded he did not know what that was. Mr. Fairchild stated if he continues to work with the people he has been working with that will not be independent.

Mr. Larry Morris, Engineering and Utilities Director, stated he appreciated the citizens being present. He said the road situation is a problem that everyone has gotten frustrated with, not only the residents, but also city staff and Mr. Kisner. He stated he had met with the founder of the CSRA Engineering firm, Jim Pope and his son. They are geotechnical people. They know soils and what to look for. As a layer of protection for the citizens and for the city, Mr. Kisner has stated he would bring back the proposed solution to Council so Council would know what is being proposed to be done. He said Mr. Kisner had worked well with the City as well as Mr. Tilden Hilderbrand, the Engineer that did the design work. Mr. Morris stated he would expect the information from CSRA Engineers to be given to the City and then the City could have its own on-call highway engineers look at the proposal independently so there would be another group looking at the problem and the proposed solution. He said he would recommend that Kisner and Gaul go ahead with CSRA Engineers in trying to find the root cause of the problem. He said when he met with the residents in August, 2012, he said he did not know what the real problem was. They knew there was water coming out of the pavement in several areas, but did not know why. It was thought that perhaps it could be a broken water line. Then the city made the offer to get sonar testing done, but it was difficult to get someone to do the testing and it took longer than anticipated to find someone to do it. The testing found that the area has underlying water. It took longer than anticipated to get the testing done and to get that information to Mr. Kisner and Mr. Gaul and to their engineers. Subsequent to that, as Mr. Kisner pointed out, they had done some borings on the streets 3 feet down and they found water under the pavement. Finding the root cause, giving the information to CSRA, letting them develop a methodology to solve the root cause of the problem, and determining whether the water is making the subsurface too soft, or making the base too soft are questions that CSRA needs to determine. They need to do whatever testing they need to do and come back with a recommendation. He said this process is what he would recommend. He said Mr. Kisner and Mr. Gaul are already working with CSRA testing the issue. The firm is well known and has done a lot of work in this area. If they submit their findings to the city, and then the city have its own on-call highway engineers look at the information, there would be another layer of protection for the citizens.

Councilman Dewar stated he thought he remembered that CSRA has been involved with this project already. He wondered what they could add now, having already been involved in the project. Mr. Morris stated CSRA did the testing and had a technician on site for compaction testing of the base. He said he would expect them to take soil samples to determine exactly what type of moisture content is there and what that is doing to the soil. He said because Aiken is on the fall line, we have seen a difference in the soil that we deal with. When some of the clays get wet they swell and then when traffic goes over them the soil will go down and then it will rebound which will cause cracking on roads.

Councilman Dewar stated if we assume that because of all the water that is underneath the roads that the soil is going down and then rebounding, what then can be done to fix the problem.

Mr. Morris stated he would be asking CSRA for a recommendation on how to solve that as the root cause of the problem. Then they could work with Mr. Hilderbrand to come up with a proper pavement design for the issue.

Councilman Dewar stated if CSRA says water is going down 6 feet is there a way to deal with that much water on a road. Mr. Morris stated there is. He said the State Highway Department used it successfully along I-20. He said it is called a curtain drain. He said he had used some of the same material several years ago on Northwood Drive. The material that he used was just 3 feet deep, but it cut the water off from going into Northwood. There was an issue there of naturally occurring ground water and springs and causing Northwood to break up. He said they were able to solve the problem there.

Councilman Dewar asked if the company could identify how water is there and how far down it goes. Mr. Morris stated he was not sure how far down we would have to go to solve the problem, and that is a reason why testing of the soil is important. The testing done so far is related to compaction. That test will tell you whether the soil will compact enough to be a good road base or not. He said he was interested in the transmissivity of the soil and whether it will take water and move it through to other places, will it act like a wick in an oil lamp and actually pull water up underneath the pavement so no matter what you do there is a problem. He said we need to know that and what type soil is there. It takes different testing. In response to a question as to whether CSRA is capable of doing this type testing, Mr. Morris responded that they are. He said he would work with Mr. Kisner and Mr. Gaul and CSRA testing to make sure that what we are looking at would be a report that would be acceptable so the city's engineers could look at it and determine whether this type stabilization would work.

Councilman Dewar asked what would we do if it is determined that this problem will cost a small fortune to fix. Mr. Morris stated he could not answer that question.

Councilman Dewar asked about the punch list. It was pointed out there was a punch list for 2009 and for 2010. He asked if there was a punch list now that the developer could complete and satisfy the city. Mr. Morris stated the punch list that the developer is working off of is the 2010 list as updated by Mr. Ted Jones and Mr. George Grinton. He said it is basically a continuation of getting the items complete. He said whether they could come up with a solution and fix everything on the punch list and be acceptable, he felt we would not know until we get the reports from CSRA and look at the report.

Councilman Dewar asked if the city had agreed to get the engineering study. Mr. Pearce stated in his October 4, 2012 letter, the city had agreed that anything the sonar test bore out as far as the water sources would be added to the punch list. He said that is the reason Mr. Kisner said they are working with CSRA, since we know that the water is in fact naturally occurring or from irrigation systems.

Councilman Dewar stated in talking with the CSRA engineers, can they give us assurance that whatever somebody pays them to do they can come up with a final analysis of what we are dealing with so we know what has to be done to fix the problem. Mr. Pearce responded that his understanding is that CSRA would have some potential solutions to address the problem. We can take the engineering report and have an independent engineering firm that also works in that area double check to see if those are rationally based solutions that make sense for the fix for the problem. He said he was hearing from the residents that they want something independently verified. He said the City could have the information independently verified.

Councilman Dewar asked who was the PE for the project. Mr. Morris responded that Tilden Hilderbrand was the design PE for the project. Mr. Pearce stated Mr. Kisner stated he was staying involved with CSRA and Hass and Hilderbrand to work on the fix.

Councilman Dewar asked then if the process was that CSRA will be doing a study of the soil that has not been done before. Then we will get an independent firm to evaluate the study. He wondered after that if we would be meeting with the residents again. Mr.

Pearce stated we would meet with the residents at any time. He said he anticipated the developers will have a recommended path for repair. The developer has offered to come back before Council with the path for repair. He said we could meet with the citizens first and discuss the proposed repair and the independent review of the study. It could then be brought to Council if that is what Council wants.

Councilman Dewar said he sensed that time is a concern because we don't want to do anything during the spring in the rainy season, but we want to be prepared to do something in the summer.

Mr. Pearce pointed out that we have had one of the wettest February's on record. There is no better test than this month. The data that is being shared and collected should be very helpful. It is usually drier in the summer so it would be good to have the work done before the next wet season. Mr. Pearce stated the developers have said they are working on the study this spring before doing the work in the summer. Mr. Morris stated staff will be working very closely with the developers to make sure the study is done and that the city's consultants get to review the study before the summer. Mr. Morris stated Mr. Kisner stated he is working toward having the study completed and the problem resolved by the end of the summer.

Councilman Dewar asked if the City would get involved in repaving the entire road as the residents want. He said he could understand where the developer is coming from. Mr. Pearce responded that he felt we need more information before we could answer the question. He said if the city is to accept the roads there is a warranty period and the city will look at a road that meets the development regulations. He said that continues to be the city's focus. Councilman Dewar asked if the city's standard would be that the road has to be paved like the rest of the roads in the subdivision. Mr. Pearce stated he did not know that the regulation standards compare other existing roads. It just has to meet the standards. In response to Councilman Dewar's question as to whether the city would require the road to be paved, Mr. Pearce stated it is hard to answer an open ended question, and he was not sure what he meant. Councilman Dewar stated the objection of the residents is that there has been a lot of patch work on the roads, and they have indicated that when everything is done they would like to see the road paved and have a nice road like other residents in the area. He said the alternative is to say when the road is fixed, that we have to live with the patches. He said he was hearing from the residents that living with the patches is not acceptable, but they want the road repaved. Mr. Pearce stated that is in the petition. He said that is something that would have to be looked at along with the recommendation and the independent verification. He said that would be part of a presentation once we have the final information.

Mr. Morris stated it is difficult to answer that question without knowing what the solution will be.

Councilman Homoki stated he had a question about the ground penetrating radar and wondered if it was conclusive or if it identified ground water. Mr. Morris stated the test definitely identified ground water throughout the area. It did not identify any broken water mains or leaking water lines. It appears that the water table has come up for some reason, such as sprinkling and rain. For whatever reason, there is now water under the soil that did not show up during the initial construction phase.

Councilman Homoki pointed out the road collapsing on Ascot and in Councilman Ebner's neighborhood. He asked if there was any similarity in the soil structure that caused that or if it was leaking pipes or ground water. He wondered if there was any similarity to those two instances. Mr. Morris responded that he felt those two instances were definitely different from the situation in Gem Lakes Extension. He said in Gem Lakes there is a road base and paving problem. In the other cases there was a problem with a trench that the sewer line was in. In a very deep sewer, the compaction sometimes can be a problem, and that is what they saw on Ascot and also on Foxhound Run. There was the same type problem on Cherry Hills Drive, which is an older area, but all of a sudden there was subsidence over a sewer.

Councilwoman Price asked Mr. Kisner if he had spent about \$700,000 to \$1 million in repairs. Mr. Kisner stated he had not disclosed the amount of money he had spent on repairs. It was pointed out that cost was the original installation of the roads. Mr. Kisner stated he had spent equivalent to what the bond was in repairing the streets.

Mayor Cavanaugh asked that someone explain what a comprehensive forensic engineering study is. Mr. Morris stated his understanding of a comprehensive forensic study. The forensic means go in and find out what the problem is. He said comprehensive to him means to find the solution. He said they are trying to identify the root cause and come up with a solution.

Councilwoman Price stated she was concerned about the timeline in trying to resolve the problem. Mr. Morris stated, as Mr. Kisner indicated, we want to have the study and work completed by the end of the summer. After the city was able to give the ground penetrating radar information to Mr. Kisner and Mr. Gaul, they have had some borings done to confirm the information. He said he was not sure whether they had done soil samples in the borings. The soil sampling will help them know how much water will flow through it, how much water it will hold, what type soil is there, etc. He said once that information is obtained they can determine the root cause and what needs to be done.

Mr. Kisner stated they do have some soil samples. He said the agreement they have with the city is that they will have the work done by August, 2013. He said they were going to continue to do some work until we got into the rain. After the rain subsides, and we get into a dry period, they will do some more evaluation. At that time, he hopes they will be at the point where they will know what they will do. As far as how the road will look depends on what the standard of "good" is. He said the roads will have patches in them. He pointed out that patches over time start to look like the rest of the road, but you can always tell there is a patch.

Councilwoman Price stated she gets the feeling that the community wants assurance that they will get new and improved roads, but she felt we were not able to tell the citizens that at this time. She said she personally would desire to see them have a plain surfaced road. However, the issue at this time is to find some resolution to the problem.

Councilman Homoki stated he agreed that putting a new top on the road, without solving the basic problem of what is causing the cracking and erosion, would not solve the problem. He said the residents would have to live with the patches until the basic problem is solved. Then, hopefully, something could be done to make the roads more aesthetically acceptable.

Mr. Decker stated what troubles him about what he just heard is that Mr. Kisner has stated three times tonight that repaving is off the table. He said we don't have the engineering study yet that might say that we have to repave the road, but already we are being told that repaving is off the table. He said the residents were told in August that they would not get the road repaved, that the road would stay the way that it is. Then there are questions as to where the money is coming from and is the city responsible. He said he felt the city is responsible. He said the city's Land Use Regulations call for an inspection to be done 90 days before a Performance Bond is to expire. He said the City Engineer is supposed to determine whether the roads pass or fail. If they fail, the contractor is to be given 90 days to effect repairs. At the end of 90 days, if the road passes, then the Performance Bond is released. If the roads fail, then the bond is to be called in. He said this bond was never called in. It was released even though the roads did not pass inspection. He said that was interesting to him. You have a situation where you have a road that the city says it is not their road, it did not pass inspection, but they did not call the bond in. He asked why the bond was not called in. The Land Use Regulations don't say, well the contractor is trying. He said he thought Mr. Kisner had made honest attempts to solve the problem, but on the other hand the regulations are specific in what they call for. They call for the city to call in the bond and effect repairs. He said Mr. Morris in an email said basically the same thing. If he had had to call the bond in, then the city would have had to take over the roads and repair them. He asked what the bond is there for. He asked what the purpose of the bond is. He asked if the

purpose of the bond is not to ensure that the city and the citizens' interest in the road being completed is maintained, and when it isn't, the city has an obligation to call the bond and to repair it. He said that is what the Land Regulations call for. He said he did not make the regulations, Council made the regulations. He said as far as having to wait, they have to wait until the repairs are done correctly. He said the petition stated the citizens want a forensic engineering study to determine the cause, and then to do the repairs, and to repave the road so it looks correct. Presently it does not look correct. He said the residents are upset now because the road is such a disgrace. He said they are now being told that they are going to do a study and figure out what it is and then put some more patches on top of the patches that are already there. He said he would guess that Moultrie is probably 30% to 40% patches. He said that is outrageous. That is not a road; it is a patch. He said they want a road, a regular road. It looks like a road. It drives like a road. It is a road. It is a road that matches the other roads in Aiken. He said he felt Council has an obligation to provide that. He felt it was the Council's responsibility, the City Manager's responsibility, the City Engineering Department's responsibility to call the bond and take over the road when it did not pass inspection. They also had two years to get the improvements done. He said it is now four years. We are going to kick the can down the road a little bit more. Then we are told at the end of the day that paving is off the table. He said he is not satisfied.

Mayor Cavanaugh stated he did not think Council had said that repaving was off the table yet.

Mr. Decker stated that Mr. Kisner had said that. He wondered if Council was willing to say that paving is on the table.

Mayor Cavanaugh stated he did not know. He said if the city takes over the roads and has a way of putting the street on the paving list, it may take a while to get the money for paving.

Mr. Decker stated he was confused. He said he felt that power flows from Council to the appointed City Manager and the City Manager is responsible to ensure that the regulations that Council has voted on and that are on the books are followed. He asked why the bond was not called when it is clearly stated in the regulations that the bond should be called. He asked if anyone could answer the question as to why the bond was not called.

Mr. Morris stated when we have a Maintenance Bond on a roadway or subdivision, it covers a certain percentage of costs to fix problems. We do not normally call bonds if we have a developer that is willing to use his funds to repair a road, get it into good shape, repair a water line, sewer line, etc. The reason for not calling the bond is that it is a legal issue and the city would then be the owner of the road or whatever the bond covers. In this case there was a reputable developer who was very willing to continue efforts to repair the road and did. The bond was released in 2010. The city could not hold the bond any longer. Also, this past summer, and even as Mr. Decker has said, Gaul and Kisner had a contractor in the subdivision repairing the roads. As Mr. Kisner said they have already spent roughly the amount of the bond, and they are willing to spend more and are committing to spend more to get the road proper and right.

Mr. Pearce pointed out rather than a bond, it was actually a Letter of Credit. He said the Letter of Credit was for all the infrastructure in the subdivision, not just roadways. It was for \$106,000. He pointed out that releasing the Letter of Credit gave the developer the assets to do the \$100,000 worth of work in the subdivision. The Letter of Credit in effect helped pay for the repairs that the developer is committed to do. That is not a taxpayer expense; it is at the owner's expense.

Mr. Morris stated no taxpayer money has been spent in the subdivision. He said if the city had called the Letter of Credit, the city would still have issues with the road and would have spent a lot of taxpayer money, and the city would have to do the forensic study which Mr. Gaul and Mr. Kisner are working with CSRA Engineering to do. He said the city tries to work with reputable developers and yet still try to accomplish what

needs to be done in getting the roadways, water, sewer and other infrastructure in properly.

Councilwoman Price asked for an approximate cost to resurface Moultrie. Mr. Morris responded that the cost is about \$80,000 per mile for resurfacing.

Mayor Cavanaugh pointed out Mr. Morris is a Professional Engineer and has been for a number of years. He asked if the path talked about for this matter is the right way to go.

Mr. Morris responded that he did feel that the proposal is the best path to go forward to protect the citizens and the city and work with the developer. He said at the end of the path there should be a solution to take care of the roads. He said he has no problem recommending to Council to go along the path. He said he does realize the timeframe has been excessive, but the developer has been working with the city and been doing some work trying to get the problem solved.

Mr. Brent Ruggles, Huron Drive, stated he had lived there about a year and has seen patches multiply on Huron and on Moultrie. He said to the question as to whether everything has been done that could be done, he felt obviously not, otherwise the residents would not be before Council four years later and now talking about doing an engineering study. He felt the engineering study should have been done earlier. He said he appreciated the developers and Mr. Kisner being present at the meeting. He said in saying that not everything has been done that could have been done, it is not necessarily to say that maybe everything that was done was practical to be done. You can always put more money into something and go to more extreme efforts. He said not everything has been done that could have been done. He pointed out this is four years later, and we are still talking about whether or not the road will be resurfaced. He said it is one thing to have a road with a patch on it, but it is another thing to have a road where it is hard to find where there is not a patch. Also, when there are patches that are failing and patches on top of patches, it indicates that something is failing. He said as a computer person one thing he has in common with civil engineers is that they are frequently given difficult problems to solve. He said you have to diagnose and resolve the problem. He said he hoped the engineering company that is involved has the ability to do that. He said a concern he has is that the engineering firm has been involved for some time, and we still have a problem. He said he is also concerned about leaving without a commitment to make this road look good as well as be structurally sound. He said he was not suggesting to pave the road to make it look good before the underlying physical problems are solved. He said the residents do want the roads to be structurally sound otherwise the problem will not be solved. In response to a question regarding what things have not been done, he stated he was amazed that four years later we are just now getting around to doing an engineering study of the soil. He said it seemed that should have been done some time ago.

Mr. Jim Williams asked if it was fair to say there is a problem with the road; therefore, we have to put in patches. He asked why we would accept patches in various spots and not accept that the road has a problem. He said that is the big concern. He said the aesthetics go along with it. He said when he built their house, he expected a road and not pieces of a road to be sound. He said they want the whole road to be sound, not just the patches.

Councilman Ebner stated he would like to thank Council for their attention and support in listening to the citizens. He said there are citizens from several neighborhoods present at this meeting listening because of issues in other areas. He said he would like to propose a resolution that would support an independent assessment for the root cause and solution to the road problem and also look at resurfacing the road. He asked if he could ask that a resolution be put on the March 25, 2013, meeting supporting what Council said they would do at this meeting.

Mr. Gary Smith, City Attorney, asked if Council was ultimately trying to figure out what the engineers will tell them what they need to do to repair the road and then have them present the proposed solution to Council.

Councilman Ebner stated he felt it would give some assurances to all to have a resolution. He said the resolution could be as simple as saying to be sure we get an independent assessment so there is no question several years from now that Council heard it and voted on a resolution to get an independent assessment.

Councilman Homoki asked if there was a contract or a statement of work for the developer where the city could actually make an additional tasking. He said the city does not have any money invested in this right now so he wondered how we could task somebody to perform a statement of work.

Councilman Ebner stated his concern is that there are some other issues around the city with roads, water, etc. He pointed out there has been one petition from the citizens, and they are asking for the road to have a nice surface. Then as we listened further they want an independent assessment. He wondered how the citizens would know that the city is going to do that. He said the citizens petitioned Council for two things—an independent assessment and a repaved road. He asked how do the citizens know that the city is going to follow up on these requests. He was concerned that things may not be done and the citizens will be back next year talking about the issue again and the assessment has not been done.

Mr. Gary Smith stated he did not know that City Council knows what is going to happen until the report is received from the engineer.

Councilman Homoki stated he felt the sense of Council is basically that the citizens in the area have a legitimate problem. He pointed out the city does have funds annually for resurfacing, and they could be put on the list. He felt we could not tell a contractor that he has to do something as the contract is not with the city.

Councilman Ebner asked if Council is supporting the citizens to have a road that is of good quality and the surface is nice and smooth. Councilman Homoki stated he agreed we could have one, but it is not binding on anyone. It is just a sense of the Council.

Mr. Pearce asked if Council wants a road that meets the installation requirements that Council has enacted.

Mr. Smith pointed out there are not many roads in the city that don't have a patch somewhere. The city does not guarantee residents of the city that they are going to have a perfectly, brand new looking road in front of their house.

Councilman Ebner stated it is rare after two or four years in Aiken that a road will have a lot of patches. Usually in the first couple of years there are not many patches. He felt the percentage of patches in this Gem Lakes area is a very high percentage of the total surface and that was his concern.

Mr. Smith stated his concern from a legal stand point is what language would Council ask to be put in a resolution that is not already included in all the development regulations that the city has. He asked if Council would be passing a resolution to make someone feel good. The motivation for the developer is to get the road out of his list of assets and put this road into the city's list of assets by dedication to the city so the city becomes responsible for the streets. Obviously before he can do that the city has to have some assurance that the road meets city standards.

Mr. Pearce stated with that in mind, Council had heard the petition, had heard what the developer is willing to do, he wondered if it was appropriate for a motion and second at this meeting that an engineering solution to the water problem be determined and that the problem be corrected no later than August, 2013. He said the city does have some control in this matter as the city wants the roads to be developed according to city regulations. The developer has stated that he is going to meet city regulations. He stated there could be a sense of the Council vote tonight. That would put the matter on record and Council would hear something about it before August, 2013.

Councilman Homoki asked if there is a sense of Council, what strength does that have?

Mr. Smith stated Mr. Pearce is asking Council to pass a resolution that essentially adopts the schedule that the developer has presented to Council at this meeting.

Mr. Pearce stated this is the path forward which is in the petition that the citizens have filed. He said Mr. Kisner had agreed to the schedule and had mentioned it in his comments before Council.

Mr. Pearce stated he hears the concern, but the citizens would get what they want which includes an independent verification of an approach to a fix for the roads. The developer is committed to a fix no later than the end of August, 2013.

Councilman Ebner pointed out Mr. Kisner had left one thing off which was resurfacing of the road.

Mr. Pearce stated when we have the engineering solution if Council so desires they can vote to have the proposed solution brought back to Council for review.

Councilman Homoki stated there was a problem defining what an independent engineer was. He asked if the CSRA Engineer firm was an independent firm.

Mr. Pearce pointed out that Mr. Morris had spoken to that. He said that if CSRA develops a proposed fix for the roads, the city will have an independent engineering firm review the proposal. That firm does not have any involvement in this subdivision development whatsoever. The firm is on a city retainer. The city would be getting an independent engineering review of the CSRA proposal. He said he heard that is what the citizens want. It would be a part of trying to get the roads to meet city regulations and have them be acceptable roads. He pointed out that was why the city paid for the sonar work, not the developer. He said city staff was concerned that the utility system was leaking water, but that is not the case. He said if Council wants the matter before Council when there is a solution in hand, and prior to any work commencing, the matter will be on the agenda. At this time we don't have a firm date other than sometime this spring.

Councilman Dewar stated he felt the August date is nothing that we should really put our faith in. He said he was sure that Mr. Kisner hopes it will be done in August, but he was not sure how we could say anything about the end date until we know what the engineering study says. He felt the engineering study would drive the issue. He said he would like for Council to get a copy of the engineering report, but at the same time he said he was sensitive to the fact that Mr. Kisner needs to be able to do his work and the city not get intrusive, or the city will own the problem prematurely. He said he would like to see a copy of the engineering report. He felt Council and the residents would then have a sense of whether or not this particular study is the one that will finally identify what needs to be done to finally fix the problem. He felt the city needed to wait to get the study. He said he was interested in the engineering report, and the residents want the independent verification and he understands that. He said we need to verify that the study is okay. He said apparently the study will be the first time we will be testing the soil deep down. He said it was tested for compaction, and we know the problem is not a water leak from the test that was done. He said he had heard that water may be down as far as six feet deep. He wondered what one would do to fix something that deep.

Councilman Homoki asked the timeline for CSRA to come back with a solution. Mr. Pearce responded that he had this spring so the work could be done in the summer.

Councilman Dewar asked if they could not test until the rainy season was over. Mr. Pearce stated they are already testing and City Council is to get the engineering report based on the test and data later this spring.

Councilman Ebner asked that Council have a formal update on the matter at the April 22, 2013, meeting. He said he would request that it be on the agenda under Petitions. He said that would be two months, and there may not be a solution. From there Council could decide when the next formal update would be. The information would be a status of what has been done. The consensus of Council was support for the formal update on April 22, 2013.

Councilman Ebner stated he would also like to have a copy of the segment of the Council meeting dealing with the Gem Lakes Extension roadway issue on a CD. Mr. Pearce responded that the recording of the meeting would be on the website so anyone could burn a copy. He said staff could burn a copy if he would like for staff to do so. He said the citizens can go to the website and listen to the recording if they wish. He said a hyperlink could also be provided.

Mr. Fairchild stated he stands in support of what Councilman Ebner is asking. He said when everything is done at the end of the day when we know what the problem is, and we have resolved the problem, he wanted to know if the residents could have a resurfaced road. He said the residents want to know if they can have a resurfaced road. He said the matter has been back and forth, and the residents want to know if they will have a resurfaced road when the problem is resolved.

Mr. Smith stated if the residents are asking that the question regarding the road being resurfaced to be answered at this meeting, the city does not own the roads at this time. The city can't do anything about the road tonight.

Councilman Ebner stated after the one year warranty is out, the road could be resurfaced. Even if the developer would resurface the road, we probably would not want him to do so until after a year.

Mr. Smith stated once the city owns the roads, City Council can make a decision as to what they want to do about the road.

Mr. Ruggles stated we have been talking about an independent firm to verify the problem. He said if the developer is going to hire CSRA to take a look to try to figure out what the problem is, and the developer has already stated that it is off the table that they have to repave the road, he wondered, if repaving is off the table, how do we know that the report from CSRA would have even considered that as a potential fix.

Mr. Pearce stated he felt the city's independent firm is not limited to the CSRA report. He said the firm should be entitled to verify whether it takes inspections or whatever necessary to independently verify the findings of CSRA. Mr. Ruggles wondered if the city would send someone back out to retest the soil samples.

Mr. Pearce stated we need to let the independent firm look at the testing to see if that is appropriate. He said we would go by what the independent firm tells us. He said Mr. Morris has said that the CSRA people know how to test the soils correctly. He said we need to get the report. He said the commitment the city can make tonight is that we have heard the citizens saying that they want an independent verification of the testing results of CSRA Engineering. He said whatever it takes to independently verify the results, the city will do.

Mr. Ruggles said his concern was that the person paying for the report might tell the engineering firm that he does not want to pave the road, and he was not going to. He said Mr. Kisner had said several times that repaving the road was off the table. He asked if the developer refuses to repave the road, then what happens.

Mr. Pearce stated the city will independently verify to make sure that the recommendations will provide a sound road.

Councilman Dewar stated repaving the road was off the table based on what he knows now. He said the report could come back and require a level of repair on the road that tears the whole thing up. At this time we don't know what the report will say.

Mr. Pearce stated Council would have to deal with that matter if it becomes an issue.

Councilman Ebner stated that the city specifications have a paragraph that other tests can be required. It does not say who will pay for them, but that paragraph can be used if there is an issue.

Councilman Dewar stated he felt the message that Council wants to send to the citizens is that Council hears them. They understand what the citizens need, and will do their best to get it. At this point, the next big step is the study to see exactly what is wrong. He said he hopes that determines exactly what needs to be done to completely fix the problem.

Mayor Cavanaugh stated Council does not like the problem anymore than the citizens do, and is sorry it has lasted this long.

INFORMATION

Fresh Market

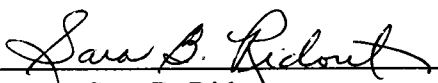
Mr. Pearce stated the city has heard from the Fresh Market. They did receive a temporary Certificate of Occupancy so the Fresh Market can put their upfit in for inventory purposes. He thought Romas Restaurant will be open soon. It was pointed out that at this time, the city does not know of any other businesses that will be opening in the Fresh Market shopping center.

Rural Economic Summit

Mr. Pearce stated the Governor's Rural Economic Summit will be held on Monday, March 4, 2013, in the Conference Center. On Sunday from 5:30 p.m. to 6:30 p.m. there will be a reception at the Willcox and City Council is invited.

ADJOURNMENT

There being no further business, the meeting adjourned at 9:27 P.M.


Sara B. Ridout
City Clerk